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The Forgotten Child: An Examination of Factors Influencing the Case Processing of Criminal Child Neglect

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THE FORGOTTEN CHILD:

AN EXAMINATION OF FACTORS INFLUENCING THE

CASE PROCESSING OF CRIMINAL CHILD NEGLECT

A Dissertation

Submitted to the School of Graduate Studies and Research

in Partial Fulfillment of the

Requirements for the Degree

Doctor of Philosophy

Mari B. Pierce

Indiana University of Pennsylvania

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ii

Indiana University of Pennsylvania
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Title: The Forgotten Child: An Examination of Factors Influencing the Case Processing of Criminal Child Neglect

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Although incidents of child abuse and neglect are largely handled through child protection services agencies and juvenile dependency courts, criminal justice agencies have the authority and responsibility to intervene in cases of criminal child maltreatment (Brown & Riley, 1986). The magnitude and prevalence of child maltreatment within the United States is difficult to determine as no data system captures all forms of known maltreatment across various agencies who investigate abuse and neglect. However, national statistics reflect that neglect is the most frequent form of child maltreatment reported to and substantiated by CPS. However, it is the form of maltreatment least likely to receive criminal justice attention (Cross et al., 2005; Tjaden & Anhalt, 1994).

The purpose of this study is to assess the influence of defendant, victim and case characteristics on four judicial decision making points (i.e., bail, disposition, sentence and sentence length) specific to cases involving forms of criminal child neglect. In order to more fully examine this topic area, the chosen methodology was developed under the tenets of focal concerns perspective, which has been previously utilized to explain various judicial decision making processes. This study analyzed data collected from prosecutorial files in the Marion County, Oregon, District Attorney's Office for all cases involving arrests by The City of Salem, Oregon Police Department for Criminal

Mistreatment I/II, Endangering the Welfare of a Minor and Child Neglect I/ II during 2006 and 2007.

The study's findings suggest that the indicators of focal concerns perspective did not uniformly predict the bail, disposition, sentence and sentence length decisions for cases of criminal child neglect. The findings indicate that only a minimal number of variables were actually explaining any of the variance. This alone suggested little support for focal concerns perspective. Consistent with existing research on focal concerns perspective this study however indicated that legal factors were the strongest correlates of the case processing decisions. However it may be that judicial concerns specific to crimes against children are unusual compared to other forms of criminality. Focal concerns perspective simply may not address these unique considerations.

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TABLE OF CONTENTS

LIST OF TABLES

CHAPTER I

INTRODUCTION

Although incidents of child abuse and neglect are largely handled through child

protection services agencies and juvenile dependency courts criminal justice agencies

have the authority and responsibility to intervene in cases of criminal child maltreatment

(Brown & Riley, 1986). Governmental interventions into familial incidents are relatively

recent. The United States Children's Bureau, which was founded in 1912, was the first

federally funded governmental agency responsible for investigating reports that pertained

to the well-being of children throughout our nation. Their use of authority was however

limited. It was not until the 1960's that child abuse reporting laws were passed

throughout the nation. Since that time, every state has established their own governmental

agency responsible for investigating allegations specific to child abuse and neglect.

Although these agencies hold the "primary responsibility for investigation and

investigative decisions" regarding children's safety, law enforcement and judicial

responses to child abuse and neglect is essential (Willis & Wells, 1988, p. 698).

Magnitude of the Problem

Child maltreatment is a form of criminal behavior ranging from physical abuse,

sexual abuse, neglect, emotional and/or psychological abuse (Widom, 1989). The

magnitude and prevalence of child maltreatment within the United States is difficult to

determine as no one data system captures all forms of known maltreatment across various

agencies who investigate abuse and neglect. The most widely used indicator of child

victimization is the National Child Abuse and Neglect Data System (NCANDS), a

1

voluntary national data collection system that measures and tracks child maltreatment investigated by child protective service (CPS) agencies.

NCANDS (2006) estimates nearly 3.3 million reported allegations of child abuse and neglect to child protective services agencies, involving approximately six million children. Of these allegations, nearly 30 percent of investigations determined that a child was a victim. Neglect has continuously been shown to be the most common form of child maltreatment, accounting for nearly 60 percent of all confirmed investigations (U.S. Department of Health and Human Services, Administration on Children, Youth and Families, Children's Bureau, 2008). National statistics reflect that neglect is the most frequent form of child maltreatment reported to and substantiated by CPS. However, it is the form of maltreatment least likely to receive criminal justice attention (Cross et al., 2005; Tjaden & Anhalt, 1994).

The availability of law enforcement data focused specifically on child maltreatment is limited. The Uniform Crime Report (UCR) compiles statistics about crime and its prevalence within the United States. Its major report, *Crime in the United States*, provides annual crime rates on eight specific index crimes throughout the nation. Although child victims are represented within these index crimes, the omission of certain types of criminality within the report (e.g., child neglect) prevents an overall picture of all incidents where child victimization occurs. The National Incident-Based Reporting System (NIBRS) is recognized as providing information on a greater number of offenses, 46 versus eight within the UCR, including family offenses, as well as providing more information about crime victims (U.S. Department of Justice, Bureau of Justice Statistics, 2001). Although NIBRS does capture a greater variability in criminal acts, participation

by states is not mandated. Recent statistics indicate that only 23 states are certified to submit to NIBRS (U.S. Department of Justice, Bureau of Justice Statistics, 2004). Like the UCR, NIRBRS does not provide statistics on child neglect (U.S. Department of Health and Human Services, Administration of Children, Youth and Families, 2006),

The Role of Criminal Justice Agencies

Law enforcement officers have the authority to investigate child maltreatment allegations, yet little is known regarding the prevalence of child maltreatment investigated by the police. No national data system compiles such data, yet research suggests that child abuse and neglect is widespread within the United States (Widom & Hiller-Sturmhofel, 2001). No identified research specifically examined the role of police in criminal investigations of child maltreatment; rather articles specific to police reactions to child maltreatment focused on their response to the child victim and decisions regarding protective custody. In addition, identified research specific to criminal child maltreatment focused nearly exclusively on child sexual abuse and/or prosecutorial decisions to file charges or the criminal case disposition (Bradshaw & Marks, 1990; Brewer, Rowe & Brewer, 1997; Cashmore & Horsky, 1988; Champion, 1988; Chapman & Smith, 1987; Dolan, 1984; Cross, De Vos & Whitcomb, 1994; Cross, Whitcomb & De Vos, 1995; Conte & Berliner, 1981; Cullen, Hull Smith, Funk & Haaf, 2000; Faller & Henry, 2000; Finklehor, 1983; Fridell, 1991; Gray 1993; Goodman, Taub, Jones, England, Port, Rudy, et al., 1992; MacMurray, 1989; Martone, Jaudes & Cavins, 1996; Stroud, Martins & Baker, 2000). Examinations into judicial response of physical abuse and neglect are nearly non-existent (Cross et al., 2003; Sedlack, Doueck, Lyons, Wells, Schultz & Gregg; 2005; Tjaden and Thoennes, 1992).

Present Study

With limited quantitative examination on criminal case processing, specific to forms of child neglect, several questions remain. The purpose of the current study was to examine the variables that influenced case processing of criminal child neglect. Child neglect was defined within this study as Criminal Mistreatment (I and II), Endangering the Welfare of a Minor, and Child Neglect (I and II). Focal concerns perspective was also examined specific to various decision points throughout the judicial process. Focal concerns perspective was examined within this study for two reasons. First, Steffensmeier, Ulmer & Kramer's (1998) focal concerns perspective of sentencing "has become the dominant theoretical framework used to explain disparities in judges' sentencing decisions" (Hartley, Maddan & Spohn, 2000, p. 58). Second, focal concern perspective was examined as its tenets are testable beyond the sentencing decision. Focal concerns perspective allows considerations of offender, victim, and case characteristics specific to the prosecutors' decision to file criminal charges, the bail decision, the case disposition, and sentencing decisions. As these considerations had not been thoroughly examined within existing research, with regards to child maltreatment cases, a test of this perspective was warranted and was able to fill in gaps in the current literature.

In order to accomplish this, the study examined prosecutorial files within Marion County, Oregon's District Attorney's Office to assess the tenets of focal concerns perspective on judicial case processing of criminal child neglect during 2006 and 2007. Assessing prosecutorial files allowed for detailed operationalizations of the variables of interest. This extended upon the past research by offering a closer and more

comprehensive examination of the influence of victim, offender and case characteristics role in case processing decisions specific to crimes of neglect against children.

The next chapter (Chapter II) begins by examining the historical response to child maltreatment. The chapter reviews and discusses the literature specific to prosecutorial responses in criminal child abuse and neglect cases. A review of factors that have been found to impact judicial responses to criminal child maltreatment is also assessed. Next, this chapter outlines the theoretical framework of focal concerns perspective and reviews select studies that tested this perspective. Finally, a summary and discussion of the current study is provided. Chapter III will then set forth the specific methodology utilized in the current study, including an overview of the research design, the population under study and potential risks to participants will be discussed in detail within the chapter. Finally, the analysis plan is described. Chapter IV presents the findings of the study. Descriptive statistics are provided for the population under study, in addition to the findings specific to each hypothesis. Chapter V discusses these findings and provides possible explanations for findings which were not as predicted. In addition, a critique of focal concerns perspective is presented as well as its explanatory power of case processing of criminal child maltreatment. Lastly, recommendations for future research are provided.

CHAPTER II

LITERATURE REVIEW

This literature review begins by providing a brief overview of the historical

response to child maltreatment within the United States. A review of factors that have

been found to impact both prosecutorial decisions to charge and court case dispositions

for crimes against children also will be assessed. A summary of focal concerns

perspective is presented along with a review of the literature that has tested this

perspective specific to prosecutorial and sentencing decisions. In addition, a brief

explanation into how focal concerns perspective was applied to the current research will

also be provided. Last, the hypotheses and research questions specific to the testing of

focal concerns perspective are presented, which the current study addressed.

Child Maltreatment within the United States

Historical Response

Maltreatment of children has historically not required government intervention;

rather treatment of children was commonly accepted within the rights of the family.

Legal sanctions against perpetrators of child abuse and neglect are relatively new

concepts within the United States, making a historical analysis of crime trends difficult.

The creation of official interventions for children is deeply planted in the history of

British common law (Rosenheim, Zimring & Tanehaus, 2002; Trattner, 1974). There is

evidence of juvenile justice programs as far back as the fifteenth century, where chancery

courts addressed the plight of children. These courts were specifically created to oversee

the children who were not being properly supervised and cared for by their parents

(Bynum & Thompson, 1999). Loose systems of child protection remained throughout the

centuries; however, prior to the Industrial Revolution, established governmental responses to maltreated children within the United States were nonexistent.

Children who were orphaned or those whose parents were too poor to care for them often were placed in almshouses, sentenced to involuntary apprenticeships, sent on Orphan Trains where they were auctioned into apprenticeships, or in rare cases informally adopted (Costin, Karger & Stoesz, 1996; Rosenheim et al., 2002; Ventrell, 1998). Greater community concern was placed on orphaned or dependent children, who often were visible among the streets, than those who were maltreated within their own homes (Costin et al., 1996). The separation between the public and private realm was expected and how parents chose to deal with their children was largely seen as a personal matter (Pleck, 1987). The community was reluctant to intervene due to strong beliefs in preserving the sanctity of the family. Regardless, some individuals recognized that there were apparent problems with the way in which some children were being treated. The view that the "best interest of the child" may at times outweigh family preservation began a shift in the way dependent children were perceived (Pleck, 1987; Ventrell, 1998). This shift did not, however, occur without opposition.

The late nineteenth century was a time of change in the United States. The Progressive Era/Industrial Revolution was emerging and the result was a shift from traditional familial roles within society. This shift often resulted in instability within the family. During this period, both parents, especially those of the working class, commonly worked and the youth were typically left alone with little to no supervision and/or they worked themselves (Platt, 1977). During this time, the gap between the working classes and the middle/upper classes continued to widen and "the despair and ill treatment of [the

lower class] children could no longer be ignored" (Costin et al., 1996, p. 48). In response, a group of upper-class women began a grass-roots movement, termed the Child Saving Movement. These women believed that these wayward children could be saved from future criminality (Platt, 1977). Although the Child Saving Movement often is associated with the beginning of the juvenile justice system for delinquents, its historical impact on juvenile dependency cannot be ignored. It was from within this movement that community organizations emerged that focused on recognizing and meeting the needs of disadvantaged children (Rosenheim et al., 2002).

Although Child Savers and other charitable organizations utilized the States' authority for purposes of removing a child from either an inadequate home or the streets, the placement of children was typically within privately funded institutions rather than state run almshouses. Although there was court intervention, it was not for purposes of parental culpability, rather for purposes of child placement. These privately funded training schools were largely religious based and children often were committed by the courts to remain within them until the age of either 18 or 21 (Platt, 1977). These child protection organizations focused on orphans and children of the poor. There was a belief among these organizations that interference within families that did not desire assistance was unwarranted and that parents had the power to discipline their children and choose the appropriate severity level of these punishments. Interference into familial life was seen as a threat to parental autonomy. These organizations largely saw themselves as caregivers for children who had no one else, not protection agencies, further contending that judicial power should not apply to family life (Costin et al., 1996).

However, not everyone agreed with this philosophy of child protection. The New York Society for the Prevention of Cruelty to Children (NYSPCC), created in 1875, "was the first to articulate the idea of enforcing children's rights against their parents" (Hawes, 1991, p. 22). Creators and leaders of this organization recognized that no one was protecting maltreated children. As laws had not yet been established where law enforcement would investigate allegations of child maltreatment, the NYSPCC believed that child protection organizations' purpose should not be simply providing services and placement to disadvantaged children. Rather, the NYSPCC sought to rescue children from parental and adult cruelty, opposing the notion that abuse of children be tolerated (Costin et al., 1996). Initially this not-for-profit organization received referrals from New York City law enforcement and when needed, placed children within their own privately funded shelter. However, with time, NYSPCC investigators were granted law enforcement power and they also provided recommendations to the court (Costin et al., 1996). The NYSPCC is recognized as the first national child protection agency, in addition to the first agency known to work collaboratively with law enforcement and the court (NYSPCC, 2000). Their work resulted in increased penalties for child abuse and amplified public support for these sanctions.

The NYSPCC fought against parental autonomy and the "presumption that parents should be free to choose forms of punishment and to determine their severity" (Costin et al., 1996, p. 52). Rather, they argued that interference into homes suspected of maltreatment was necessary in order to protect the best interest of the child. By the end of the nineteenth century, similarly organized child protection agencies existed throughout the nation, whose focus was on abused and neglected children, while also holding the

offenders accountable (NYSPCC, 2000). However, the emergence of these new forms of prevention societies was not without opposition. Many of the initial child protection organizations maintained their original focus, providing assistance to the needy and orphaned children, without placing attention on children who suffered significant abuse. These organizations argued that this new form of child protection was creating an adversarial relationship between families and the courts. However, the NYSPCC was created on the belief that prior to them, child protection had truly been "nobody's business" and that neither the legal system nor previous child protection organizations were adequately protecting children (Costin et al., 1996).

These organizations contended that charitable organizations, not governmental interference, were better suited to address the needs of children and that child rescue organizations, whose focus was prosecution and punishment of the offenders, would never succeed at maintaining child safety. Although the NYSPCC fought for legal interventions into cases of child maltreatment, nonetheless, criminal cases of child abuse continued to be rare. While the NYSPCC may not have made immediate strides in the movement towards criminalization of child maltreatment; they were the springboard for further criminal justice and judicial interventions into child abuse and neglect within this country. The United States Children's Bureau, a federally funded governmental agency, was founded in 1912 as a direct result of the perceived national need, largely stemming from the Society for the Prevention of Cruelty to Children's demand for child welfare programming in the country. The Bureau was responsible for investigating all reports that pertained to the well-being of children throughout the nation. Trattner (1974) argued that:

The Children's Bureau was extremely significant; it soon became the central, and in some cases, the sole, source of authoritative information about the welfare of children . . . It was the first time that the government recognized not merely the rights of children but also the actual need to create a permanent agency to . . . protect them (pp. 183-184).

The creation of and subsequent investigations by the Bureau resulted in government run child welfare agencies within American society. Caseworkers were assigned to investigate suspicious families and intervene as necessary.

During this time, interventions into families suspected of child maltreatment were considered generally acceptable. Although, acceptance of this form of intervention by social service agencies had increased, the criminalization of parental abuse and neglect of children's needs had and continued to be minimal. This indicated a possible lack of public consciousness towards the effects of maltreatment on children. Lack of concern for the impact of maltreatment on children resulted in lack of demand for law enforcement or judicial involvement. In addition to this lack of public concern, the accumulation of the World Wars and the Great Depression during the early to mid 1900's placed focus further away from children in need (Costin et al., 1996). Child protection remained largely unchanged during this period of time.

Child abuse reporting laws, which were passed in all states by the 1960's and The Child Abuse Prevention and Treatment Act of 1974, which mandated certain professions to report suspected maltreatment, had inadvertently increased law enforcement involvement in investigations of child maltreatment (Costin et al., 1996). Commonly, however, it was cases of maltreatment perpetrated by individuals other than a child's parent or cases of sexual abuse which resulted in criminal legal intervention. Costin and colleagues (1996) argue that there is greater public concern for these forms of

maltreatment, as these acts are commonly acknowledged as being outside the confines of family autonomy. Although child abuse and neglect can be criminally prosecuted, the belief that parents have the right to punish their children, combined with demands for family autonomy, continue throughout society. The result is few criminal investigations into allegations of child maltreatment. It is this ideology that may explain why law enforcement investigates only a small portion (commonly the more serious) of child maltreatment allegations (Cross et al., 2005; Jones et al., 2006; U.S. Department of Health and Human Services, Children's Bureau, 2002).

Every state currently has social welfare agencies responsible for investigating and responding to reports of suspected child maltreatment (Child Welfare League of America, 2008). Allegations of suspected child abuse and neglect are brought to these agencies through community members, many of whom are mandatory reporters. Under the Child Abuse Prevention and Treatment Act, Public Law 93-247, every state requires certain professionals and institutions to report suspected child abuse and neglect. Those who qualify as mandatory reporters vary but typically include health care providers, teachers and school employees, social workers, counselors, day care providers and law enforcement (Smith, 2007). These reports are made to toll-free child abuse reporting lines, which are mandated in every state. It is the dispatchers from these reporting lines who determine whether the reported concern rises to the level of a perceived safety threat to the child.

The reports that are assigned are subsequently investigated by a child protective service (CPS) worker. Although CPS holds the "primary responsibility for investigation and investigative decisions" (Willis & Wells, 1988, p. 698) regarding children's safety,

thirty-seven states have laws (for example, Oregon OAR 413-015-0305) mandating CPS to cross-report assigned child welfare investigations to the proper police authorities (U.S. Department of Health and Human Services, Children's Bureau, 2002). It is often only those allegations that are perceived to be the most serious, such as sexual abuse and severe physical abuse, which rise to the level of law enforcement investigation. However, police have the authority to investigate any allegation.

The National Survey of Child Abuse and Adolescent Well-Being (NSCAW) found that sexual and physical abuse cases were most likely to be dually investigated by CPS and law-enforcement (45% and 28% respectively), compared to neglect cases, which were most likely to be assessed solely by CPS (Cross et al., 2005; see also Tjaden & Anhalt, 1994). Police are the gatekeepers of the criminal justice system. Without their investigations, arrests will not occur, police reports will not be forwarded to the District Attorney, prosecutors will be unable to file criminal charges and the cases of child maltreatment will never go before a criminal court. Even though police may only investigate a proportion of maltreatment cases, the importance of their role cannot be ignored. Forms of child maltreatment are criminal and it is essential to assess what is known regarding police responses to child abuse and neglect allegations (Cross et al., 2005; Finkelhor & Ormrod, 2001; Jones Finkelhor & Halter, 2006; U.S. Department of Health and Human Services, 2002).

<div align="center">Police Response to Child Maltreatment</div>

Identifying Law Enforcement's Role

Criminal investigations into child maltreatment have and continue to be rare (Cross et al., 2005; Harshbarger, 1987; Helfer & Kempe, 1968; Levesque, 1995;

<div align="center">13</div>

Newberger, 1987; Peters, Dismore and Toth, 1989). The line that separates helping

children in need versus criminalizing parental behaviors has not, and arguably is not,

always clear. What is not arguable is that child abuse and neglect within the United States

can be codified as criminal and "law enforcement has a legal duty and responsibility to

act accordingly" (Hammond, Lanning, Promisel, Sheperd and Walsh, 2001, p. 2).

Little is known regarding how law enforcement officers respond to cases of child

maltreatment (Finkelhor & Ormrod, 2001). Even in states where cross-reporting between

CPS and law enforcement is mandated, investigation by the police is not required. For

example, in Marion County, Oregon, it is the police sergeants who receive the cross-

reports and who then have the discretion whether to assign an officer to the case.

Assignment of cases is not the norm (Marion County, Oregon, DHS Child Welfare, Child

Abuse Hotline Supervisor, personal communication, March 5, 2007). It is typically only

when there is "suspicion that the reported child maltreatment involved a criminally

prosecutable act" that police will conduct an investigation (Cross et al. 2005, p. 226).

Within many jurisdictions, it is child protective service workers who initiate

investigations and may then choose to seek law enforcement assistance in the

investigation or in placing the child into protective custody (Cross et al., 2005). Having

law enforcement involved does not guarantee a criminal investigation rather, their

presence often is requested to provide protection and assistance to the child protective

service worker. Two states, however, have removed the investigative role from child

protective services and transferred it solely to law enforcement (i.e., Arkansas State

Police and Florida Sheriff's Departments). These states still have child welfare agencies,

but their role is now solely serving the families (Cross et al., 2005). Similarly, in

Wichita, Kansas, it is "the police that initially determine whether or not a child will enter the [protective custody] process" (Withrow & Bolin, 2005, p. 279). Regardless of who makes the decision to remove a child from his/her home, the decision is difficult (Briland & Lemmon, 1985; Marther & Lager, 2000; Seaberg, 1990; Withrow & Bolin, 2005) and it is the responsibility of the decision-maker to do so while trying to reduce trauma to the child and family as much as possible (Hammond et al., 2001).

Few studies have evaluated law enforcement responsibility in child maltreatment cases. Withrow and Bolin's (2005) research examined the process taken by police when deciding whether a child is in need of state intervention through protective custody. Within Wichita, Kansas, once a police officer has determined that a child has been maltreated and requires non-parental care, it is their role to remove the child from the home and deliver the child to the child protection service agency. Once the child has been removed from his/her home, it is the child protective service employee who then take over the investigation and makes the decision to process the case forward through family court. This study did not provide a discussion specific to whether the suspects, whose actions resulted in the removal of a child from their home, were arrested, whether criminal investigations occurred, or criminal sanctions were given. Thus, we still do not know how the police responded to suspected perpetrators of child maltreatment, only how they responded to the children. Withrow and Bolin's research, however, has added to the literature in this area by discussing the process of police intervention when determining issues of protective custody.

As stated above, Arkansas and Florida are two locations where the investigative role has been removed from child protective service agencies and transferred solely to

law enforcement. Evaluations of both states' law enforcement response to child

maltreatment investigations have been conducted and provide additional insight into the

criminal investigative process. The Center for the Study of Social Policy (2000)

conducted an evaluation of the Arkansas State Police's new responsibility of conducting

child abuse investigations. Unfortunately, the evaluation was largely qualitative and "no

data on ongoing prosecution was presented" (Cross et al., 2005, p. 233). From their

evaluation, it was not possible to know specifically if criminal child maltreatment charges

increased or if there were significant changes in the number of children being placed into

protective custody following the transition from child protective service to law

enforcement investigations.

Three evaluations of Florida's transfer of child protection responsibility from CPS

to law enforcement have been conducted through the Center for Research on Youth and

Social Policy (Cohen, Kinnevy, Huang, Gelles, Bae, Fusco et al., 2002; Kinnevy, Cohen,

Huang, Gelles, Bae, Fusco et al., 2003; Kinnevy, Huang, Dichter & Gelles, 2005). Unlike

Arkansas who transferred responsibility to the State Police, Florida transferred

responsibility to county sheriff's offices. This transfer was not mandated by the Florida

legislature, rather, it was provided as an option to counties throughout Florida. An

evaluation of the counties that made the switch was conducted using a non-equivalent

control group design to assess the impact of police investigations on child and family

outcomes, such as recurrence of abuse and placement of children. The evaluations also

sought to determine if perpetrators were more likely to face criminal sanctions when the

Sheriff's Office conducted maltreatment investigations as opposed to traditional CPS

investigations.

The research was unable to fully answer this question as they found that identifying arrest data specifically related to child maltreatment was "nearly impossible" (Kinnevy et al., 2003, p. 13) and even then, the data did not identify an arrest as a result of a CPS investigation or those that were a result of traditional police work (p. 37). The research found "no evidence of any negative effect of police involvement on the investigation system . . . [yet the studies do] not tell us about the effect of using regular police officers, specialized or otherwise, as child protection investigators" (Cross et al., 2005, p. 234). Although these locations provide potential opportunities for identifying how police investigate suspected perpetrators of child maltreatment, the available literature has not assessed if suspected perpetrators of child maltreatment in these counties are more likely to receive criminal sanctions than those in which law enforcement did not automatically investigate.

The fact remains that within the United States child maltreatment is most likely to be investigated solely by child protective service agencies (Brown & Riley, 1986). Police, however, do investigate a portion of these allegations and the recognition that dual-investigations do occur, either collaboratively or independently, have resulted in political pushes for multi-disciplinary (police and CPS) investigations of child maltreatment. As of 1999, 36 states required some level of collaboration on cases of child maltreatment (U.S. Department of Health and Human Services, 1999), yet meeting this requirement can merely consist of cross-reporting suspected maltreatment (Jones et al., 2005). Collaboration on investigations is believed to help reduce trauma to the child victim that can result from investigations (Jones et al., 2005). Arguably, while this goal is the most important, holding the perpetrator accountable through criminal justice

sanctions, is also an essential aspect of child maltreatment investigations that often is overlooked.

Prosecutorial Response to Child Maltreatment

The Role of the Prosecutor

Once law enforcement arrests an individual for child maltreatment, the next step in the criminal justice process is referring the criminal charges to the appropriate district attorney's office. Just as child abuse investigations are seen as distinct from other police investigations, prosecution of child abuse often is considered different from other forms of criminality. Cross et al. (2003) identified three unique distinctions found within cases of child maltreatment. The primary distinction is that cases can be referred to the prosecutor from two different agencies (i.e., CPS and law enforcement). This is in contrast to other forms of referrals, which come solely from the police. As CPS and law enforcement both have investigative responsibilities into suspected child maltreatment, both of these agencies also can refer substantiated child maltreatment to the prosecutor's office. Second, the age of the victims can distinctly influence these cases (see also Bradshaw & Marks, 1990). The credibility of the child as a witness may be diminished based on their age. For example, younger witnesses often are perceived to be unreliable while teenage witnesses, especially specific to child sexual abuse, can be seen as culpable for their own victimization. Many juries or judges also may not view child maltreatment as a criminal justice issue, which leads into the third difficulty in prosecuting child maltreatment. Prosecutors themselves may weigh the impact of criminalizing the offender, who is likely a caretaker of the victim, versus the "costs of prosecution for the victim, family and community" in making their decision to charge the alleged suspect

(Cross et al., 2003, p. 325; see also Harshbarger, 1987). These three areas can impact the likelihood that prosecutors will accept referrals and press charges for criminal child maltreatment.

Research on prosecution of child maltreatment is limited and the research that does exist tends to examine only one aspect of the court process or only one form of maltreatment. The majority of identified research focused on rates of charging and conviction specific to the offense of child sexual abuse (Bradshaw & Marks, 1990; Brewer, Rowe & Brewer, 1997; Cashmore & Horsky, 1988; Champion, 1988; Chapman & Smith, 1987; Dolan, 1984; Cross, De Vos & Whitcomb, 1994; Cross, Whitcomb & De Vos, 1995; Conte & Berliner, 1981; Cullen, Hull Smith, Funk & Haaf, 2000; Faller & Henry, 2000; Finklehor, 1983; Fridell, 1991; Goodman, Taub, Jones, England, Port, Rudy, et al., 1992; Gray, 1993; MacMurray, 1989; Martone, Jaudes & Cavins, 1996; Stroud, Martins & Baker, 2000). Examinations into prosecutorial response to physical abuse and neglect are nearly non-existent (Cross et al., 2003; Sedlack, Doueck, Lyons, Wells, Schultz & Gregg; 2005; Tjaden and Thoennes, 1992). The findings should therefore be examined with caution, understanding that the research of prosecutorial decisions in the context of crimes against children is limited and not generalizable to all forms of child maltreatment. A review of the research specific to case processing of child sexual abuse does however provide a preliminary view of factors that may impact case processing of other forms of criminal child maltreatment.

Charging Rates

Research indicated that the majority of child maltreatment cases referred to prosecutors were accepted and moved forward for indictment. Again, these results must

be taken with caution, however, as most research examined acceptance rates specific to child sexual abuse. Cross et al.'s (2003) meta-analysis of criminal justice decisions specific to child abuse identified twenty-one studies that examined prosecutorial charging rates for criminal child abuse. Of these studies, nineteen were specific to child sexual abuse. The findings indicated that "more than half of child abuse cases considered by prosecutors were accepted" though the charging rates varied across studies between 48% and 78% (p. 330).

MacMurray (1988) examined case attrition specific to child sexual abuse cases within a Massachusetts District Attorney's Office. The identified acceptance of cases that were forwarded for prosecution was 55%, while Bradshaw and Marks' (1990) examination of a Texas District Attorney's Office found that 73.7% of cases were accepted by the prosecutor upon intake. The research that examined acceptance rates across maltreatment types found that child sexual abuse was the most likely to be accepted by the prosecutor (Sedlak, et al., 2005; Tjaden & Thoennes, 1992). Sedlak et al. (2005) found that 61% of child sex abuse referrals were accepted for prosecution versus 37% of child physical abuse cases and only 10% of child neglect cases. Regardless of the maltreatment type, variables that may impact prosecution decisions to accept referred cases of child maltreatment can be distinguished by victim, offender and case characteristics.

Case Acceptance: Impact of Victim, Offender and Case Characteristics

The existing research identified a number of victim characteristics that influence prosecutorial decisions to file formal charges specific to crimes against children. These variables included age, gender, race/ethnicity and relationship to offender. The impact of

these variables on prosecutorial decisions to file criminal charges varied across research. Various examinations into prosecutorial responses to child sexual abuse indicated that the age of the victim significantly impacted prosecutorial acceptance rates (Faller & Henry, 2000; Brewer et al., 1997; Cross et al., 1994; Gray, 1993; MacMurray, 1988; 1989; and Stroud et al., 2000). The respective research also found that cases with older victims were more likely to be accepted than those where the victims were younger. Finklehor (1983) and Tjaden and Thoennes (1992) results were more age specific, finding that victims between the ages of 7 – 12 were more likely to be accepted for prosecution than any other age group. These findings may be explained by perceptions of sexual abuse victims. Bradshaw and Marks (1990) examination into factors that impact child sexual abuse cases hypothesized that prosecutors would be more likely to charge a suspect if the victim was "old enough to qualify as a competent witness, yet was not so old as to be perceived as a willing participant" (p. 278). Although they found no evidence that the age of the victim impacted prosecutor willingness to pursue the case (see also Martone et al., 1996; Sedlak et al., 2005), evidence in support of their hypothesis was found in other studies (Faller & Henry, 2000; Finklehor, 1983; Tjaden & Thoennes, 1992).

There was evidence that crimes involving female victims of child sexual abuse were more likely to result in the prosecutor filing formal charges (Sedlak et al., 2005; Stroud et al., 2000; Tjaden & Thoennes, 1992). However, MacMurray (1989) found that crimes involving male child sexual abuse victims were more likely to be charged by the prosecutor. The identified research did not agree if the victim's gender was significantly related to prosecutors' decision to file charges. Some research indicated that both male and female victims impact prosecutorial discretion, while other studies found no

statistically significant relationship between the victim's gender and prosecutorial decisions (see Brewer et al., 1997; Cross et al., 1994; Martone et al., 1996).

The race/ethnicity of victims has not been examined as thoroughly as other demographic variables in relation to prosecutorial decisions to file criminal charges. The research that has examined whether the race/ethnicity of the victim is significantly related to acceptance of cases by the prosecutor had mixed results. Sedlak et al. (2005) found that victims who were neither classified as white nor black were more likely to have their alleged suspect's case moved forward by the prosecutor than victims who were classified as either white or black. Their study examined predicators of court involvement for child maltreatment cases within a single county. Brewer et al. (1997) and Cross et al. (1994), however, found no relationship between the victim's race/ethnicity and prosecutorial acceptance of cases.

The familial relationship of the victim to the offender was examined throughout much of the identified literature about prosecutorial discretion of cases involving child maltreatment. Similar to the impact of other victim variables, these findings were mixed. The majority of findings indicated that the victim-offender relationship was significantly associated with prosecutorial acceptance rates, yet the relationships that were more likely to be accepted for prosecution action vary across studies. The finding that biological parental relationships were more likely to result in case rejection was found throughout much of the research about case processing of child maltreatment (Brewer et al., 1997; Chapman & Smith, 1987; Cross et al., 1994; Stroud et al., 2000). Similarly, Finkelhor (1983) found that the decision to file criminal charges occurred in 31% of cases involving offenders who were not related to the victim, compared to 23% of cases where there was

a familial relationship. In addition, Tjaden and Thoenees (1992) found that a non-parental relationship between the victim and offender resulted in greater likelihood of prosecutorial acceptance. These findings indicated support for Costin et al.'s (1996) contention that abuse perpetrated by anyone other than a child's parent more likely resulted in the public's demand for legal intervention, as these acts extend beyond parental autonomy and discipline.

The impact of victim characteristics on prosecutorial decisions to file charges was not clear. Variables that were influential within some studies showed no significance in others. Offender characteristics, such as age, gender, and race/ethnicity were also examined throughout this research. Just as victim characteristics have not shown to evenly impact prosecutorial decisions to pursue criminal charges of child maltreatment, offender characteristics also varied across studies. Offender age was not significantly related to prosecutorial decisions in studies conducted by Brewer et al. (1997) and Cross et al. (1994). However, MacMurray (1989), Stroud et al. (2000), and Sedlak et al. (2005) found that perpetrator age was significantly related to prosecution acceptance. MacMurray's (1989) study indicated that those over age 21 were significantly more likely to be prosecuted than those between 18 and 20, while Sedlak et al. (2005) found that perpetrators between 26 and 35 were the most likely to have their cases accepted for prosecution. Stroud et al. (2000) found a positive relationship between age and case acceptance in that those who were older were more likely to have their case accepted than younger suspects.

Findings specific to offender's gender also varied throughout the literature. Brewer et al. (1997) and Cross et al. (1994) found that the gender of the offender was not

significantly correlated with likelihood of prosecutorial case acceptance. However, other research indicated that the gender of the offender was significant and that male suspects were more likely to have criminal charges filed by the District Attorney (MacMurray, 1989; Sedlak et al., 2005; Stroud et al., 2000).

The majority of research examining the relationship between the offender's race/ethnicity and likelihood of prosecutorial acceptance of the case indicated that offender race/ethnicity was significantly related to prosecutor decisions. The direction of the relationship, however, was inconsistent and is in need of continued research. Cross et al. (1994), Finkelhor (1983), Tjaden and Thoennes (1992) and Wright (1982) found a statistically significant relationship between offender race/ethnicity and likelihood of the prosecutor accepting a case. Cross et al. (1994) found that white suspects were more likely to have their cases accepted while Tjaden and Thoenees (1992) and Wright (1982) both found that racial and ethnic minorities were more likely to have their cases accepted by the prosecutor. Sedlak et al. (2005), however, found no relationship between offender ethnicity and prosecutor decisions.

In addition to the previously mentioned variables, case characteristics (strength of evidence and prior criminal history) also have been found to impact prosecutorial acceptance rates. The research examining the impact of an individual's criminal history on prosecutorial acceptance rates was limited. What appears to play a role in a prosecutor's decision to file charges, however, was the strength of the evidence. Bradshaw and Marks (1990), Brewer et al. (1997), Cross et al. (1994), and MacMurray (1988) found support that as evidence levels increased, case acceptance rates also increased. Statements by the suspected offender throughout the course of the criminal

24

investigation also were found to increase the likelihood of the prosecutor filing charges (Bradshaw & Marks, 1990; Cross et al., 1994). Although criminal history was not an indicator of guilt, it was found to significantly impact the likelihood of charges being filed. Finkelhor (1983) and Wright (1982) found that any prior criminal history, not just a history of similar crimes, increased the likelihood of criminal charges. Sedlak et al. (2005) specifically examined the impact of prior child abuse and neglect convictions on the likelihood of criminal charges for suspected maltreatment. They found that those with prior histories of child maltreatment were significantly more likely (51%) to have their case accepted by the prosecutor than those with no record of an abusive past (37%).

Once criminal charges have been filed, a defendant will pass through a number of stages within the judicial process. There are various stages where prosecutorial or court discretion is applied. The literature specific to case processing of criminal child maltreatment was based nearly exclusively based on criminal child sexual abuse. The one examination into various forms of maltreatment concluded that sexual assault cases were the most likely form of child maltreatment to result in indictment (Tjaden & Thoennes, 1992). If this finding is consistent across jurisdictions, this may explain why research into criminal court processing of other forms of maltreatment is rare. With the research that has been identified, a summary specific to how these cases progress through the various stages of the judicial process is provided next.

<div align="center">Court Response to Child Maltreatment</div>

Child Maltreatment Court Case Processing

Once a prosecutor files charges against an individual, there are specific steps that a defendant must progress through. Few identified studies examined how an individual

moves throughout the various stages of judicial processing specific to cases of child

maltreatment. Rather the focus remained on one point within the system. Although the

prosecutor's decision to accept a case has been identified as the single greatest indicator

of a subsequent guilty verdict (Cross et al., 1995), acceptance rates alone do not provide a

clear view of the process nor fully indicate conviction. Understanding what occurs

between a prosecutor's decision to file charges and the case disposition can identify other

decision points that may significantly impact case disposition. Again, the research

specific to judicial processing of child maltreatment predominately focused on cases of

child sexual abuse (Cashmore & Horsky, 1988; Champion; 1988; Conte & Berliner;

1981; Cross et al., 1995; Cullen et al., 2000; Faller & Henry, 2000; Finkelhor, 1983;

Fridell, 1991; Goodman et al., 1992; Martone et al., 1996; Stroud et al., 2000) with only

one study identified that examined case processing for emotional, physical and sexual

abuse, as well as neglect (Tjaden & Thoennes, 1992).

The stages of judicial processing, which follow prosecutorial filing of charges, are

identified throughout the literature as: 1) indictment, 2) disposition and 3) sentence. Few

studies focused on one or more stages of the judicial process, and within those that did,

they did not examine how victim, offender or case characteristics impact ones

progression through the system.

Once the prosecutor makes the decision to file criminal charges, the evidence of

the case is presented at either a preliminary hearing or before a grand jury. If a prosecutor

does not receive a true bill or an indictment, then the suspect's case is dismissed and the

case moves no further within the court system. However, Martone et al. (1996) found that

85.7% of child maltreatment cases resulted in indictment. Similarly, Tjaden and

Thoennes (1992) found that only 20% of child maltreatment cases were dismissed. One factor that influenced indictment rates was victim age. The research indicated that cases involving victims under the age of three often (40%) failed to receive a true bill. One possible explanation was that victim comprehension or credibility may have decreased perceived strength of evidence.

Once an individual is indicted, they have the opportunity to enter a plea either at the arraignment or through plea bargaining. The reviewed literature indicated that individuals facing charges of child maltreatment offered a plea of guilty between 48.5% (Martone et al., 1996) to 94% (Champion, 1988) of the time. The available research did not indicate any specific variable that greatly increased likelihood of guilty pleas. Cashmore and Horsky (1998) found that the victim's age was correlated with likelihood of guilty pleas, for suspects charged with child sexual abuse. Faller (2000) however found that neither the victim's age nor gender was predictive of whether an individual plead guilty.

If a suspect chose not to plead guilty either at arraignment or through a plea bargain, the court case moves to trial. Only a small majority of criminal cases tend to progress to trial; rather most are resolved through plea bargains (Walker, Spohn & DeLone, 2006). The research specific to child maltreatment indicated that between 4.6% (Faller, 2000) and 12% (Tjaden & Thoenees, 1992) of cases involving child maltreatment progressed to trial. Research also indicated that child maltreatment cases that proceed to trial were likely to result in a guilty verdict (Tjaden and Thoenees (1992) 50% conviction rate; Cashmore & Horsky (1998) 58.8% conviction rate; Faller's (2000) 60% conviction rate; Cross et al. (1995) 64% conviction rate; Martone et al. (1996) 67% conviction rate).

Cashmore and Horsky (1998) examined variables that impact trial conviction rates on child sexual assault in New South Wales, Australia. Their research indicated significant relationships between familial status of the victim and offender, victim age, victim gender and likelihood of conviction. Suspects with a familial relationship with the victim were more likely to be convicted, and cases with younger female victims also were more likely to result in criminal conviction.

Upon conviction, whether based on a plea of guilt or trial verdict, the convicted offender then faces the sentencing stage of the court process. Sentencing involves two stages. The first stage is deciding whether to incarcerate, while the second stage determines the sentence length (Steffensmeier, Kramer & Streifel, 1993). When available, findings on both sentence type and average lengths of incarceration are provided. The findings regarding sentencing outcomes for criminal child maltreatment were not as consistent as other stages throughout the court process. The findings indicated that convicted defendants were as likely to receive a sentence of incarceration (either jail or prison) as they were to receive a sentence that did not involve imprisonment. As it was not possible within these studies to identify the specific offense convictions of each individual, it was unknown how many individuals were sentenced based on determinate versus indeterminate sentencing guidelines or whether criminal histories of the convicted influenced the sentences ordered by the court.

Champion (1988), Conte and Berliner (1981) and Tjaden and Thoeenes (1992) found that most individuals convicted of child maltreatment received a sentence other than incarceration. Champion's (1988) found that 61% of individuals convicted for sexual abuse against a child were given probation. Similarly, Conte and Berliner (1981)

found that nearly 75% of those convicted of sexual assault against a child receive a sentence other than incarceration. These findings were in contrast to those of Cross et al. (1995), Cullen et al. (2000), Faller and Henry (2000), Goodman et al. (1992), Martrone et al. (1996), and Stroud et al. (2000) who found that the majority of individuals convicted of child maltreatment were sentenced to periods of incarceration. Cross and colleagues (1995) examined sentencing outcomes of individuals prosecuted for child sexual assault. Over three-quarters (78%) of those convicted were sentenced to either jail (40%) or prison (38%). Similarly, Faller and Henry's (2000) exploratory study into criminal court procedures for child sexual abuse found that the most common sentence for those convicted was jail.

Little research has identified factors that impact sentence length for offenders convicted of crimes against children. The research identified only provided descriptive statistics. Faller and Henry's (2000) study of judicial response to child sexual abuse found that sentencing length ranged from one to 25 years, while those convicted within the research conducted by Fridell (1991) received sentences ranging from three to 10 years.

It was not clear from the research if specific victim, offender, or case characteristics significantly impacted judicial processing of individuals charged with criminal child maltreatment. The variations in findings within the stages of the court process indicated the need for further research into this area. Ideally, any disparity in prosecutorial case acceptance and subsequent case processing was due to legally relevant variables, such as strength of the evidence, criminal history, and seriousness of the

offense. Yet without more comprehensive examinations into differences, assurance that disparity was not due to extralegal characteristics cannot be claimed.

In order to further examine the impact of victim, offender and case characteristics on case processing of criminal child neglect, theory testing was utilized. Although a number of theories exist and are applied to assess the prevalence and distribution of sentencing disparity within America's courts (e.g. the paternalism hypothesis, familial paternalism, focal concerns perspective, and the liberation hypothesis), no identified studies have tested these theories specifically to crimes against children. The existing research suggested that child maltreatment was addressed differently by prosecutors (Cross et al., 2003) thus, it was conceivable that this form of criminality also may be addressed differently by judges. Focal concerns perspective was examined within this study for two reasons. Steffensmeier et al.'s (1998) focal concerns perspective "has become the dominant theoretical framework used to explain disparities in judges' sentencing decisions" (Hartley et al., 2000, p. 58). Second, focal concern perspective was selected as it tenets are testable beyond the sentencing decision. In addition, many of the characteristics that were found throughout the review of literature to impact judicial decisions specific to cases of child maltreatment (e.g., criminal history, gender of offender, familial status of offender) were similar to those discussed within the perspective of focal concerns. However, it was yet to be determined if these characteristics impact cases specific to child neglect differently than other forms of criminality.

Focal Concerns Perspective

The term focal concerns was first introduced by Miller (1958) when he asserted

that decisions of lower class juvenile corner groups often are guided by a set of focal

concerns prominent within lower class societies. Miller argued that the actions of these

juvenile corner groups stemmed from the philosophies and behaviors of their own

community, suggesting that these behaviors were not deviant within their society.

Steffensmeier (1980) first applied the idea of focal concerns specific to sentencing

decisions. Similar to Miller's contention, Steffensmeier emphasized that judicial

decisions were guided by a set of focal concerns and that these concerns interact with and

influence sentencing decisions.

According to focal concerns perspective there are three focal concerns:

blameworthiness, danger to society/protection of the community, and practical

considerations. Individuals who are perceived to be more blameworthy and more

dangerous to society are less likely to be afforded leniency by court players

(Steffensmeier et al., 1993; 1998). Court players also regard practical considerations,

such as "the relationship among courtroom actors, case flow, and an awareness of state

and federal correctional resources (overcrowding)," in addition to the social costs of

incarcerating a defendant, such as impact of incarceration on the children of the convicted

(Hartley et al., 2007, p. 60).

Focal concerns perspective argues that all three concerns interact to impact

decisions and that these decisions are ones in which "the court actors start with legal

factors such as the offense and prior record . . .   but then make further situational

attributions about defendants' character and risk based on case characteristics and social

31

statuses" (Ulmer et al., 2007, p. 431). According to focal concerns perspective, judicial decisions reflect consideration of the defendant's blameworthiness, danger to society and practical consequences specific to their decision. However, decisions are likely not based only on these three systematic considerations as judicial players are typically only provided partial information about offenders and must make their judgment in relatively short periods of time (Steffensmeier et al., 1993; 1998). Within focal concerns perspective, in addition to considerations specific to the three focal concerns, decision makers also apply a perceptual shorthand. Each element of the perspective is discussed below.

Blameworthiness is identified as the most significant factor of the focal concerns (Steffensmeier et al., 1998). Blameworthiness is defined by the seriousness of the offense (or degree of injury to a victim) and the extent to which the offenders takes responsibility for their actions (Hartley et al., 2007). Blameworthiness is seen to impact judicial decisions due to perceptions of "just deserts." Judicial decision makers consider both the culpability of the offender and the injury caused to the victim.

The second focal concern, danger to society/protection of the community, is "conceptually distinct" from blameworthiness (Hartley et al., 2007, p. 60). This concern addresses judicial decision makers' considerations of specific and general deterrence. Through this focal concern, decision makers consider the impact of their decisions specific to protecting the community through conviction and sentencing of dangerous offenders (specific deterrence) as well the impact of their decisions on deterring potential offenders (general deterrence). Based on focal concerns perspective, if an

offender is seen as dangerous to the community, this offender is more likely to receive a sentence of incarceration than an offender who is seen as less of a societal threat.

The third focal concern, practical considerations, involves consideration of system efficiency as well as social costs of judicial decisions. Steffensmeier et al. (1998) define practical considerations as the implications or consequences of judicial decisions on both the criminal justice system and society. As judges and prosecutors are elected officials, they are held publically responsible for their decisions. This likely impacts judicial decisions as these players are aware of community perceptions. Practical considerations also involve concerns specific to the defendant. Judicial decision makers likely consider the "offender's 'ability to do time,' health condition, special needs, the costs to be borne by the correctional system, and the disruption of ties to children and other family members" (Steffensmeier et al., 1998, p. 467).

The roots of a perceptual shorthand are found within aspects of Albonetti's (1986; 1991) bounded rationality, specific to court decision making. Albonetti (1986, p. 623) described how bounded rationality is an "exercise of discretion" and that information provided to the court often does not eliminate uncertainty specific to a defendant's guilt or innocence. Judicial players (prosecutors/judges/juries) are responsible for decision making and these decisions can have significant consequences (e.g., loss of freedom). However, according to bounded rationality, decisions often are made based on limited information that has been provided to the courts. This limited information often results in decisions being made based on stereotypes of criminality. This same concept is known within focal concerns perspective as "perceptual shorthand." Through focal concerns perspective, it is argued that the limited or selective information provided to judicial

players, in addition to commonly accepted stereotypes of criminality, impact court decisions, case dispositions and sentencing results (Steffensmeier et al., 1993; 1998).

It is because of these limitations and time constraints that prosecutors, judges or juries "may resort to stereotypes of deviance and dangerousness" (Spohn & Holleran 2000, p. 301). Decisions made in these ways result in more young, minority males receiving harsher sentences in criminal cases, as these are the individuals stereotypically seen as being crime prone or dangerous (Albonetti, 1991; Spohn & Holleran, 2000; Steffensmeier et al., 1998).

A criticism of focal concerns perspective is that the three identified focal concerns (blameworthiness of the defendant, perceived dangerousness of the defendant and practical considerations) have not been explicitly operationalized within the research. Variables that have previously been used to measure the blameworthiness of the offender include the seriousness of the offense(s) and the offender's criminal history (Kramer & Ulmer, 2002; Steffensmeier et al., 1993; 1998). These same studies also used these variables as indicators of the second focal concern, level of dangerousness. The fact that criminal history and crime seriousness have been utilized as indicators of blameworthiness and level of dangerousness within these same studies has not been fully explained. The closest explanation simply indicated that there is a "complex interplay" between the different focal concerns (Steffesmeier et al., 1998, p. 767). In addition, exploration into the impact of practical considerations specific to sentencing decisions has rarely been considered (Hartley et al., 2007). Although prior researchers have tested focal concerns perspective, the lack of a guide specific to each concern results in a "set of established concepts which only offer suggestions as to the variables which can measure

particular concepts" (Hartley et al., 2007, p. 62). In light of this concern, Hartley et al.'s (2007) operationalization of focal concerns perspective was utilized throughout this study, with specific modifications made to examine criminal case processing of criminal child neglect.

Hartley and colleagues (2007) examined Federal Sentencing Commission data specifically to operationalize an analytical model for purposes of testing focal concerns perspective. Through a factor analysis of this data they suggested which variables should be tested specific to each of the three focal concerns, in addition to the perceptual shorthand (See Table 1). They suggested that blameworthiness, be measured by the seriousness of the offense, whether the incident involved violence and/or drugs, the overall number of counts referred for conviction, and whether offenders took responsibility by choosing to plead guilty rather than taking their case to trial (Hartley et al., 2007). It is through considerations of each of these variables that judicial decisions are made specific to the level of blameworthiness a defendant possesses.

In addition to assessing the blameworthiness of the offender, focal concerns perspective identifies the second focal concern as the assessment of a defendant's danger to society. This focal concern "a key upon the need to incapacitate and/or deter offenders and this concept involves the judge's ability to predict the future dangerousness of the offender" (Hartley et al., 2007, p. 60). Prior research has typically assessed level of dangerousness by considering the defendants' criminal history and the seriousness of the alleged criminality (Kramer & Ulmer, 2002; Steffensmeier et al., 1993; 1998).

Table 1:
Hartley et al.'s (2007) Operationalization of Focal Concerns Perspective

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Blameworthiness
      Seriousness of the offense
      Whether the crime involved violence
      Whether the crime involved drugs
      Number of counts referred for conviction
      Whether the defendant pled guilty

Level of Dangerousness/Protection of the Community
      Whether the criminal charges fall under the armed career statue
      Whether the criminal charges fall under the career criminal statue
      Defendant's criminal history
      Defendant's gender

Practical Considerations
      Defendant's martial status
      Number of dependents

Perceptual Shorthand
      Race/Ethnicity
      Age
      Citizenship Status
      Pretrial Status

Hartley et al. (2007) suggested that perceptions of dangerousness are influenced by whether the criminal charges fall under the armed career or career criminal statues. Hartley et al. (2007) contended that an individual's criminal history and gender also influence perceptions of dangerousness. Traditionally, women are seen as less dangerous, as they tend to participate in less serious forms of criminality than men and also are more likely to be accomplices in crimes committed by men (Steffensmeier, 1980). However, there are cases when a female may actually be seen as equally or more dangerous than men. In incidences such as these, the "evil woman" thesis may play a role in perceptions of dangerousness (Simon, 1975). This thesis is likely to be applied when the crime is considered rather heinous or violates stereotypical roles of femininity. Crimes against

one's own children violate these roles of femininity as it often is difficult for others to perceive a mother committing a crime against her own child. Although the "evil woman" thesis is not specific to focal concerns perspective, it helps explain variation in perceptions of ones danger to society, as an "evil woman" may actually be punished more harshly, as she is seen from straying from acceptable female behaviors and is thus more of a risk to society (Simon, 1975).

In addition to considerations of blameworthiness and danger to society, judicial players also consider the practical consequences of their decisions. Steffensmeier et al. (1993; 1998) defined practical consequences as considerations ranging from the impact of incarceration on the offenders' child(ren), case flow, organizational demands of incarcerating those with special needs, availability of jail/prison space to lack of rehabilitation within correctional facilities. However, Steffensmeier et al. (1998) have not provided a specific way to measure these various concepts; rather it was discussed that the costs of any judicial decisions must be weighed against the costs to the defendant, family and community.

Hartley et al. (2007) suggested measuring practical considerations through marital status and number of defendant's dependents, as the familial impact of decisions is likely considered within the judicial decision making process. The impact of practical considerations when the crime victims are the defendant's own children is likely unique. Theories of sentencing have previously argued that familial status tends to have a positive impact on sentencing decisions. For example, familial paternalism (Daly, 1987) argues that defendants with children often are granted leniency due to their familial roles, however, in decisions specific to crimes against children, this may in fact not be the case.

Similarly, focal concerns perspective argues that decision makers may consider the consequences to the children when the decision is made to incarcerate a parent, however, these considerations are likely very different when the victim is the child.

Hartley and colleagues (2007) suggested that the concept of perceptual shorthand be measured by citizenship status, pretrial status, race and age of the defendant, which are all indicators of "direct discrimination" in the judicial process (p. 74). Through focal concerns perspective, it is argued that the limited or selective information provided to the court, which impacts decisions specific to each focal concern, combined with stereotypes of criminality, likely impact judicial decisions. These decisions can result in disparity, which opens the door for discrimination, within judicial decisions, specific to the prosecutorial decision to charge, bail, case disposition and sentencing decisions.

Prior Research

Focal concerns perspective was initially designed to test gender differences in sentencing decisions (Steffensmeier et al., 1993; 1998). It has since been applied more generally to variations in sentencing based on other factors, such as race/ethnicity, socioeconomic status and age (Kramer & Ulmer, 2002; Spohn & Holleran, 2000; Steffensmeier et al., 1998; Steffensmeier & Demuth, 2000). Focal concerns perspective also has been further expanded beyond the sentencing decision to assess judges' decisions to transfer juvenile offenders to adult criminal court (Kurylchek & Johnson, 2004), prosecutors' decisions to accept a case (Spohn et al., 2001) parole decisions (Huebner & Bynum, 2006) and considerations of bail (Demuth & Steffensmeier, 2004). As the current study examined focal concerns perspective specific to court decisions an examination into this research is provided.

Only one identified study was found to apply focal concerns perspective specifically to the prosecutorial decision to file criminal charges (Spohn et al., 2001). The authors suggested that prosecutors, similar to judges, are guided by focal concern and that prosecutors assess the seriousness of the offense and the harm suffered by the victim, in addition to the suspect's criminal history, when making decisions. Similar to judges, prosecutors also assess practical constraints and consequences, yet the main focus is the likelihood of conviction and how the evidence will be assessed by the judge and jurors. In addition to the three focal concerns, Spohn and colleagues (2001) further argued that prosecutorial decisions also are impacted by "stereotypes of real crimes and credible victims" which focal concerns perspective would identify as perceptual shorthand (p. 208)

Spohn et al. (2001) examined case acceptance rates of sexual battery (not specific to children) in Dade County, Florida, by examining files from the State Attorney's Office. Cases that were rejected by the prosecutor were more likely to involve victims of a racial minority or a black offender, which were indicators of the use of perceptual shorthand. Cases where the victim and offenders were strangers was more likely to result in case rejection and cases involving child victims between 13 and 16 years old were the most likely to be accepted by the prosecutor for filing of charges. Strangers were less likely to be seen as blameworthy and dangerous to a child victim than a defendant who was personally tied to the victim. Furthermore, judicial players also considered the practical consequences (i.e., repeated maltreatment) to a victim if criminal action was not taken. The results suggested that prosecutorial decisions were guided by three focal concerns and that stereotypes of criminality, further impacted these decisions.

Prosecutors filed charges when the likelihood of conviction was greatest and whether the demographic characteristics of the victim conformed to a "genuine rape victim" (Spohn et al., 2001, p. 233). The results of this study indicated that those victims who were "deemed genuine" and defendants who were perceived to be more dangerous and culpable and also met common stereotypes of criminality were more likely to have criminal charges filed, indicating support for the perspective of focal concerns.

The existing research about focal concerns perspective relating to sentencing decisions showed support for its major tenets (Hartley et al., 2007; Kramer & Ulmer, 2002; Spohn & Holleran, 2000; Steffensmeier et al., 1993; 1998; Steffensmeier & Demuth, 2000). Much of the research testing focal concerns perspective specific to the impact of these concerns on sentencing decisions used data from the State of Pennsylvania (Kramer & Ulmer, 2002; Steffensmeier et al., 1993; 1998). Steffensmeier et al. (1998) tested focal concerns perspective by analyzing the impact of offense type and severity (used as indicators of blameworthiness and perceptions of dangerousness), prior record (used as indicators of blameworthiness and perceptions of dangerousness), jury/judge trial (used as indicator of blameworthiness), and race, sex and age of the defendant (used as indicators of the perceptual shorthand) on the decision to imprison and the subsequent decision about the length of the sentence. Offense seriousness and criminal history were found to be the strongest correlates to the incarceration decision and imprisonment length. Steffensmeier et al. (1998) did however find that race, gender and age of the defendant, when all other factors were controlled, were all statistically significant specific to sentencing type and length of incarceration. This indicated that

judicial decisions were a result of the use of perceptual shorthand, where common stereotypes of criminality and delinquency impacted sentencing decisions.

Similarly, Spohn and Holleran (2002) examined whether judges utilized this perceptual shorthand due to time constraints and lack of evidence when making sentencing decisions. They used data collected from Chicago, IL, Kansas City, MO, and Miami, FL to also assess any potential geographical differences. The research indicated that race, gender and age impacted the imprisonment decision and length of sentence. They found that young, black males received imprisonment and lengthier sentences than any other combination of age, race and sex regardless of geographical location. Spohn and Holleran (2000) concluded that when there was limited time or lack of evidence at the time of sentencing, that judges considered stereotypes of deviance and dangerousness when making sentencing decisions. This is likely explained as offenders who are racial minorities were commonly seen as more "dangerous" and unpredictable" (Liska, Logan & Bellair, 1998).

Kramer and Ulmer (2002) tested considerations specific to applying downward departures to sentencing decisions in Pennsylvania using focal concerns perspective. They hypothesized that offense severity and prior record score would impact judges' definitions of offenders' level of blameworthiness and dangerousness, indicating that those with higher prior record and offense severity scores would be less likely to receive a downward departure. The authors also predicted differences in decisions specific to downward departures based on the offender characteristics, which are indicators of the perceptual shorthand. Their findings supported Steffensmeier et al.'s (1993; 1998) findings that found that offense severity and prior record, which were used as indicators

41

of the defendants' blameworthiness and dangerousness, were the strongest correlates to impact sentencing decisions. In addition, they found that those who entered a guilty plea, which is an indicator of taking accountability, were more likely to receive a downward departure than those who were convicted via a trial. In other words, offenders were rewarded for taking responsibility for their actions. In testing the perceptual shorthand, Kramer and Ulmer (2002) found similar results to Spohn and Holleran (2002). They identified an interaction of race, age and gender of the defendant on downward departures, with young, Hispanic male offenders being the least likely to receive a downward sentencing departure than any other race/ethnicity and sex combination.

Conclusion

Hartley et al.'s (2007) criticism specific to operational definitions of the concepts of focal concerns perspective was identifiable within the existing research. Little to no mention of the third focal concern, practical considerations and consequences, was found within the identified studies. The variables used to examine blameworthiness and levels of dangerousness are similar throughout the research; the same variables often are used to examine both concerns. It was not clear from the previous research how these variables interact and which ones may greatly impact one concern more than the other. Due to these concerns, the results of Hartley et al.'s (2007) factor analysis of variables, specific to the operationalization of focal concerns perspective, was used. To date, no further studies have tested focal concerns perspective using Hartley et al.'s (2007) operationalization, despite their call for further testing of the model. Focal concerns perspective was applied to examine prosecutorial charging, bail, case disposition and sentencing decisions specific to crimes of neglect against children.

Through this literature review questions remain regarding how victim, offender, and case characteristics impact case processing decisions for criminal child maltreatment. Testing focal concerns perspective would likely explain any disparity within the judicial process. No identified studies have examined focal concerns perspective specific to crimes against children or simultaneously examined decisions at various stages of the judicial process. This study not only applied the perspective of focal concerns to crimes against children, but applied this perspective to multiple judicial stages within one study. This allowed for an extensive examination into how and whether the tenets of focal concerns impact case processing of criminal child neglect.

Decisions throughout the judicial process, from the prosecutorial decision to file charges to the judicial sentencing decision, are all discretionary. The three factors of focal concerns perspective (blameworthiness, concerns regarding protection of the community and practical considerations) are also relevant within each decision making point specific to crimes against children. Variables within focal concerns perspective have been found within existing research to impact case processing of crimes against children (i.e., criminal history, crime seriousness and decisions to plead guilty). In addition, demographic variables also have been found to reach statistical significance in sentencing decisions and in decisions specific to crimes against children, indicating an application of a perceptual shorthand. The impact of these focal concerns and the use of perceptual shorthand specific to crimes perpetrated against children however are currently unknown.

The existing literature showed consistency within the research as the age of the victim, the relationship between the victim and offender, the race and criminal history of the offender, as well as the level of evidence, were all significantly related to

prosecutorial acceptance of cases of child maltreatment. However, the impact of other victim and offender characteristics on this decision remained mixed. An explanation for the variability of the results within the identified research remains unclear. The existing research regarding how case variables impact case processing, beyond the prosecutorial decision to file charges, was too limited to provide any conclusions. Applying the factors of focal concerns perspective to judicial decisions specific to cases of criminal child neglect allowed for further examination into how victim, offender and case characteristics impact the prosecutorial decision to accept cases and the subsequent stages of court processing. This examination added to the existing body of literature that has tested focal concerns perspective by not only assessing the elements of focal concerns at one identified stage of the judicial process, but also applying it to a form of criminality that is largely understudied.

<div align="center">Research Questions and Hypotheses</div>

Steffensmeier et al.'s (1993; 1998) perspective of focal concerns was used as the theoretical foundation to explain any variability within the prosecutors' decision to file charges, the bail decisions, the disposition dispositions and when applicable, the judges' sentencing decisions specific to Oregon criminal offenses, Child Neglect I (ORS 163.547), Child Neglect II (ORS 163.545), Endangering the Welfare of a Minor (ORS 163.575), Criminal Mistreatment I (ORS 163.205) and Criminal Mistreatment II (163.200). (For legal definitions of each offense, see Appendix A).

According to focal concerns perspective, considerations of blameworthiness,

danger to society and practical consequences, in addition to the application of the

perceptual shorthand impact prosecutor and judicial decisions. As previously noted,

Hartley et al.'s (2007) operationalization of focal concerns perspective was utilized

throughout this study, specific to decision making stages of judicial processing. Any

variations from their operationalization are noted, when applicable. See Table 2 for the

operationalization of focal concerns perspective for the current study.

Table 2:
Study's Operationalization of Focal Concerns Perspective

Blameworthiness
      Most serious offense classification*
      Most serious offense type*
      Most serious child neglect offense*
      Was child neglect offense the most serious offense?*
      Co-occurring drug offenses*
      Overall number of counts (felony and misdemeanor)*
      Whether the offender chose to plead guilty**
      Familial status between victim and defendant
          *(Collected for arrest and conviction)
          **(Applied only to sentence and sentence length decisions)

Level of Dangerousness/Protection of the Community
      Defendant's criminal history
      Defendant's DHS, Child Welfare history
      Defendant's gender

Practical Considerations
      Defendant's martial status
      Number of dependents
      Victim's age
      Whether the victim is placed in State Protective Custody

Perceptual Shorthand
      Defendant's citizenship status
      Defendant's bail status *(Does not apply to the dependent variable, bail status)
      Defendant's race/ethnicity
      Defendant's age
      Victim's race/ethnicity
      Victim's gender

In order to examine the impact of blameworthiness, danger to the community, practical consequences and the perceptual shorthand, ordinary least squares regression was conducted to answer the following research questions and hypotheses, specific to the prosecutors' decision to file charges, case disposition and sentencing decisions. Research Question: Does focal concerns perspective adequately account for variation in processing of cases involving Child Neglect (I and II), Endangering the Welfare of a Minor, and Criminal Mistreatment (I and II)?

Judicial process: Prosecutor decision to file charges.

$H_a(1)$: Cases involving individuals who are perceived to be more blameworthy will be charged by the prosecutor more often than those perceived to be less blameworthy.

$H_a(2)$: Cases involving individuals who are perceived to be a greater risk to the community will be charged by the prosecutor more often than who are perceived to be less of a risk to the community.

$H_a(3)$: Prosecutors consider practical consequences when making the decision to file criminal charges.

$H_a(4)$: There will be significant differences, based on prosecutorial use of a perceptual shorthand between cases that the prosecutor files criminal charges against and those that result in no-action.

Judicial process: Bail decision.

$H_a(5)$: Cases involving individuals who are perceived to be more blameworthy will be denied bail more often than those perceived to be less blameworthy.

$H_a(6)$: Cases involving individuals who are perceived to be a greater risk to the community will be denied bail more often than who are perceived to be less of a risk to the community.

$H_a(7)$: Judges consider practical consequences when making the bail decision.

$H_a(8)$: There will be significant differences, based on judicial use of a perceptual shorthand between cases that the judge denies bail files and those that are granted bail.

Judicial process: Case disposition.

$H_a(9)$: Cases involving defendants who are perceived to be more blameworthy will be convicted more often that cases involving those who are perceived to be less blameworthy.

$H_a(10)$: Cases involving defendants who are perceived to be a greater risk to the community will be convicted more often than cases involving those who are perceived to be less of a risk to the community.

$H_a(11)$: Judicial players consider practical consequences when making verdict decisions.

$H_a(12)$: There will be significant differences, based on judicial use of a perceptual shorthand between cases that receive a verdict of guilty versus not-guilty.

Judicial process: Sentencing decisions.

$H_a(13)$: Cases involving defendants who are perceived to be more blameworthy will receive sentences of incarceration more often than cases involving those who are perceived to be less blameworthy.

$H_a(14)$: Cases involving defendants who are perceived to be more blameworthy will receive lengthier sentences than cases involving those who are perceived to be less blameworthy.

H$_a$(15): Cases involving defendants who are perceived to be a danger to the community will receive sentences of incarceration more often than cases involving those who are perceived to be less of a danger to the community.

H$_a$(16): Cases involving defendants who are perceived to be a danger to the community will receive lengthier sentences than cases involving those who are perceived to be less of a danger to the community.

H$_a$(17): Judicial players consider practical consequences when making decisions specific to the in/out sentencing decision.

H$_a$(18): Judicial players consider practical consequences when making decisions specific to the length of the sentence.

H$_a$(19): Judicial use of a perceptual shorthand impacts sentencing decisions specific to the in/out decision.

H$_a$(20): Judicial use of a perceptual shorthand impacts sentencing decisions specific to the length of the sentence.

CHAPTER III

METHODOLOGY

In order to address the hypotheses listed in Chapter II, data was collected from

Marion County, Oregon District Attorney's prosecutorial files. The use of prosecutorial

files allowed for an intensive examination of charging, bail, case disposition and

sentencing disparities that may be present due to considerations of focal concerns (i.e.,

suspects' blameworthiness and dangerousness to society, judicial decision makers'

considerations of practical consequences of their decision, and stereotypical perceptions

of criminality). This was of importance as focal concerns perspective had not previously

been applied to case decisions specific to crimes against children or to multiple judicial

decision making points within one study (as discussed in Chapter II).

Data collection was limited to a single location (Marion County, Oregon). This is

common within the sentencing and courts literature, as studies of case processing of child

abuse and neglect have limited their examinations to a single city or county (Bradshaw &

Marks; 1990; Brewer et al., 1997; MacMurray, 1988; 1989; Sedlak et al., 2005). While it

does place restrictions on the generalizability of the results, this was countered by the

depth of information that was collected from the case files. Also, the entire population of

completed cases presented to the prosecutor for the specified criminal codes during 2006

and 2007 were collected and analyzed, which were the most recent years available for

purposes of data collection and analysis. The following section will outline the

methodology in detail.

Prosecutorial Files

In order to assess the explanatory power of focal concerns on case processing, data from cases involving Criminal Mistreatment (I and II), Endangering the Welfare of a Minor, and/or Child Neglect (I and II) charges, were collected and analyzed from the Marion County, Oregon District Attorney's Office. The data was obtained from police investigations resulting in arrest(s) for these crimes within the City of Salem, Marion County, Oregon. All police reports resulting in an arrest within Marion County, Oregon are forwarded from the various police jurisdictions to the Marion County District Attorney's Office. For this study, only police reports forwarded from the City of Salem Police Department were included. The City of Salem Police Department provided a list of all suspects named within The City of Salem police reports who were arrested during 2006 and 2007 for the above stated crimes. Utilizing the police department records for the sampling frame permitted the inclusion of cases where the prosecutor chose to not file criminal charges. Hence, using police department records was necessary in order to collect and analyze the prosecutorial decision to file criminal charges.

Population of Cases under Study

Permission was granted from the Marion County, Oregon District Attorney to examine and analyze their files for purposes of this research (Appendix B). Using the list of individuals arrested for Criminal Mistreatment (I and II), Endangering the Welfare of a Minor, and Child Neglect (I and II) provided by the City of Salem, Police Department, the respective prosecutorial files were pulled from the filing room at the Marion County District Attorney's Office. Access also was granted to the computerized system, which was utilized in incidences where hard files were missing, there was evidence of missing

50

data within the files, or clarification was required. The information was gathered and used to construct the independent and dependent variables examined within the current study.

The City of Salem, Police Department identified 296 individuals who were arrested by their Department for the specified criminal codes between January 1, 2006 and December 31, 2006. A total of 365 individuals were arrested between January 1, 2007 and December 31, 2007. Thus, a total of 661 individual prosecutorial files were examined for purposes of this study (City of Salem, Police Department, Personal Communication, March 28, 2008).

In order to determine if this population size was adequate for the proposed analysis, Cohen's (1988) statistical power analysis equation for multiple regression techniques was utilized. The equation used to determine power is:

$$N = \frac{\lambda}{f^2}$$

where N represents the number of cases needed, λ (lambda) is the value of the noncentraility parameter of the noncentral F distribution and f^2 is the effect size. Cohen offers lambda tables from which the appropriate lambda value can be determined. In order to obtain the lambda value, researchers must consider the number of independent variables (u), the degrees of freedom for error variance (v), and the desired power.

The lambda (λ) for 21 independent variables (the number of independent variables within the current study) was used. Degrees of freedom for error variance are the power entries for each value for each independent variable (u = 21). For the degrees of freedom for error variance, the choices are 20, 60, 120 and infinity. For this, Cohen's recommendation is to use 120 as it is a more conservative measure (v = 120). In regard to

the power value (i.e., the likelihood that a researcher will not commit a Type II error), Cohen suggests the use of 0.80 for behavioral science research. Furthermore, when a model has not been analyzed previously, Cohen also recommends using by default a medium effect size where f^2 equals 0.15 (Cohen, 1988, p. 413).

Using this information the lambda (λ) value 25.9 was obtained from Cohen's multiple regression sample size table with an alpha of .05 (p. 454). As 21 independent variables is not an option within this table, the lambda (λ) value for 24 independent variables was utilized. This results in the following equation:

$$172.7 = \frac{25.9}{0.15}$$

This indicated that a minimum sample size of 173 cases was needed in order to find a significant result. Estimations of the appropriate ratio of participants to independent variables have been presented to assist in the determination of adequate sample size for regression analysis. As it was expected that the size under study would decrease throughout the stages of case processing, as not every individual who was arrested will have files charged by the District Attorney and not all charges will result in a defendant's conviction. The population size of 661 ensured that an adequate number of cases were included within each stage of the case processing to run the analysis.

Dependent Variables

A total of five dependent variables were examined to test focal concerns perspective. All dependent variables and codes are listed in Table 3 and discussed below. Once an individual was arrested for Criminal Mistreatment (I and II), Endangering the Welfare of a Minor or Child Neglect (I and II), there are a variety of stages the case went through. The prosecutorial decision to file charges was the first identified stage of the

process. If the prosecutor decided to move forward and files charges then the decision

was to "action" the case. This was coded as a 1. A decision to "no action" a charge

indicated that the prosecutor was not filing criminal charges for the alleged actions of the

suspect. The Marion County District Attorney's Office identified thirty-four "no action

codes." Each no-action code was coded as a 0. During data collection, the reason for the

no-action was also collected. The majority of no action codes were for insufficient

evidence (Deputy District Attorney, personal communication, December 21, 2007).

Table 3:
Dependent Variables and Coding

Prosecutorial decision to file charges
      No Action = 0
      Action = 1

Bail Decision
      Cite and Released/Released on Own Recognizance = 0
      Bail Granted = 1

Case disposition
      Not guilty = 0
      Guilty = 1

Sentence Disposition
      Out = 0
      In = 1

Sentence Length (minimum and maximum)
      Continuous by days

Once an individual was arrested, the police made a decision either to cite and

release the arrestee or transport the individual to jail. The arrestee would then have an

initial appearance before the judge. At this hearing the bail decision was made. The judge

could either release the individual on their own recognizance or set a bail amount needed

for release back into the community. If the defendant was cited and released by the

arresting police offer or was granted a release on their own recognizance the variable was coded 0, while those defendants who had a set bail was coded 1.

This study also examined case dispositions. A disposition of not guilty was coded as 0. If a defendant was found guilty, either through a guilty plea or through a trial, the disposition of guilty was coded as 1. The type of guilty disposition was also collected in order to consider splitting the guilty disposition into "guilty due to a plea" and "guilty through trial," for purposes of analysis.

Upon conviction, either based on a plea of guilty or trial verdict, the convicted offender then faced the sentencing stage of the court process. Steffensmeier and colleagues (1993) contend that sentencing is a two-stage process. The first stage is the consideration of whether to impose a sentence of incarceration. The second stage is only relevant to those who have received a sentence of incarceration; the decision regarding the length of incarceration. For the first stage, the in/out decision variable assessed whether an individual received a sentence of incarceration (in) versus a sentence other than incarceration (out). Any sentence of incarceration, whether within a county jail or state prison was considered "in" and was coded as 1. Any case that resulted in a sentence other than confinement, such as probation, was defined as "out" and was coded as 0. The sentence length variable only pertained to defendants who received a sentence of incarceration. Sentence length referred to the time that offenders were sentenced to serve within a correctional institution. The sentence length variable was coded as a continuous variable. It was expected to analyze this variable as a continuous variable by the number of months, however, once data collection began it was necessary to code as a continuous variable by the number of days as many sentences were less than one month.

Independent Variables

Focal concerns perspective was examined specific to case processing of criminal child neglect. In previous research, a number of variables have been found to influence various stages of case processing. The independent variables and codes are listed in Table 4 and described below.

Table 4:
Independent Variables and Coding

Blameworthiness
Offense Seriousness at arrest and conviction
     Coded by classification type

Maltreatment Type/Most Serious Child Maltreatment Offense at arrest and conviction

Child Neglect I	No = 0	Yes = 1
Criminal Mistreatment I	No = 0	Yes = 1
Endangering the Welfare of Minor	No = 0	Yes = 1
Child Neglect II	No = 0	Yes = 1
Criminal Mistreatment II	No = 0	Yes = 1

Most Serious Offense at arrest and conviction
     Coded by offense type

Was Child Maltreatment Most Serious Offense at arrest and conviction?
     No = 0
     Yes = 1

Co-Occurring Drug Offense at arrest and conviction
     No Co-Occurring Drug Offenses = 0
     Co-Occurring Drug Offenses = 1

Number of total counts per incident at arrest and at conviction
     Continuous

Plea of Guilt
     No = 0
     Yes = 1

Familial Status between victim and offender
     Non parent/guardian = 0
     Parent/Guardian = 1

Level of Dangerousness/Protection of the Community
Defendant's DHS, Child Welfare History
     No = 0
     Yes = 1

Defendant's Gender
     Female = 0
     Male = 1

Defendant's Criminal History Classification (Based on Oregon Sentencing Guidelines)
>   A (More than 2 prior person felonies, adult or juvenile) = 0
>   B (2 person felonies, adult or juvenile) = 1
>   C (1 person felony plus 1 or more non-person felony) = 2
>   D (1 adult or juvenile person felony and no other felony = 3
>   E (4 or more adult non-person person felonies) = 4
>   F (2 or 3 adult non-person felonies) = 5
>   G (4 or more adult "A" misdemeanors/1 adult non-person felony or 3 or more
>   juvenile non-person felonies) = 6
>   H (No more than 3 adult "A" misdemeanor or 2 juvenile non-person felonies) = 7
>   I (No juvenile felonies or adult "A" misdemeanors) = 8

<u>Practical Considerations</u>
Martial Status
>   Not Married = 0
>   Married = 1

Number of Dependents
>   Continuous

Victim's Age (at time of arrest)
>   Continuous
Victim placed into State Protective Cusoty
>   No = 0
>   Yes = 1

<u>Perceptual Shorthand</u>
Citizenship Status
>   Non-U.S. Citizens = 0
>   U.S. Citizens = 1

Bail Status
>   Cite and Release/Release on Recognizance= 0
>   Set Bail = 1

Race/Ethnicity of Suspect
>   White, Non-Hispancic = 0
>   Hispanic = 1
>   Other = 2

Age of Suspect (at time of arrest)
>   Continuous

Race/Ethnicity of Victim
>   White, Non-Hispancic = 0
>   Other = 1

Gender of Victim
>   Female = 0
>   Male = 1

Blameworthiness.   The operationalization of blameworthiness was based on

Hartley et al.'s (2007) factor analysis of focal concern perspective. Their study tested the

"judicial decision to imprison an offender [and] how many months of imprisonment the

offender was sentenced to" (p. 68). However, the current study also examined the

charging, bail and disposition decisions. Some variables suggested by Hartley et al.

(2007) to measure blameworthiness' impact on sentencing decisions are not applicable

for the charging, bail and disposition decisions. For example, Hartley et al. (2007)

suggest that the number of counts of conviction is an indicator of blameworthiness.

However, the conviction decision has not yet occurred and cannot be relevant or

considered at the charging, bail and disposition decisions. Therefore, offense variables,

such as number of charges, were collected and coded at the arrest and conviction stages,

in order to be applicable for each decision making point. Arrest stage decisions were

utilized as indicators of blameworthiness at the charging, bail and disposition decisions.

Conviction stage decisions were utilized as indicators of blameworthiness at the sentence

and sentence length decisions.

Blameworthiness was defined by the seriousness of the offense (or degree of

injury to a victim) and the extent to which the offender took responsibility for their

actions (Hartley et al., 2007). Blameworthiness was seen to impact judicial decisions as

decision makers consider both the culpability of the offender and the injury caused to the

victim. Offense severity scores have been found to influence prosecutor's decision to

accept child maltreatment cases (Tjaden & Thoennes, 1992; Martone et al., 1996) and to

also influence defendant's willingness to offer a plea (Conte & Berliner, 1981). Hartley et

al. (2007) suggested that blameworthiness be measured by offense severity scores, if

there were co-occurring drug offenses, the overall number of counts referred for conviction, and whether the offender chose to plea or take their case to trial[1]. As a defendant's offense severity scores were not available within the district attorney's files a proxy variable was utilized for offense severity. The classification of the offense (A, B, C Felony of A misdemeanor) and type of offense (drug, property or personal) was collected for offense severity. The offense specific variables were coded at the arrest and conviction stages. As conviction has not yet occurred at the charge, bail and disposition decisions, the arrest charges were coded. At the sentence and sentence length decisions, the conviction charges were coded for coded.

A Deputy District Attorney of Marion County, Oregon District Attorney's Office, who prosecuted the majority of criminal child neglect cases during 2006 and 2007 identified Child Mistreatment (I and II), Endangering the Welfare of a Minor and Criminal Neglect (I and II) as the most common neglect offenses (personal communication, December 21, 2007). Endangering the Welfare of a Minor, Child Neglect II and Criminal Mistreatment II are classified as a Class A misdemeanors. Child Mistreatment I is a Class C felony and Child Neglect I is a Class B felony. These child neglect offense and classification were originally coded as dummy variables. See Table 4 for initial coding of collected data.

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[1] Hartley et al. (2007) further conceptualized the concept of blameworthiness using the variable, whether the crime involved violence. This variable was excluded within this analysis as violence rarely co-occurred with the specific form of maltreatment being examined within this study (Marion County Deputy District Attorney, personal communication, January 15, 2008). Hartley et al. (2007) further suggested that whether the offender accepted responsibility be operationalized by whether the offender received a reduction in offense severity score for acceptance of responsibility. The judgments available within the District Attorney files only state that there is a "disposition departure" but not the reason. It was not possible to know from the available data if this departure was due to acceptance of responsibility.

Some defendants were arrested or convicted for multiple charges of the same offense due to the number of children present. If an individual faced more than one criminal charge, the most serious child neglect offense at the arrest and conviction stages were collected. The most serious offense type (e.g., drug offense) an individual was arrested/convicted for were also collected. It was possible that the most serious child neglect offense was also the most serious offense.

Hartley et al. (2007) further suggested that suspects involved in drug crimes are seen as more blameworthy than other suspects. This variable was included within the analysis to control for the impact that co-occurring drug offenses may have on judicial processing of the charges for criminal child neglect. This variable was dichotomized as "no co-occurring drug offenses" (0) and "co-occurring drug offenses" (1). If an individual was arrested for a drug violation at the same time they were arrested for Criminal Mistreatment (I and II), Endangering the Welfare of a Minor or Child Neglect (I and II), or if they were convicted for a drug violation at the same time they were convicted for the mentioned forms of criminal child neglect, the case was coded as "co-occurring drug offenses." If the arrest/conviction for these offenses did not co-occur with a drug offense, the case was coded "no co-occurring drug offenses." The arrest and conviction decisions were coded separately.

Hartley et al. (2007) also contended that the number conviction counts impacts perceptions of blameworthiness. Incidents that resulted in multiple arrest and/or conviction charges could impact perceptions of blameworthiness or the belief that the incident was not an isolated event. Any individual case within the study had a minimum of one arrest count being referred to the District Attorney's Office. This variable was

coded as a continuous variable, beginning with 1, for each separate arrest count. In addition, a continuous variable was coded for each conviction count.

It was further suggested that cases where the offenders pled guilty were more likely to receive leniency during the sentencing phase (Hartley et al., 2007). Pleading guilty could indicate that the offender was taking accountability for his/her actions and this may impact perceptions of blameworthiness. As such, a defendant who pled not-guilty was coded as 0. A defendant who pled guilty was coded as 1.

The relationship status between the victim and suspected offender was also included within the operational definition of blameworthiness. This variable was included as research indicated that the familial relationship between the victim and offender has impacted the likelihood of prosecutorial acceptance or court involvement. Research suggests that individuals often are judged more harshly for crimes against their own children (Bradshaw & Marks, 1990; Champman & Smith, 1987; Cross et al. 1994; Finkelhor, 1983; MacMurray, 1989; Sedlak et al., 2005). The defendants' relationship to the victim was coded as parent/guardian and non-parent/guardian. Those defendants who are the parent (biological or adoptive) or legal guardian to the victim were coded as 1, while all other relationships were coded as 0.

Community protection. The second focal concern addresses the need to protect the community and deter offenders. Judicial players consider the future dangerousness of the offender when making determinations (Hartley et al., 2007). Protection of the community, or determining ones danger to society, was measured by criminal history and gender of the suspect (Hartley et al., 2007)[2]. In addition, DHS Child Welfare history was

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[2] Hartley et al. (2007) further conceptualized the concept of protection of the community using the variables, mandatory minimum sentence for the use of a weapon or for a drug offense or whether the career

also used as an additional indicator of history of prior child maltreatment. Similar to criminal history, DHS Child Welfare history indicated a pattern of prior maltreatment. The District Attorney's Office was typically able to access these records prior to making charging decisions (Deputy District Attorney, personal communication, December 21, 2007).

Finkelhor (1983) and Wright (1982) both found that defendants' criminal histories impacted likelihood of prosecutorial acceptance of cases regarding child sex abuse. Criminal history also is a factor when determining sentences, based on the State of Oregon's 2006 Sentencing Guidelines Grid. Hartley et al. (2007) further suggested that a defendant's criminal history influenced judicial decision making. It was intended that the seriousness of a defendant' past criminal history would be coded based upon the Oregon Sentencing Guidelines. Criminal history is coded within the Sentencing Guidelines as letter A through I. "A" is defined as most serious, with more than two prior person felonies and was to be coded in this research as a 1. "I" is seen as least serious, with no prior juvenile felonies or adult "A" misdemeanors and were to be coded in this research as 8. It was intended that criminal history would be entered as an interval scale ranging from 1 (serious criminal history) to 8 (no criminal history). (See Table 4 for definitions of each specific criminal history classification). However, once data collection began, it was clear that the criminal history codes were not consistently available within the District Attorney's data. Therefore, criminal history was coded as a dichotomous variable (0 = no known criminal history in Oregon and 1 = known criminal history in Oregon).

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criminal or the armed career criminal provisions were applied. As this analysis was specifically looking at child maltreatment offenses, mandatory minimum or career criminal provisions would not apply, specific to these offense types.

As child maltreatment is largely investigated by child protective service agencies (Brown & Riley, 1986), prior history of DHS, Child Welfare involvement was also considered. Child Welfare history is not an indicator of criminal history, but it does indicate a pattern of prior child maltreatment. The District Attorney's office considers DHS, Child Welfare history when filing criminal charges, accepting plea bargains and making sentencing recommendations if the information is available (Deputy District Attorney, personal communication, December 21, 2007). DHS, Child Welfare must make one of three determinations upon completion of a child maltreatment investigation. Findings are either unfounded, unable to determine, or founded. Not all founded cases result in court involvement, however, a disposition of founded shows that an individual has been identified as a perpetrator of child maltreatment by DHS Child Welfare. Any suspect who has never been identified as a perpetrator within a founded DHS, Child Welfare report was identified as having no history and was coded as 0. Any suspect who had been identified as a perpetrator within a founded DHS, Child Welfare report was identified as having history and was coded as 1.

The suspect's gender also has been identified within child maltreatment literature as having a significant impact on prosecutorial discretion (Brewer et al. (1997); Cross et al. (1994); MacMurray (1989); Sedlak et al. (2005); Stroud et al. 2000). Hartley et al. (2007) also contended that a defendant's gender was considered when assessing individual risk to the community. Gender of the defendant arguably impacts perceptions of dangerousness as women often are seen as less dangerous, as they tend to participate in less serious forms of criminality than men and also are more likely to be accomplices in crimes committed by men (Steffensmeier, 1980). However, there are cases when a female

may actually be seen as equally dangerous as men. This is likely to occur when the crime is considered rather heinous or violates stereotypical roles of femininity. Gender was categorized as "male" and "female." Individuals identified within the files as "female" were coded as 0. Individuals identified as "male" within the prosecutorial files were coded 1.

Practical considerations. Practical considerations are the social costs of incarceration to the defendant, their family and society. Hartley et al. (2007) identified martial status and number of dependents as practical considerations facing decision-makers throughout the judicial process. Similarly, Steffensmeier et al. (1993; 1998) defined practical consequences as considerations, such as the impact of incarceration on the offenders' child(ren). Martial status was identified within the City of Salem, Police Department police reports. Those who were not married at the time of their arrest were coded as 0. Those who were married were coded as 1. Age of the victim(s) at the time of the arrest was also included within this analysis. The literature suggested that victim age influenced decision-making specific to cases of child maltreatment (Brewer et al., 1997; Cashmore & Horsky, 1989; Cross et al., 1994; Faller & Henry, 2000; Finkelhor, 1983; Gray, 1993; MacMurray, 1988; 1989; Stroud et al., 2000; Tjaden & Thoennes, 1992). In addition, the age of the child often is considered when Child Welfare decides whether to place a child into protective custody, especially in cases involving neglect, as older children are given some authority to care for themselves (Marion County, Oregon, DHS, Child Welfare Supervisor, personal communication, July 23, 2007). There is likely greater concern for younger children, if the offender is allowed to return to the home. The

victim's age at the time of the defendant' arrest was coded as a continuous numerical variable based on the birth month and year and the arrest month and year.

The number of dependents and whether the victim(s) were placed into State Protective Custody at the time of the arrest were also considered. Practical considerations are defined as considerations specific to the "social costs" of judicial decisions (Hartley et al., 2007, p. 59). In crimes against children, the defendant is often the victim's parent, therefore, social costs specific to the victim are likely considered. For example, considerations of whether incarceration will negatively impact the parent-child relationship was likely not a consideration when the victim has been removed from the parent's custody. The number of dependents was coded as a continuous numerical variable. If the victim(s) were placed into State Protective Custody, by either the arresting officer of DHS Child Welfare, the variable was coded as 1. If the victim was not placed into State Protective Custody, the variable was coded as 0.

Perceptual shorthand. Focal concerns perspective contend that stereotypes regarding who is more likely to be crime prone may influence decision-making throughout the judicial process (Spohn & Holleran, 2000). In order to examine an existence of this "perceptual shorthand" approach, Hartley et al. (2007) suggested that citizenship status, pretrial status, race, departure, ethnicity, and age of suspect influence judicial decisions. Citizenship Status was categorized as "non-United States citizen" (coded as 0) and "United States citizen" (coded as 1). It was initially unknown if there would be enough variably to analyze this variable, however, the data was collected, with the understanding that analysis may not be possible.

Research also indicated that defendants who are detained prior to incarceration are more likely to be convicted and more likely to receive harsher sentences than those who are not detained pre-trail (Walker, Spohn & DeLone, 2007). One possible explanation is that these individuals already appear to be criminal, as they often arrive in jail jumpsuits and handcuffs, which makes it easier to picture the defendant participating in the crime. Whether an individual was cited and released by the arresting officer, released on their own recognizance at the initial appearance or had a bail amount set, was found within the prosecutorial status sheet. This variable was not included as an indicator of blameworthiness for the bail decision. Bail status was dichotomized as "bail set" and "no bail set." An individual who was cited and released by the arresting officer or released on their own recognizance was categorized as "no set bail" (coded as 0). An individual who received a set bail was categorized as "bail set." From the available data whether the defendant could post bail was not clear.

Race and ethnicity of the individuals arrested for Criminal Mistreatment (I and II), Endangering the Welfare of a Minor and Criminal Neglect (I and II) were found within the City of Salem police reports, located within the prosecutorial case files. The City of Salem, Oregon's racial and ethnicity demographic distribution indicated that 83.4% of the population is identified as White (non-Hispanic) while 17.3% is Hispanic. (City of Salem, Oregon, 2008). Race/ethnicity was collected based on the categories within the City of Salem, Police Department police reports. Police reports identify individuals as "White," "Black," "Native American," "Asian," "Pacific Islander" and "Hispanic" (City of Salem, Police Officer, personal communication, February 1, 2007). Based on the distribution of race/ethnicity within the City of Salem, it was likely that

these categories would be collapsed for analysis purposes. However, individual race/ethnicity of each individual was collected and coded. The race/ethnicity of the victim was collected and coded in this same way.

The age of the defendant were based on their respective ages at the time of their arrest arrest. Research has shown that the suspected offender's age was significantly related to case processing (MacMurray, 1989; Stroud et al., 2000; Sedlak et al., 2005). The age of the defendant was coded as a continuous numerical variable. The age of the defendant was found by subtracting the birth month and year from the arrest month and year.

Risk to Participants

In order to track cases for the identified crimes against children throughout the judicial process, identifying information specific to the offender was recoded at the time of data collection. Although some of the information found within the District Attorney's case files contained information that is exempt from the Oregon Public Meetings and Public Records Law (such as child victim's names and dates of birth), permission was granted from Marion County District Attorney's Office to access these files for purposes of this research project (Appendix B).

Each individual docket number was collected during data collection. This information was collected in order for the researcher to return to files if necessary, during the cleaning of the collected data. Only the researcher viewed this information and it was only stored until data collection and cleaning was completed. At that time, the identifying information was deleted. Until the data collection was completed, the data from the files was stored on the researcher's personal laptop computer and any hard

copies were maintained in a locked filing cabinet. Neither the names of the child or identifiable information specific to the child (i.e. date of birth or address) were collected or recorded. The age (in years), race/ethnicity and gender of the victim at the time of the police report and the relationship status between the offender and the victim were collected. No specific cases were individually assessed, discussed or reported; rather all results were displayed and analyzed in the aggregate.

The researcher recognized the importance of maintaining the confidentiality of child victims. As a previous Social Service Specialist I within the State of Oregon, Department of Child Welfare (May 2005-August 2005; May 2006-August 2006; May 2007-August 2007), this researcher has successfully completed Casework Practice and Child Protective Service Trainings (August 2004). Casework Practice Training has a specific unit dealing with the importance of maintaining confidentiality specific to child victims and regarding the Health Insurance Portability and Accountability Act of 1996 (HIPPA). The researcher was trained and aware that protecting the rights of the children was of utmost importance. The Marion County District Attorney's Office also required this researcher to participate in a federal criminal background check prior to beginning data collection. Through this process of data collection, combined with the safeguards in place by the researcher and the District Attorney's Office, there was no known perceived risk to the family or children whose information is maintained within the files.

Statistical Analysis Plan

In order to determine the impact of the independent variables on case processing specific to focal concerns perspective, this statistical analysis plan was used to test the hypotheses presented within Chapter II. The first step in the analysis phase was to run

descriptive statistics and bivariate tests to assess patterns and the distribution of variables.

Differences between groups were examined using this technique. This process helped to identify any patterns that need to be investigated and examined in more detail. T-tests also were used to determine any significant differences in means for each variable. Any significant differences between groups were further identified.

The operationalization of focal concerns utilized within this study was based on the principal components factor analysis, using Varimax rotation, of the theoretical model of focal concerns perspective conducted by Hartley et al. (2007). If the relationship as predicted was identified between the independent variables, meaning that the factor analysis determined that there were four factors underlying focal concerns perspective, which match Hartley et al.'s (2007) operationalization of blameworthiness, community protection, practical considerations and perceptual shorthand, these identified factors would be utilized for hypothesis testing rather than using each individual independent variable within the models.

As four of the five dependent variables within the current study were dichotomous measures (prosecutorial decision to charge, bail decision, case disposition and sentence (in/out) decision), logistic regression models were planned to assess the relationship between the independent variables and case processing decisions. Logistical regression was used to test Hypotheses 1-3, 5-13, 15, 17 and 19. Ordinary least squares regression was planned to be used for the sentencing length decision, as it was collected as a continuously measured dependent variable. It was intended that ordinary least squares regression would address Hypotheses 4, 14, 16, 18 and 20. However, due to the

distribution of the sentence length decision these hypotheses were also assessed utilizing logistical regression.

Logistical regression allows for estimations of the effect that various independent variables have on the dependent variable, as well as testing for statistical significance (Hardy & Bryman, 2004). The use of logistic regression produces coefficients that indicate the effect that a one-unit increase in each independent variable has on the log odds of an event (for example, likelihood of conviction) occurring, while simultaneously controlling for other explanatory variables (Menard, 2002). The logit equation used to assess the impact of the independent variables on a dependent variable is:

$$\text{logit}(Y) = \quad a_0 + b_1 x_1 + b_2 x_2 + \ldots + b_k x_k$$

where a_0 represents the constant, b is the coefficient for each independent variable, and x is the value for each independent variable (Menard, 2002).

Each analysis utilized different independent variables. For example, when assessing the impact of considerations of blameworthiness on the likelihood of conviction (Hypothesis 9), the coefficient b_1 represented offense severity, b_2 represented the coefficient for whether a drug conviction occurred simultaneously with child maltreatment, b_3 represented the number of conviction charges, b_4 represented the coefficient for the familial relationship between the victim and offender. The full models were also assessed and compared to the individual models. The full models included the additional components of focal concerns perspective into the analysis. The analysis also included, b_5 which represented the defendant's criminal history classification, b_6 represented the coefficient for DHS, Child Welfare history, b_7 represented the coefficient for the defendant's gender, b_8 represented the defendant's number of dependents, b_9

represented the coefficient for marital status , b_{10} represented the victim's age at the time

of the arrest, b_{11} represented the coefficient for whether the victim was placed into

protective custody, b_{12} represented the coefficient for the defendant's bail status, b_{13}

represented the coefficient for the defendant's race/ethnicity, b_{14} represented the age of

the defendant at the time of the arrest, b_{15} represented the coefficient for the

race/ethnicity of the victim, b_{16} represents the coefficient for the gender of the victim.

Logistic regression coefficients were also transformed into odds ratios to show the

change in the simple odds of an event occurring with a one-unit increase in each

independent variable. For example, for the sentence decision model, the odds ratios

showed the change in the simple odds of incarceration occurring as a result of a one-unit

increase in each independent variable, when all other independent variables were

controlled.

Logistical regression models also can be used to calculate estimated probabilities

of an event occurring based on different values of a variable of interest (Menard, 2002).

Therefore, the coefficients produced from the logistic regression individual analysis were

used to compare probabilities of each decision making process (bail, disposition, sentence

and sentence length) for significant variables within the individual models. The equation

used to calculate these probabilities is as follows:

$$P\,(Y = 1) = \frac{e^{(a_0 + b_1 x_1 + b_2 x_2 + b_3 x_3 + \ldots b_k x_k)}}{1 + e^{(a_0 + b_1 x_1 + b_2 x_2 + b_3 x_3 + \ldots b_k x_k)}}$$

where a_0 is the constant, b represents each slope estimate, and x is the value of each

independent variable (Menard 2000). The above formula used coefficients produced from

the logistic regression analysis to compare the probabilities of each decision making

process (bail, disposition, sentence and sentence length), based upon different values of an independent variable. These probabilities were then used to make comparisons of different types of cases.

CHAPTER IV

OFFICIAL DATA ANALYSIS

In an effort to assess the impact of focal concerns perspective on case processing of criminal child neglect, prosecutorial data from all 661 cases involving arrests for Criminal Mistreatment I and II, Child Neglect I and II and Endangering the Welfare of a Minor within Salem, Oregon, during 2006 and 2007 were collected. A total of 141 cases were not utilized within the study as either the defendant was a juvenile, the arrest for Criminal Mistreatment I or II was due to mistreatment of an elderly dependent and/or the case had not yet been resolved. A total of 520 cases were assessed specific to the below analysis. When examining the frequency statistics for the disposition and the sentence decisions, 86 cases are missing from the analysis: the 56 cases that the prosecutor's office did not action along with 27 cases that either did not result in a true-bill during grand jury or were dismissed post-indictment. In addition, there were three cases that went to trial and resulted in a not-guilty disposition.

This chapter presents the analysis of this data. First, results of the factor analysis are presented. Second, descriptive data and frequencies are briefly presented and discussed. Next, results of the logistical regression analyses are examined and discussed specific to the hypothesis listed in Chapter II. Logistic regression coefficients also were transformed into odds ratios to show the change in the simple odds of an event (i.e., bail, conviction, sentence decision and sentencing length) occurring with a one unit increase in each independent variable. Lastly, logistic regression models also were used to calculate estimated probabilities of the bail, disposition and sentencing decisions occurring based on different values of the significant independent variables.

Factor Analysis

DeVellis (2003) suggests that the primary function of factor analysis is to determine how many factors or "latent variables" underlie a specific concept. For the study, focal concerns perspective is the underlying specific concept. The operationalization of focal concerns utilized within this study was based on the principal components factor analysis, using Varimax rotation, of the theoretical model of focal concerns perspective conducted by Hartley et al. (2007). If the relationship as predicted is identified between the independent variables, meaning that the factor analysis determines that there are four factors underlying focal concerns perspective, which match Hartley et al.'s (2007) operationalization of blameworthiness, community protection, practical considerations and perceptual shorthand, these identified factors will be utilized for hypothesis testing rather than using each individual independent variable within the models. Once the independent variables are condensed into the four factors logistic regression models would then be conducted for each dependent variable.

A factor analysis was utilized to examine if the study's model was statistically linked in the way that Hartley et al.'s (2007) factor loadings of the variables of focal concerns perspective suggested. This study also included additional variables that have been utilized within previous studies of judicial decision making specific to child maltreatment cases. These variables were placed within the models based on the tenets of focal concerns perspective. For example, Hartley et al. (2007) identified a defendant's criminal history as an area of consideration specific to community protection. This study also considered the influence of one's Child Protective Service (CPS) history, in addition to their criminal history, on decision-making points throughout the judicial process. As

there is a similarity between criminal history and a history of known child maltreatment, this variable also was placed as an indicator specific to community protection. In addition, the relationship status between the victim and defendant, the age, race and gender of the victim, the number of defendant's dependents and whether the victim was placed into state protective custody also were included within the operational definition of focal concerns perspective (See Chapter 3, pp. 69-75). The current study utilized exploratory principal component factor analysis with Varimax rotation. The factor analysis findings are presented in Table 5.

Table 5:
Principal Components Factor Analysis of Study

Variables	Factor 1	Factor 2	Factor 3	Factor 4	Factor 5	Factor 6	Factor 7
Child crime most serious	-0.830						
Drug conviction	0.801						
Most serious conviction	0.784						
Bail status	0.372						
Victims all white		0.891					
Defendant's race		- 0.836					
Defendant's age			0.782				
Victim's mean age			0.751				
Victim's in State custody			- 0.546				
Offender-victim relationship				0.775			
Number of dependants				0.675			
Defendant's gender				0.624			
Child welfare history					0.801		
Criminal history					0.767		
Victims all girls						- 0.693	
# of conviction charges						0.628	
Marital status							0.794
Child maltreatment offense							0.521

Rotation Method: Varimax

As found in the Hartley et al. (2007) factor analysis, the variables in the current study loaded on 7 factors. However, the factor loadings here vary from their findings. In the current study, many of variables did not load together as predicted and combining of factors would still not result in clear distinctions among the four factors of focal concerns

perspective. Hartley et al. (2007) combined factors, arguing that the seven factors they found captured different aspects of the four individual focal concerns (see Appendix C for their factor loadings). For example, they believed one factor, which loaded together citizen status, ethnicity and bail status, captured "Perceptual Shorthand I" and another factor, which loaded together race, age and departure status, captured "Perceptual Shorthand II." They combined these factors together to capture the theoretical concept of perceptual shorthand. This collapsing of factors also was done with the concepts of blameworthiness and community protection. There was no logic to believe that these different factors are unitary constructs and collapsing factors into a single factor "obscure[es] the true factor structure and [results] in solutions with complex patterns that are difficult to interpret" (Fabriger, Wegener, MacCallum & Strahan, 1999).

The factor loadings within the study were not as predicted by Hartley et al. (2007). However, the findings found by Hartley et al. (2007) also were not as predicted by Steffensmeiser and colleagues (1993; 1998) in their original formulation of focal concerns perspective. Hartley et al. (2007) however argued that although their loadings were not as predicted they "make logical sense" (p. 70). The results from the factor analysis provided minimal support for Hartley et al.'s (2007) formulation of focal concerns perspective, and unlike Hartley et al., an argument will not be made that the loadings appeared to "make logical sense."

Within the study, it was predicted that offense seriousness, as measured by classification of the most serious charge (A, B or C Felony or A misdemeanor), whether drug charges co-occurred with the child maltreatment, whether the criminal child maltreatment was the most serious conviction, the number of charges, and the victim-

defendant relationship would be indicators of blameworthiness. However, the classification of the most serious charge, whether drug charges co-occurred with the child maltreatment and whether the criminal child neglect offense was the most serious conviction loaded together with the bail decision. The victim-defendant relationship and the number of charges did not load together, but rather with variables that were not predicted.

A defendant's gender, their criminal and child welfare history were believed to be indicators of community protection. Criminal and child welfare history did load together, however, the defendant's gender loaded with the defendant's number of dependents and the relationship between the defendant and victim. The defendant's marital status and whether the victims were placed into state protective custody were predicted to load under practical considerations. These variables did not load together, and loaded with variables that were not predicted. Marital status loaded with the most serious child maltreatment offense. Lastly, perceptual shorthand was believed to include the defendant and victim's race, the defendant's age, the gender of the victim and the defendant's bail status. The defendant and victim's race/ethnicity did load together as did their ages but these loaded together in separate factors. In addition, the age of the victim and the defendant loaded with whether the child was placed into state protective custody, which was not predicted.

These findings supported Hartley et al.'s (2007) claim that there is "no guide" to indicate which variables specifically capture each of the four focal concerns. Support for the influence of focal concerns on judicial decision making is found within existing research, yet, the interplay of variables between the components of the focal concerns

among various studies makes accurate testing of this perspective and replication studies utilizing this perspective nearly impossible. These discrepancies are identified by Hartley et al. (2007) as a "conceptual void within the focal concerns literature" (p. 70).

This study did not clearly identify four factors that follow either Hartley et al.'s (2007) operationalization or Steffensmeier and colleague's (1998) original operationalization of focal concerns perspective. Therefore, for purposes of this study's hypothesis testing, logistical regression models were analyzed using the individual independent variables rather than the found factors. However, as these independent variables did not factor as predicted, full models (including all independent variables capturing all the indicators of focal concerns perspective) also were utilized within the analysis, in addition to the individual models. The hypotheses were specific to the individual models of blameworthiness, community risk, practical considerations and perceptual shorthand. However, simply hypothesis testing focal concerns against the individual predicted focal concerns (i.e., variables of blameworthiness alone) do not acknowledge that these independent variables did not statistically load together. Prior to hypothesis testing a brief description of the population under study is provided.

Frequencies and Descriptive Statistics

The descriptive statistics are presented in Table 6 and the frequencies and coding utilized throughout the analysis for the explanatory variables are presented in Table 7. In an attempt to better consider how focal concerns perspective explained each decision-making point of case processing; the independent variables under blameworthiness vary somewhat from what was discussed in the previous chapter. A defendant's citizenship status, which was to be an indicator of perceptual shorthand, and whether a defendant

77

pled guilty were removed from the analysis as there was no variability within the sample

specific to these variables.

Table 6:
Official Data Descriptive Statistics for Continuous Data, N = 520

Variable	Minimum	Maximum	Mean	Standard Deviation
Number of felony arrest charges	0	27	2.75	8.92
Number of mis. arrest charges	0	19	1.88	2.06
Number of total arrest charges	1	29	4.63	3.46
Number of conviction charges	0	16	2.35	1.93
Defendant's number of dependents	0	9	1.89	1.47
Number of victims per incident	1	9	2.45	1.46
Mean age of victim(s)	0	17	6.00	4.22
Age of defendant	18	66	31.13	8.92

As shown in Table 6, the mean age of the defendants in the sample was 31.13

years old with a minimum age of 18 and a maximum age of 66 years old. Although data

were collected on the race/ethnicity of each defendant, the variable was dichotomized

into white and non-white due to lack of variability within the categories. As seen in Table

7 the final sample consisted of 418 (80.4%) white defendants and 102 (19.6%) non-white

defendants. A total of 342 of the defendants were married with the majority having

children (436, 83.8%). A total of 84 (16.2%) of the defendant's had no children or

dependents at the time of the alleged offense. The mean number of children per defendant

was nearly two. At the time of the arrest for either Criminal Mistreatment I/II, Child

Neglect I/II and/or Endangering the Welfare of a Minor, 173 (33.3%) of the individuals

were also arrested for at least one drug charge. Of the cases collected, the mean number

of charges at the time of arrest was 4.6 charges. The child maltreatment arrest charge was

the most serious arrest charge in 83.1% of arrests and the most serious conviction charge

in 66.9% of convictions. In addition, class C felonies were the most serious charge

classification within the sample at both the arrest (72.5%) and conviction stages (59.8%).

The most serious child neglect charge that the majority of the sample was convicted of

was Criminal Mistreatment I, a C felony (299, 57.5 %). The sample was nearly equally

split specific to criminal history with 48.5% (268) of individuals arrested having no prior

criminal history. The average number of victims per incident was 2.45 and the mean age

of the victims was six years old. The majority of these child victims were white (68.8%).

At the time of arrest, the great majority of these victims were placed into State Protective

Custody (69%) and these victims were largely (65%) the children of the arrested. The

majority of individuals arrested (408, 78.5%) for crimes against children had no history

of identified child maltreatment through Child Protective Service.

Table 7:
Frequency Statistics for Independent Variables, Coding for Analysis

Variable	N	%
Blameworthiness		
Most serious arrest charge classification*		
A Misdemeanor/C Felony (0)	434	83.5
B Felony/A Felony (1)	86	16.5
Child maltreatment arrest charge most serious?*		
No (0)	88	16.9
Yes (1)	432	83.1
Drug charge at time of child maltreatment arrest?*		
No (0)	347	66.7
Yes (1)	173	33.3
Most serious conviction charge classification**		
A Misdemeanor/C Felony (0)	365	70.2
B Felony/A Felony (1)	69	13.3
Missing	86	16.5
Child maltreatment conviction charge most serious?**		
No (0)	107	20.7
Yes (1)	327	62.8
Missing	86	16.5
Co-occurring drug conviction?**		
No (0)	281	54.1
Yes (1)	153	29.4
Missing	86	16.5

Most serious maltreatment conviction offense**

Other than Criminal Mistreatment I (0)	199	38.3
Criminal Mistreatment I (1)	235	45.2
Missing	86	16.5

Offender relationship with victim

Not parent/guardian of all victims (0)	182	35.0
Parent/guardian of all victims (1)	338	65.0

<u>Level of Dangerousness/Protection of the Community</u>
Criminal history

No (0)	268	51.5
Yes (1)	252	48.5

Child welfare history

No (0)	408	78.5
Yes (1)	112	21.5

Defendant's gender

Male (0)	197	37.9
Female (1)	323	62.1

<u>Practical Considerations</u>
Defendant's marital status

Married (0)	342	65.8
Not Married (1)	178	34.2

Victim's placed in Protective Custody?

No (0)	161	31.0
Yes (1)	359	69.0

<u>Perceptual Shorthand</u>
Bail Status

Released on recognizance (0)	231	44.4
Bail set (1)	289	55.6

Race/Ethnicity of Defendant

White (0)	418	80.4
Non-white (1)	102	19.6

Gender of the Victim(s)

Victims per incident not all female (0)	395	76.0
All victims per incident female (1)	125	24.0

Race/Ethnicity of the Victim(s)

Victims per incident not all white (0)	162	31.2
All victims per incident white (1)	358	68.8

*These are indicators of blameworthiness ONLY at the bail and disposition stages
**These are indicators of blameworthiness ONLY at the sentence and sentence length stages

Logistic Regression Analysis

It was intended that the variables of focal concerns perspective would be tested at five decision making points throughout the judicial process: the prosecutor's decision to file criminal charges, the bail decision, the case disposition and the sentencing decision (in/out), including sentence length. However, there were not enough variability within the category, "the prosecutor's decision to file criminal charges" (N = 56; 10.8% of sample) to conduct meaningful analysis. Any analysis specific to these decision-making points would not result in meaningful findings due to limited variability within the models (Cohen, 1988).

In order to accurately determine the relationships between the variables of focal concerns perspective (blameworthiness, protection of the community, practical considerations and perceptual shorthand) and case processing decisions of criminal child neglect, logistic regression was conducted. Logistic regression models were used to assess the effects of the independent variables on the bail, disposition and sentencing decisions. These models were used to test the hypotheses provided in Chapter II (see pages 46-48 for listed hypotheses). Hypotheses one through four were not analyzed.

Bail Decision

Table 8 indicates that a slight majority of individuals had a bail amount set during their initial appearance (55.6%). Multicollinearity was problematic within the initially designed model. When assessing the variables of "blameworthiness," the variation inflation factor (VIF) score for "most serious arrest charge type," which assessed whether the most serious charge was a personal, property or drug offense, was 12.661 and the VIF score for "child maltreatment arrest charge most serious?" was 11.445. Although "no

formal cutoff value or method exists to determine when a VIF is too large," (Craney &

Surles, 2002, p. 393) the general rule of thumb indicates that a VIF score higher than four

signifies multicollinearity between these variables (Bachman and Paternoster, 1997).

Table 8:
Frequency for Bail Decision, N = 520

Variable	N	%
Bail Decision		
Cite and release/released on recognizance (0)	231	44.4
Bail set (1)	289	55.6

According to Lewis-Beck (1980) multicollinearity can bias estimates and increase

standard errors. Therefore, to prevent multicollinearity that could bias the results, the

decision was made to exclude "most serious arrest charge type" from the model. This

variable was excluded as crimes against children were the focus of this research. With the

exclusion of this variable, the VIF of "child maltreatment arrest charge most serious?"

reduced to 1.912, well below the acceptable cut-off point. All other independent variables

in the models had VIF scores well below the recommended cut-off value of four,

indicating no further concern for multicollinearity.

Hypotheses five through eight examined the influence of focal concerns

perspective on the bail decision (see Table 9). Hypothesis five predicted that individuals

who are perceived to be more blameworthy would have greater odds of receiving a set

bail than those perceived to be less blameworthy. This model contained the indicators of

blameworthiness: most serious arrest charge classification, which considers whether the

most serious arrest charge was an A, B or C Felony or an A misdemeanor, whether the

child maltreatment arrest charge was the most serious charge, whether a drug arrest

charge occurred at the same time as the child maltreatment arrest, the number of felony

and misdemeanor arrest charges and the relationship between the victim and the

defendant.

Table 9:
Logistic Regression Results for the Bail Decision, Individual and Full Models, N = 520

Variable	Individual Models				Full Model			
	B	SE	Wald	Exp(B)	B	SE	Wald	Exp(B)
Blameworthiness								
Child crime most serious	-.148	.289	.146	.862	-.089	.409	.047	.915
Most serious arrest classification	1.253	.040	10.174*	3.502	1.234	.409	9.100*	3.436
Co-occurring drug arrest charge	.737	.264	7.817*	2.090	.614	.281	4.789*	1.849
Number of arrest charges	.189	.040	22.803*	1.208	.185	.048	15.031*	1.203
Offender-victim relationship	-.161	.209	.590	.852	.060	.248	.058	1.061
-2 Log Likelihood	609.471							
Model Chi Square	104.920*							
Nagelkerke R Square	.245							
Community Protection								
Criminal history	.757	.194	15.252*	2.132	.532	.224	5.629*	1.702
Child welfare history	.109	.238	.209	1.115	.204	.277	.542	1.226
Defendant's gender	-.023	.189	.015	.977	.073	.225	.104	1.075
-2 Log Likelihood	694.622							
Model Chi Square	19.769*							
Nagelkerke R Square	.050							
Practical Considerations								
Number of dependents	-.090	.065	1.894	.914	-.188	.098	3.668**	.828
Marital status	-.268	1.97	1.851	.174	-.145	.222	.426	.865
Victim mean age	.056	.023	5.916*	1.057	.020	.029	.489	1.020
Victims in State custody	1.241	.205	36.775*	3.458	.824	.233	12.478*	2.279
-2 Log Likelihood	669.065							
Model Chi Square	45.325*							
Nagelkerke R Square	.112							
Perceptual Shorthand								
Defendant race	-.581	.313	3.444**	.559	-.499	.372	1.800	.607
Defendant age	-.011	.010	1.127	.989	-.011	.013	.669	.989
Victims all white	-.362	.270	1.790	.696	-.057	.318	.033	.944
Victims all girls	-.169	.209	.653	.845	-.152	.253	.358	.859
-2 Log Likelihood	709.089							575.228
Model Chi Square	5.301							139.163*
Nagelkerke R Square	.014							.314

* p < .05   ** p < .10

As shown in Table 9, the model chi square indicated that there was adequate fit of the data to the model, meaning that at least one of the predictors of blameworthiness was significantly related to the response variable. The individual model indicated that 24.5% of the variance in the bail decision was due to judicial perceptions of the defendant's blameworthiness.

The arrest charge classification had a significant influence on the bail decision (b = 1.253; p < .05) which indicated that as an individual's charge classification increased from an A misdemeanor or C felony to a B or A felony, the log odds of having bail set increased. The simple odds of a having a set bail are 2.5 times more likely (Exp(B) = 3.502) for defendants charged with either A or B felonies than those charged with either a C felony or A misdemeanor. Whether the individual was arrested for a drug charge at the time of the child maltreatment offense arrest also was significantly correlated to the bail decision (b = .737; p < .05). The simple odds of having bail set increased by 109% (Exp(B) = 2.090) for individuals arrested for both drug charges and criminal child neglect versus individuals arrested for criminal child neglect without a co-occurring drug offense. In addition, the number of arrest charges (b = .189; p < .05) significantly increased the log odds of having a set bail. As the number of charges a defendant was arrested for increased the simple odds of having a set bail by 20.8%. Contrary to expectations, the two variables that were not statistically significant were whether the child crime was the most serious arrest charge and the offender and victim relationship. Partial support was found for hypothesis five.

Logistic regression models also can be used to calculate estimated probabilities of an event occurring based on different values of a variable of interest (Menard, 200). The variables of interest for hypothesis one were those blameworthiness factors that were shown to significantly influence the bail decision: the most serious arrest charge classification, the number of arrest charges and whether a drug arrest co-occurred with the arrest of criminal child maltreatment. The first predicted probability examined the probability of having a bail set for defendants arrested for either an A or B felony when all the other independent variables were held at their means. Next, the probability of having a bail set for defendants arrested for either a C felony or A misdemeanor when all other independent variables were held at their means was calculated. Defendants arrested for either an A or Be felony had an 80.4% probability of having a bail set, while those arrested for either a C felony or an A misdemeanor had a 53.9% probability of having a bail set, when all other factors of blameworthiness were held at their means.

The next predicted probability examined the likelihood of having bail set for defendants with more arrest charges than those with fewer arrest charges. The maximum number of arrest charges per defendant was 29 charges. As this was not a dichotomous variable, the 25th and 75th percentiles of number of arrest charges within the sample were utilized to represent those with more and fewer arrest charges. The 25th percentile was 7.25 arrest charges, which represented defendants with fewer arrest charges. The 75th percentile was 21.75 arrest charges, which represented defendants with more arrest charges. Defendants arrested for a greater number of charges had a 97.3% probability of having a bail set, while those arrested for a smaller number of charges had a 70.2%

probability of having a bail set versus being released on their own recognizance, when all other factors of blameworthiness were held at their means.

The final variable of interest specific to blameworthiness was whether the defendant was charged for a co-occurring drug charge at the time of the child neglect arrest. Defendants arrested for criminal child neglect charges and co-occurring drug charges had a 70.2% chance of having a bail set, while those arrested without co-occurring drug charges had a 53% chance of having a bail set versus being cited and released or released on their own recognizance when all other indicators of blameworthiness were held at their means.

Hypothesis six predicted that individuals who were perceived to be a greater risk to the community would have a greater likelihood of having bail set than those who were not perceived to be a high community risk. Predictors of community risk were the defendant's criminal and child welfare history, as well as their gender. A defendant's criminal history was statistically significant in the model (b = .757; p < .05). Having a criminal history increased the simple odds of having a set bail by 113% (Exp(B) = 2.132). Neither the defendant's gender nor their history of substantiated child maltreatment through Child Protective Services significantly influenced the bail decision (See Table 9). The predictors of community risk accounted for 5% (Nagelkere R^2 = .050) of the variance in the bail decision, showing minimal support for hypothesis six.

The variable of interest within this model was the factor of community risk that was shown to significantly influence the bail decision: defendant's criminal history. The predicted probability examined the probability of having a bail set for defendants with a criminal history and for defendants without a criminal history. Arrestees with a criminal

history had a 65.1% probability of having bail set versus being released on their own recognizance or cited and released, while those arrested without a prior criminal history had a 56.7% probability of having bail set versus being released on their own recognizance, when all other factors of community protection were held at their means.

Hypothesis seven predicted that judges take into account practical considerations when making the bail decision. Indicators of practical considerations included: the number of dependents the defendant has, their martial status, the mean age of their victim(s) and whether these victims were placed into State Protective Custody. Neither the number of defendant's dependents nor martial status of the defendant was significantly related to the bail decision. However, the mean age of the defendant's victim(s) and whether the children were placed into protective custody were both significantly related to the bail decision. As the mean age of the victim(s) increased (b = 0.056; p < .05) the simple odds of having bail set increased by 5.7% (Exp(B) = 1.057). In addition, if the children were placed into Protective Custody, the likelihood of having bail set increased twofold (b = 1.241; p < .05). The predictors of practical considerations accounted for 11.2% of the variance in the bail decision.

The variables of interest within this model were those factors of practical considerations that were shown to significantly influence the bail decision: the mean age of the defendant's victim(s) and whether the children were placed into protective custody. The first predicted probability examined the probability of having a bail set for defendants with older versus younger victims. The range of victims within the sample was 0 to 18 years old. Defendants with older victims, which was calculated at the 75th percentile of the age range (13.5 years old) had a 64.9% probability of having a bail set

versus being cited and released or released on their own recognizance, while defendants with younger victims, which was calculated at the 25th percentile of the age range (4.5 years old) had a 53.4% probability of having a bail set versus being cited or released or released on their own recognizance, when all other indicators of practical considerations were held at their means. In addition, the predicted probabilities of having a bail set for defendants whose victims were placed into protective custody versus those whose victims were not, were calculated. Defendants whose victims were placed into protective custody had a 65.0% probability of having bail set, while those whose victims were not placed had a 34.9% probability of having bail set versus being released on their own recognizance.

Hypothesis eight predicted that there will be significant differences, based on the judicial use of perceptual shorthand, between defendants who received set bail and those who were cited and released or released on their own recognizance. Lack of support was found for the use of perceptual shorthand, which was indicated by the defendant's race and age and the victim's race and gender. None of these variables were significant at the .05 alpha level. The influence of a defendant's race on the bail decision was approaching significance ($b = -.581$, $p < .10$) where a non-white defendant was more likely to have a set bail than a white defendant. Indicators of the judicial use of perceptual shorthand accounted for 1.4% of the variation in the bail decision, indicating little support for hypothesis eight.

Overall, partial support for the influence of focal concerns perspective was found on the decision to impose bail rather than cite and release or release an individual on their own recognizance. Significance was found among indicators for all three focal concerns,

blameworthiness, protection of the community and practical considerations. Although the influence of the defendant's race was approaching significance, no indicators of the judicial use of perceptual shorthand were significant within the model. The findings indicated that case characteristics alone did not solely influence bail decisions, as there was evidence that victim characteristics also influenced this judicial decision.

Bail Decision: Full Model

In addition to testing each component of focal concerns perspective on the four dependent variables (bail, disposition, sentence and sentence length decisions), all the variables of focal concerns perspective were placed into a single model to assess the overall explanatory strength of focal concerns perspective. It is argued that not only are individual considerations made specific to each concern, but that all the concerns interact to impact final judicial decisions (Steffensmeier et al., 1993; 1998 and Ulmer et al. 2007). In addition, as the independent variables of focal concerns did not load together as predicted, assessing the full model provided different results than when assessing only each specific focal concern on the dependent variable of interest.

When assessing the full influence of focal concerns perspective on the bail decision, the findings varied slightly from assessing each component of focal concerns perspective separately. As shown in Table 9, the model chi square indicated that there was adequate fit of the data to the model and that the full model was significant. The full model showed that 31.4% of the variance in the bail decision was due to judicial perceptions considered within focal concerns perspective. As seen in Table 10, the significant blameworthiness variables had the same influence on the bail decision both in their own and in the full model. The most serious arrest charge (b = 1.234; p < .05),

whether drug charges co-occurred with the criminal child neglect charges (b = .614; p <

.05) and the total number of charges (b = .185; p < .05) all continued to significantly

influence a defendant's log likelihood of bail. This finding provided support for

Steffensmeier et al.'s (1998) perception that blameworthiness is the most significant

factor of the focal concerns perspective.

Table 10:
Test of Significance between Individual and Full Models, Bail Decision
_____

Variable	Individual Models		Full Model		
	B	SE	B	SE	Z
Blameworthiness					
Child crime most serious	-.148	.289	-.089	.409	.204
Most serious arrest classification	1.253*	.040	1.234*	.409	.016
Drug arrest charge	.737*	.264	.614*	.281	1.230
Number of arrest charges	.189*	.040	.185*	.048	.151
Offender-victim relationship	-.161	.209	.060	.248	1.754*
Community Protection					
Criminal history	.757*	.194	.532*	.224	2.005
Child welfare history	.109	.238	.204	.277	- .674
Defendant's gender	-.023	.189	.073	.225	- .784
Practical Considerations					
Number of dependents	-.090	.065	-.188**	.098	1.342
Marital status	-.268	1.97	-.145	.222	- .063
Victim mean age	.056*	.023	.020	.029	2.039*
Victims in State custody	1.241*	.205	.824*	.233	3.791*
Perceptual Shorthand					
Defendant race	-.581**	.313	-.499	.372	- .410
Defendant age	-.011	.010	-.011	.013	.000
Victims all white	-.362	.270	-.057	.318	- 1.826
Victims all girls	-.169	.209	-.152	.253	-.121

* p < .05   ** p < .10

In assessing a defendant's risk to the community, one's criminal history was again

found to be the only significant indicator. The simple odds of receiving a set bail were

70% greater for a defendant with a known criminal history than for a defendant with no

known criminal history (b = .532; p < .05; Exp(B) = 1.702). Although the perceptions of

blameworthiness and protection of the community remained the same between the

models, considerations of practical considerations and the use of perceptual shorthand varied between the individual and full models.

Whether the victims were placed into protective custody, which was an indicator of practical considerations, remained significant between the models although the difference between the two models was statistically significant ($z = 3.791$). This indicated that this variable had different effects on the bail decision when analyzed within the individual versus the full model. The mean age of the victim was no longer significant in the full model and the difference between the two models was significant ($z = 2.039$) meaning that this variable also had significantly different effects on the bail decision, dependent upon whether the variable was assessed within the individual or full model. In addition, the defendant's race, which was an indicator of judicial use of perceptual shorthand, was approaching significance in the individual model, but not within the full model.

Disposition Decision

The influence of focal concerns on the criminal child neglect disposition decisions were tested in hypotheses nine through twelve. As shown in Table 11, the majority of individuals arrested for criminal child neglect received a guilty disposition. Of the 86 individuals who were not found guilty, 56 cases were dropped by the prosecutor's office prior to grand jury, 26 cases either resulted in a "no true bill" at the grand jury or were dismissed by the prosecutor's office prior to a disposition decision. An additional three defendants took their case to trial and were found not-guilty.

Table 11:
Frequency for Disposition Decision, N = 520

Variable	N	%
Criminal Child Neglect Disposition		
Case Dismissed/Not-Guilty (0)	86	16.5
Guilty (1)	434	83.5

As found within the bail model, multicollinearity also existed within the disposition model. The VIF for "the most serious arrest charge type" was 6.965 and the VIF for "whether a drug arrest charge co-occurred with the criminal child neglect" was 15.502. Again, the decision was made to exclude "the most serious arrest charge type" from the model. With the exclusion of this variable from the model, the VIF of "drug arrest charge" reduced to 1.912 and all other independent variables in the models had VIF scores well below the recommended cut-off value of four, indicating no further concern for multicollinearity.

Hypothesis nine predicted that defendants who were perceived to be more blameworthy would receive a guilty disposition for criminal child maltreatment more often than those perceived to be less blameworthy. As shown in Table 12, the perception of the defendant's blameworthiness had the greatest significant influence on the case disposition, than other factors within focal concerns perspective. A total of 18.5% of the variation in the disposition decision for crimes of child neglect was explained by the indicators of blameworthiness. Whether the child maltreatment arrest charge was the most serious charge had a significant influence on the log likelihood of a guilty disposition (b = 1.125; p < .05). The simple odds of conviction were increased twofold (Exp(B) = 3.082) for defendants whose most serious charge was a form of criminal child

neglect. Whether the defendant was arrested for a drug charge at the time of the child neglect offense also significantly effected whether the individual was convicted for the crimes of child neglect (b = 1.164; p < .05). In many instances, co-occurring drug use or possession was directly related to the child maltreatment. The simple odds of conviction were slightly more than two times greater (Exp(B) = 3.203) for defendants who had co-occurring drug and child neglect charges than those who did not. The number of charges a defendant was facing also significantly increased the log likelihood of a guilty disposition. As the number of charges increased, the simple odds of conviction increased by 45.6%. The two variables that did not show significance were the arrest classification type (A/B Felony versus C Felony/A misdemeanor) and the offender and victim relationship. As the majority of the variables that were categorized as indicators of an individual's blameworthiness showed significant influence on the log odds of a guilty disposition, support for hypothesis nine was found.

Again, the predicted probabilities were calculated for the likelihood of a guilty disposition for the variables of interest. The variables of interest within this model were those significant factors that influenced the case disposition decision: whether the child neglect arrest charge was the most serious arrest charge, the total number of arrest charges and whether a drug arrest co-occurred with the arrest of criminal child neglect. Defendants whose most serious arrest charge were other than a charge of criminal child neglect had a 76.5% probability of a guilty case disposition for the criminal child neglect charge, while those whose most serious arrest was a form of criminal child neglect had a 90.9% probability of having a guilty case disposition for the criminal child neglect charge, when all other factors of blameworthiness were held at their means.

Table 12:
Logistic Regression Results for the Disposition Decision, Individual and Full Models

Variable	Individual Models				Full Model			
	B	SE	Wald	Exp(B)	B	SE	Wald	Exp(B)
Blameworthiness								
Child crime most serious	1.125	.542	4.315*	3.082	1.030	.578	3.170**	2.800
Most serious arrest classification	.164	.497	.109	1.178	-.185	.532	.121	.831
Drug arrest charge	1.164	.487	5.708*	3.203	.944	.509	3.443**	2.571
Number of arrest charges	.375	.077	23.623*	1.456	.449	.095	22.175*	1.567
Offender-victim relationship	.172	.269	.406	1.187	.459	.312	2.155	1.582
-2 Log Likelihood	405.969							
Model Chi Square	60.462*							
Nagelkerke R Square	.185							
Community Protection								
Criminal history	-.101	.252	.159	.904	-.514	.295	3.028**	.598
Child welfare history	.345	.325	1.128	1.412	.363	.381	.908	1.438
Defendant's gender	.047	.246	.037	.848	.178	.287	.383	1.194
-2 Log Likelihood	465.138							
Model Chi Square	1.294							
Nagelkerke R Square	.004							
Practical Considerations								
Number of dependants	-.033	.084	.151	.968	-.274	.129	4.557*	.760
Marital status	-.128	.354	.255	.880	-.099	.282	.123	.906
Victim mean age	.032	.030	1.174	1.033	-.022	.037	.335	.979
Victims in State custody	1.076	.246	19.133*	2.932	.352	.288	1.496	1.422
-2 Log Likelihood	446.411							
Model Chi Square	20.021*							
Nagelkerke R Square	.064							
Perceptual Shorthand								
Bail status	1.241	.257	23.338*	3.461	.593	.305	3.771**	1.809
Defendant race	-.971	.428	5.169*	.378	-.803	.486	2.732**	.448
Defendant age	-.002	.014	.023	.879	.012	.017	.475	1.012
Victims all white	-.360	.399	.814	.698	-.173	.457	.143	.841
Victims all girls	.330	.298	1.221	1.391	.503	.340	2.185	1.654
-2 Log Likelihood	431.858							376.293
Model Chi Square	34.574*							90.139*
Nagelkerke R Square	.109							.269

* p < .05   ** p < .10

Cases involving defendants who had a drug arrest that co-occurred with the criminal child neglect arrest had a 94.7% probability of receiving a guilty case disposition for the criminal child neglect charge, compared to those without a co-occurring drug

arrest who had an 84.9% probability of having a guilt case disposition, when all other factors of blameworthiness were held at their mean. In addition, the likelihood of a guilty disposition for those cases with a greater number of arrest charges were compared to those cases with fewer arrest charges. The minimum number of charges involved in a case was one charge. This was used to represent cases involving fewer charges. The mean number of arrest charges within the sample was 4.6 charges, which were used to represent cases involving a greater number of charges. Those cases involving defendants facing fewer charges had a 68% chance of receiving a guilty disposition compared to an 89.1% chance of a guilty disposition for those cases involving defendants facing more charges, when all other indicators of blameworthiness were held at their mean.

Hypothesis ten predicted that cases that involved defendants who were perceived to be a greater risk to the community would result in a guilty disposition more often than those who were perceived to be less of a community risk. Indicators of community protection included: a defendant's criminal and child welfare history, in addition to the defendant's gender. None of these variables reached significance within the analytical model. In addition, the model chi square also was not significant indicating no support for this hypothesis (see Table 12). This was further supported when examining the Nagelkerke R^2, which indicated that only 0.04% of the variation in the disposition decision for cases of criminal child maltreatment was due to indicators of community risk.

Hypothesis eleven predicted that judges assess practical considerations when making disposition decisions in cases of criminal child neglect. Indicators of practical considerations included the number of dependents the defendant has, the defendant's

martial status, the mean age of the victim(s) and whether these victims were placed into State Protective Custody. As indicated in Table 12, limited support for hypothesis eleven was found. Indicators of practical considerations accounted for 6.4% of the variance in the disposition decision for criminal child neglect. Neither the number of dependents, martial status or the mean age of the victims was significantly related to the disposition decision. However, whether the child victims were placed into protective custody was significantly related to the log likelihood of conviction. A defendants log likelihood of conviction was nearly twice as great when their victims were placed into protective custody versus those whose victims were not placed into protective custody (b = 1.076; p < .05; (Exp(B) = 2.932).

When calculating the predicted probability of a guilty case disposition, the variable of interest was whether all the child victims were placed into protective custody. Defendants whose victims were put into protective custody had a 89.8% probability of a guilty case disposition for the criminal child neglect charge, while those whose victims were not all placed within protective custody had an 88.1% probability of having a guilty case disposition, when all other factors of blameworthiness were held at their means.

Hypothesis twelve predicted that the judicial use of perceptual shorthand would significantly influence disposition decisions of criminal child neglect. Partial support was found for the use of perceptual shorthand, which was indicated by the defendant's bail status, race and age along with the victim's race and gender. A defendant's bail status and their race significantly increased the log likelihood of a guilty disposition for criminal child neglect. As seen in Table 12, defendants who did not have a set bail were significantly less likely to be convicted for a criminal child maltreatment than those who

had a set bail (b = 1.241; p < .05). Those who had a set bail were nearly 250% more likely to receive a guilty case disposition (Exp(b) = 3.461). The age of the defendant and the gender and race of the victims did not have a statistically significant influence on the likelihood of conviction. Judicial use of a perceptual shorthand accounted for 10.2% of the variance in disposition decisions for criminal child maltreatment. Perceptual shorthand was found to significantly influence case disposition decisions (chi square = 34.574*) indicating partial support for hypothesis twelve.

The statistically significant variables (bail decision and defendant's race) within the model were used to calculate the predicted probabilities of a guilty disposition. Defendants who had a set bail had a 91.2% probability of a guilty case disposition for the criminal child neglect charge, while those who were cited and released or released on their own recognizance had a 74.8% probability of having a guilty case disposition for the criminal child neglect charge, when all other factors of the perceptual shorthand were held at their means. In addition, defendants who were non-white had an 87.8% probability of having a guilty case disposition, while defendants who were white had a 73.2% probability of having a guilty case disposition, when all other perceptual shorthand factors were held at their means.

Disposition Decision: Full Model

When assessing the individual models, support for focal concerns perspective was varied. Significance was found for some indicators of blameworthiness, practical considerations and the use of perceptual shorthand but significance specific to community protection was not found. When assessing the full model, the number of variables that significantly influenced case disposition was less. Only two variables,

number of arrest charges, which was an indicator of blameworthiness, and number of defendant's dependents, which was an indicator of practical considerations, were found to reach statistical significance. No indicators of community protection or the perceptual shorthand reached significance within the full models. Even though only two variables were found to significantly influence case disposition decisions, the full model of focal concerns perspective was still found to be statistically significant (see Table 13). The full model of focal concerns accounted for 26.9% of the variation in the disposition decision.

Significant differences between the individual and full models were found for the number of defendant's dependents ($z = 2.410$). This variable was significant within the full model ($b = -.274; p < .05$) but not within the individual model. Within the full model, as the number of defendant's children increased the likelihood of a guilty case disposition significantly decreased. Those with more children were less likely to be found guilty than those with fewer children, when all other independent variables were controlled. In addition, significant differences between the models also was found for the variable, whether the victims were placed into Protective Custody ($z = 4.860$). This variable was significant within the individual model ($b = 1.076; p < .05$) but not within the full model. A defendant's bail status reached significance within the individual model ($b = 1.241; p < .05$) and was approaching significance within the full model ($b = .593; p < .10$). The influence of this variable within the two models was also significant ($z = 3.930$). In addition, a defendant's criminal history was not found to be significant within the individual model ($b = -101$), yet was approaching significance within the full model ($b = -.514; p < .10$). The difference between the models was statistically significant ($z = 2.717$).

Table 13:
Test of Significance between Individual and Full Models, Disposition Decision

Variable	Individual Models		Full Model		
	B	SE	B	SE	Z
Blameworthiness					
Child crime most serious	1.125*	.542	1.030**	.578	.475
Most serious arrest charge	.164	.497	-.185	.532	1.837
Drug arrest charge	1.164*	.487	.944**	.509	1.486
Number of arrest charges	.375*	.077	.449*	.095	-1.331
Offender-victim relationship	.172	.269	.459	.312	-1.816
Community Protection					
Criminal history	-.101	.252	-.514**	.295	2.717*
Child welfare history	.345	.325	.363	.381	-.091
Defendant's gender	.047	.246	.178	.287	.903
Practical Considerations					
Number of dependants	-.033	.084	-.274*	.129	2.410*
Marital status	-.128	.354	-.099	.282	.137
Victim mean age	.032	.030	-.022	.037	.621
Victims in State custody	1.076*	.246	.352	.288	4.860*
Perceptual Shorthand					
Bail status	1.241*	.257	.593**	.305	3.930*
Defendant race	-.971*	.428	-.803**	.486	.730
Defendant age	-.002	.014	.012	.017	1.461
Victims all white	-.360	.399	-.173	.457	.846
Victims all girls	.330	.298	.503	.340	1.055

* p < .05   ** p < .10

Sentence Decision (in/out)

As seen in Table 14, the majority of cases within the study received a sanction other than incarceration. For this study, "in" represented a defendant receiving either a jail or a prison sentence. A total of 65 defendants (12.5% of sample) received a jail sentence and an additional 26 defendants (5% of the sample) received a prison sentence. A sentence of "out" included defendants sentenced to community service, probation and/or fines. The 86 cases previously discussed were excluded from this analysis as they represented defendants who were not convicted for criminal child maltreatment.

Hypotheses thirteen, fifteen, seventeen and nineteen focused specifically on the influence on focal concerns perspective on the sentence decision.

Table 14:
Frequency for Sentence Decision, N = 434

Variable	N	%
Sentence Decision		
Out (0)	343	79.0
In (1)	91	21.0

Hypothesis thirteen predicted that defendants who were perceived to be more blameworthy were more likely to receive a sentence of incarceration (in) than those perceived to be less blameworthy. As found in Table 15, indicators of blameworthiness were: the most serious conviction classification type, the most serious child neglect conviction charge, whether the child neglect charge was the most serious conviction charge, whether a drug conviction co-occurred with the child neglect conviction, the total number of conviction charges and the relationship status between the defendant and the victim. The predictors of blameworthiness found to be statistically significant were: whether the child neglect crime was the most serious offense (b = -1.027; $p < .05$), the criminal child neglect offense (b = -1.055; $p < .05$), the total number of conviction charges (b = .460; $p < .05$) and the relationship between the defendant and the victim(s) (b = -.629; $p < .05$). Defendants who only faced criminal child neglect charges were less likely to receive a sentence of incarceration than those defendants facing co-occurring drug, property or personal charges. The simple odds of incarceration decreased by 64.2% for cases where a child neglect criminal conviction did not co-occur with a more serious crime.

Table 15:

Logistic Regression Results for the Sentencing Decision, Individual and Full Models

Variable	Individual Models				Full Model			
	B	SE	Wald	Exp(B)	B	SE	Wald	Exp(B)
Blameworthiness								
Most serious offense class	.706	.365	3.737**	2.025	.521	.401	1.686	1.684
Child conviction most serious	-1.027	.376	7.449*	.358	-1.034	.471	6.164*	.356
Most serious maltreatment offense	1.055	.288	13.442*	.348	-1.206	.329	13.427*	.299
Drug conviction	.163	.359	.206	1.177	-.175	.389	.202	.840
Number of conviction charges	.215	.080	7.192*	1.240	.229	.091	6.338*	1.257
Offender-victim relationship	-.629	.279	5.086*	.533	-.377	.349	1.166	.686
-2 Log Likelihood	355.690							
Model Chi Square	90.053*							
Nagelkerke R Square	.292							
Community Protection								
Criminal history	.950	.267	12.653*	2.586	.842	.315	7.137*	2.320
Child welfare history	.117	.291	.163	1.125	.537	.358	2.257	1.711
Defendant's gender	-.544	.246	4.880*	.580	-.653	.305	4.583*	.521
-2 Log Likelihood	422.627							
Model Chi Square	23.116*							
Nagelkerke R Square	.081							
Practical Considerations								
Number of dependants	-.242	.092	6.883*	.785	-.134	.142	.893	.874
Marital status	-.749	.290	6.667*	.473	-.389	.342	1.290	.678
Victim mean age	.073	.029	6.520*	1.076	.067	.039	2.866**	1.069
Victims in State custody	.655	.304	4.640*	1.925	.517	.371	1.941	1.677
-2 Log Likelihood	422.170							
Model Chi Square	23.573*							
Nagelkerke R Square	.082							
Perceptual Shorthand								
Bail status	1.000	.277	13.018*	2.720	.452	.343	1.731	1.571
Defendant race	.483	.395	1.498	1.621	.179	.476	.141	1.196
Defendant age	.007	.014	.239	1.007	-.012	.017	.475	1.012
Victims all white	-.418	.343	1.488	.658	-.340	.412	.681	.712
Victims all girls	.191	.281	.462	1.211	.227	.346	.433	1.255
-2 Log Likelihood	422.463							324.953
Model Chi Square	23.280*							120.790*
Nagelkerke R Square	.081							.378

* p < .05   ** p < .10

In addition, cases with a conviction for Criminal Mistreatment I had a greater

likelihood of receiving a sentence of incarceration that those convicted of Criminal

Mistreatment II, Child Neglect I/II or Endangering the Welfare of a Minor. The simple odds of incarceration decreased by 65.2% for cases without a conviction of Criminal Mistreatment I. The number of conviction charges also was found to be statistically significant. The simple odds of a defendant receiving a sentence of incarceration increased by 58.5% (Exp(B) = 1.584) as the total number of conviction charges increased. In addition, the relationship status between the defendant and the victim statistically influenced the likelihood of a sentence of incarceration. The simple odds of a sentence of incarceration were 46.7% less likely for cases involving defendants convicted of criminal child neglect where their own children were the victims.

As indicated throughout the previous models, perceptions of blameworthiness again had the greatest influence of the focal concerns on the in/out decision, accounting for 21.9% of the variation in this decision. Predicted probabilities of incarceration also were calculated for the significant variables: whether the child neglect conviction was the most serious offense, the most serious child neglect offense, the number of conviction counts and the relationship between the victim and the defendant. Defendants whose most serious conviction was a child neglect offense had an 11.8% probability of a sentence of incarceration, while those with a more serious co-conviction had a 27.1% probability of a sentence of incarceration, when all blameworthiness factors were held at their mean. In addition, defendants who were convicted of Criminal Mistreatment I (C Felony) had a 10.6% probability of a sentence of incarceration, while those convicted of either Criminal Mistreatment II, Child Neglect I or II, or Endangering the Welfare of a Minor had a 25.4% probability of a sentence of incarceration, when all blameworthiness factors were held at their mean.

In addition, the predicted probability of a sentence of incarceration was calculated when taking the number of conviction counts into consideration. The maximum number of conviction charges a defendant was convicted of was 16 charges. Defendants with a greater numbers of conviction charges, which was calculated at the 75th percentile of the maximum number of conviction charges (12 charges), had a 57.9% probability of a sentence of incarceration, while those with fewer conviction charges, which was calculated at the 25th percentile of the maximum number of charges (4) had a 19.7% probability of a sentence of incarceration, when all other factors of blameworthiness were held at their means. Lastly, the predicted probability of a sentence of incarceration was calculated by considering the influence of the relationship between the victim and the offender. Defendants who were the parent/guardian of the child victims had a 12.2% probability of a sentence of incarceration, while defendants who were not the parent/guardian of the child victims had a 20.6% probability of a sentence of incarceration when all other factors of blameworthiness were kept at their mean.

Hypothesis fifteen predicted that cases involving defendants who were perceived to be high risk to the community were more likely to receive a sentence of incarceration than those perceived to be low risk to the community. Male defendants (b = -.544; p < .05) with a known prior criminal history (b = .950; p < .05) were found to more likely receive a sentence of incarceration than female defendants or defendants with no known criminal history. The simple odds of receiving a sentence of incarceration were increased by 159% (Exp(B) = 258.6) for defendants with a known criminal history. The simple odds of a receiving a sentence of incarceration decreased by 42% (Exp(B) = .580) for

103

female defendants. A total of 8.1% of the variation in the sentence decision was accounted for by the predictors of community risk.

The variables of interest within this model were the factors of community risk that were shown to significantly influence the bail decision: defendant's criminal history and defendant's gender. Cases involving defendants with a criminal history had a 28.2% probability of receiving a sentence of incarceration, while those without a prior criminal history had a 13.2% probability of receiving a sentence of incarceration, when all other factors of community protection were held at their means. In addition, the predicted probability of receiving a sentence of incarceration was calculated for male and female defendants. Additionally, male defendants had a 25.3% probability of receiving a sentence of incarceration, while female defendants had a 16.4% probability of receiving a sentence of incarceration, while all other factors of community protection were held at their means.

Hypothesis seventeen predicted that the judicial practical considerations impact sentencing decisions specific to the in/out decision. Full support for this hypothesis was found as indicated in Table 13. The predictors of practical considerations accounted for 8.2% of the variation in the sentence decision. Practical considerations included: defendant's number of dependents, marital status, the mean age of the victim(s) and whether the victims were placed into Protective Custody. The number of dependents and martial status both negatively influenced the log odds of a defendant receiving a sentence of incarnation. The simple odds of incarceration decreased by 21.5% (Exp(B) = .785) as the number of a defendant's children increased (b = -.242; p < .05). In addition, the

simple odds of incarceration decreased by 52.7% (Exp(B) = .473) for married defendants (b = -.479; p < .05).

The age and custody status of the defendant's crime victims were both found to statistically increase the simple odds of a sentence of incarceration. As the mean age of the victim(s) increased the simple odds of the defendant receiving a sentence of incarceration increased by 7.6% (b = .073; p < .05). In addition, whether the child victims were placed into Protective Custody also significantly increased the likelihood of a defendant's incarceration (b = .655; p < .05). The simple odds of incarceration for defendants whose victims were placed by the State were almost 93% greater (Exp(B) = 1.925) than defendants whose victims were not placed into Protective Custody.

A predicted probability was calculated in order to examine the probability of receiving a sentence of incarceration for all significant factors: the defendant's number of dependents and marital status, the mean age of their victims and whether the victims were placed into protective custody. Defendants with fewer dependents had a 17.4% probability of receiving a sentence of incarceration, while those with more dependents had a 6.6% probability of receiving a sentence of incarceration, when all other practical considerations were held at their means. In addition, married defendants had a 12.3% probability of receiving a sentence of incarceration, while non-married defendants had a 22.9% probability of receiving a sentence of incarceration, while all other practical considerations were held at their means. Defendants whose victims mean age was older had a 27.3% probability of receiving a sentence of incarceration, while defendants whose victims mean age was younger had a 16.8% probability of receiving a sentence of incarceration, while all other practical considerations were held at their means. Lastly,

defendants whose victims were not placed into protective custody had a 12.8%

probability of receiving a sentence of incarceration, while defendants whose victims were

placed into protective custody had a 22.0% probability of receiving a sentence of

incarceration, when all other practical considerations were held at their means.

Hypothesis nineteen predicted that the judicial use of a perceptual shorthand

would influence the sentencing decision. Limited support for this was found, as indicated

in Table 14. Only one predictor of the perceptual shorthand was statically significant. A

defendant's bail status was found to statistically increase the likelihood of a sentence of

incarceration (b = 1.000; p < .05). The predicted probability of incarceration for a

defendant who had a set bail was nearly 15% higher (P = .266) than for a defendant who

did not have a set bail (P = .117). The predictors of perceptual shorthand accounted for

8.1% of the variation in the sentence decision.

Sentence Decision (in/out): Full Model

Moderate to strong support for focal concerns perspective was found within the

sentencing decision when analyzing the individual models. The majority of the variables

of blameworthiness, protection of the community and practical considerations were all

significantly correlated to the sentencing decision. In fact, all the variables of practical

considerations were significant at the .05 alpha level. When assessing the full model,

blameworthiness was again the strongest focal concern, with three of its six indicators

significantly influencing the sentencing decision. The type of child neglect conviction

offense (b = -1.034; p < .05), whether the criminal child neglect was the most serious

conviction offense (b = -1.206; p < .05) and the total number of conviction charges (b =

.229; p , .05) remained significant within the full model (see Table 16).

Table 16:
Test of Significance between Individual and Full Models, Sentence Decision

Variable	Individual Models		Full Model		
	B	SE	B	SE	Z
Blameworthiness					
Most serious classification	.706**	.365	.521	.401	1.108
Child crime most serious	-1.027*	.376	-1.034*	.471	.025
Child maltreatment offense	-1.055*	.288	-1.206*	.329	.956
Drug conviction	.163	.359	-.175	.389	2.284*
Number of conviction charges	.215*	.080	.229*	.091	.318
Offender-victim relationship	-.629*	.279	-.377	.349	1.201
Community Protection					
Criminal history	.950*	.267	.842*	.315	.647
Child welfare history	.117	.291	.537	.358	2.029*
Defendant's gender	-.544*	.246	-.653*	.305	.609
Practical Considerations					
Number of dependants	-.242*	.092	-.134	.142	.982
Marital status	-.749*	.290	-.389	.342	1.982*
Victim mean age	.073*	.029	.067	.039	.071
Victims in State custody	.655*	.304	.517	.371	.645
Perceptual Shorthand					
Bail status	1.000*	.277	.452	.343	2.713*
Defendant race	.483	.395	.179	.476	1.143
Defendant age	.007	.014	-.012	.017	.594
Victims all white	-.418	.343	-.340	.412	.342
Victims all girls	.191	.281	.227	.346	.178

$* p < .05$ $** p < .10$

A defendant's known criminal history (b = .842; p < .05) and their gender (b = -.653; p < .05), which were both indicators of community risk, remained significant within the full model. However, all the variables of practical considerations, which were found significant within the individual model, were not found to significantly influence the sentencing decision within the full model. In addition, a defendant's bail status was found to significantly influence the sentencing decision within the individual model (b = 1.000; p < .05), yet showed no significance in the full model (b = .452; p > .05). The difference between these models specific to a defendant's bail status also was significant (z = 2.713). These differences between the judicial decision maker's conclusions when

assessing the individual focal concerns versus a comprehensive examination of

blameworthiness, community risk, practical considerations and use of a perceptual

shorthand may be best explained by what Steffesmeier et al. 1998) referred to as a

"complex interplay" between the different focal concerns, (p. 767).

Sentence Length Decision

As indicated in Chapter II, ordinary least squares regression was the planned

analysis for the dependent variable, sentence length. Hartley et al.'s (2007) dependent

variable, length of the prison term, was a continuous, interval level variable, based on the

number of months of a defendant's incarceration. However, the distribution of this

variable in the current study violated the assumption of normality (see Table 17) as

evidenced by a large skew (4.72) and kurtosis (24.98) (Menard, 1995). Therefore, this

dependent variable was dichotomized, allowing for a more normal distribution (see Table

18). The change in the coding of this variable required changing the analysis to logistical

regression.

Table 17:
Descriptive Statistics for Sentence Length Decision, N = 91

Variable	Minimum	Maximum	Mean	Standard Deviation
Sentence Length, number of days	2	2880	185.87	438.22

Of the 434 cases that resulted in convictions for crimes of child neglect, a total of

91 (21%) received sentences of incarceration. Due to the small number of cases within

this analysis, these findings must be assessed with caution as their explanatory power is

limited. Hypotheses fourteen, sixteen, eighteen and twenty all addressed the influence of

focal concerns perspective on sentence length decisions. Although, the State of Oregon

does have sentencing guidelines, which assess a defendant's criminal history

classification and offense seriousness score to make sentencing decisions, the prosecutor

or the defense attorney's may request sentences outside of the sentencing guidelines. The

judges may make sentencing decisions accordingly.

Table 18:
Frequency for Sentence Length Decision, N = 91

Variable	N	%
Sentence Length		
30 days or less (0)	48	52.7
More than 30 days (1)	43	47.3

The impact of focal concerns perspective on the sentencing length decision was

minimal (see Table 19). Only one out of the eighteen independent variables was found to

be statistically significant. Hypothesis fourteen predicted defendants who were perceived

to be more blameworthy would receive a longer sentence than those perceived to be less

blameworthy. The number of charges a defendant was convicted of was found to

significantly increase their sentence length As the number of conviction counts increased,

the simple odds of receiving a longer sentence increased by almost 59% (Exp(B) =

1.584). As this variable influences the offense seriousness score under the sentencing

guidelines, this variable would be expected to be statistically influential on the sentence

length decision.

The predictors of blameworthiness accounted for 21.9% of the variation in the

sentence length decision. No other indicators of blameworthiness, other than the total

number of conviction charges, were found to influence the sentence length decision. The

predicted probability of a lengthier sentence for a defendant with a greater number of

Table 19:

Logistic Regression Results for Sentence Length, Individual and Full Models

Variable	Individual Models				Full Model			
	B	SE	Wald	Exp(B)	B	SE	Wald	Exp(B)
Blameworthiness								
Most serious conviction class	.656	.572	1.315	1.927	.585	.659	.789	1.795
Child crime most serious	.557	.811	.472	1.746	.305	1.010	.091	1.356
Most serious neglect offense	-.292	.569	.264	.747	-.621	.725	.735	.537
Drug conviction	-.640	.740	.746	.527	-1.785	.961	3.449**	.168
Number of conviction charges	.460	.161	8.185*	1.584	.665	.222	8.942*	1.944
Offender-victim relationship	.678	.483	1.969	1.970	.945	.735	1.654	2.572
-2 Log Likelihood	109.572							
Model Chi Square	16.306*							
Nagelkerke R Square	.219							
Community Protection								
Criminal history	-.042	.471	.008	.959	.206	.624	.109	1.229
Child welfare history	.914	.507	3.252**	2.495	.589	.651	.818	1.801
Defendant's gender	-.334	.444	.564	.716	-.430	.555	.600	.650
-2 Log Likelihood	122.311							
Model Chi Square	3.567							
Nagelkerke R Square	.051							
Practical Considerations								
Number of dependants	.181	.143	1.611	1.199	-.120	.258	.215	.887
Marital status	.411	.547	.563	1.508	.857	.698	1.505	2.356
Victim mean age	.077	.051	2.301	1.080	.060	.075	.632	1.062
Victims in State custody	.558	.557	1.003	1.747	-.186	.760	.060	.830
-2 Log Likelihood	119.509							
Model Chi Square	6.369							
Nagelkerke R Square	.090							
Perceptual Shorthand								
Bail status	.987	.575	2.947**	2.682	1.853	.794	5.442*	6.377
Defendant race	.686	.766	.803	1.987	1.411	1.026	1.892	4.101
Defendant age	.038	.030	1.559	1.039	.038	.045	.704	1.039
Victims all white	-.575	.684	.705	.563	-.297	.917	.105	.743
Victims all girls	-.516	.508	1.035	1.597	-.248	.665	.139	.781
-2 Log Likelihood	116.155							91.953
Model Chi Square	9.723**							34.518*
Nagelkerke R Square	.135							.421

* p < .05   ** p < .10

conviction counts (calculated at the 75th percentile of the samples total number of charges = 12 charges) was .983 or 98.3%. The estimated probability of a lengthier sentence for a defendant with fewer conviction (calculated at the 25th percentile = 4 charges) charges was .594 or 59.4%. Therefore, there were 38.9 percentage points difference in the likelihood of a longer sentence between a defendant who was perceived to be more blameworthy and a defendant who was perceived to be less blameworthy.

Hypothesis sixteen predicted that defendants who were perceived to be a greater community risk would likely receive a longer sentence than a defendant who was not deemed as great of a community risk. Surprisingly, a defendant's criminal history was not found to be statistically significant, although this variable should be directly related to the sentencing decisions through the use of sentencing guidelines. The predictors of community protection, accounted for 5.1% of the variation in the sentence length decision. No support was found for hypothesis sixteen.

Hypothesis eighteen predicted that judges were influenced by practical considerations when making decisions specific to sentence length. No support was found for this hypothesis although practical considerations accounted for 9% of the variation in the sentence length decision. In addition, no support was found for hypothesis twenty, which predicted that judicial players' use of a perceptual shorthand would significantly influence sentence length decisions. The influence of a defendant's bail status neared significance ($b = .987$; $p < .10$), yet no variables were found statistically significant at the .05 alpha level. A total of 13.5% of the variation in the sentence length decision was captured by the predicators of perceptual shorthand.

Sentence Length Decision: Full Model

Minimal support was found for the influence of focal concerns on the sentence

length decision, however, yet again, the influence of blameworthiness was the strongest

factor. When assessing the full model (see Table 20), the lack of power within the model

must again be considered. With only ninety-one cases within the dependent variable and

a total of eighteen independent variables these findings must be analyzed with caution as

their explanatory power was limited.

Table 20:
Test of Signficance between Individual & Full Models, Sentence Length

Variable	Individual Models		Full Model		
	B	SE	B	SE	Z
Blameworthiness					
Most serious conviction type	.656	.572	.585	.659	.217
Child crime most serious	.557	.811	.305	1.010	.419
Child maltreatment offense	- .292	.569	-.621	.725	.731
Drug conviction	- .640	.740	-1.785**	.961	1.208
Number of conviction charges	.460*	.161	.665*	.222	1.323
Offender-victim relationship	.678	.483	.945	.735	.329
Community Protection					
Criminal history	-.042	.471	.206	.624	.606
Child welfare history	.914**	.507	.589	.651	.799
Defendant's gender	-.334	.444	-.430	.555	.288
Practical Considerations					
Number of dependants	.181	.143	- .120	.258	1.387
Marital status	.411	.547	.857	.698	1.028
Victim mean age	.077	.051	.060	.075	.309
Victims in State custody	.558	.557	- .186	.760	1.436
Perceptual Shorthand					
Bail status	.987**	.575	1.853*	.794	1.583
Defendant race	.686	.766	1.411	1.026	.498
Defendant age	.038	.030	.038	.045	.000
Victims all white	-.575	.684	-.297	.917	.455
Victims all girls	-.516	.508	1.035	1.597	.625

* p < .05   ** p < .10

The number of charges a defendant was convicted of remained statistically

significant within the full model (b = 655; p < .05). As the total number of conviction

charges increased the simple odds of a longer sentence increased by 94.4%. In addition, a defendant's bail status, which neared significance in the individual model, was found to statistically influence the sentence length decision (b = 1.853; p < .05) in the full model. Within the full model, the odds of a longer sentence increased fivefold (Exp(b) = 6.377) for a defendant who had a set bail. However, no significant differences were found between the individual and full models specific to the sentence length decision. Overall, the majority of the variables of blameworthiness, protection of the community, practical considerations and perceptual shorthand were not correlated to the sentencing length decision, yet, the indicators of focal concerns accounted for 42.1% of the variation in the sentence length decision.

Conclusion

Further discussion of the factor analysis and hypothesis testing findings from Chapter IV will be presented in Chapter V. A summary of the findings, discussion of focal concerns perspective, methodological implications and strengths and limitations of the current study will also be discussed. In addition, directions for future research also will be presented specific to case processing of criminal child maltreatment and focal concerns perspective.

CHAPTER V

DISCUSSION AND CONCLUSIONS

The dissertation sought to examine the variables that influence case processing of criminal child neglect (Criminal Mistreatment I/II, Endangering the Welfare of a Minor and Child Neglect I/II). Focal concerns perspective was examined specific to various decision points throughout the judicial process. Neglect has continuously been shown to be the most common form of child maltreatment, accounting for nearly 60 percent of all confirmed investigations by Child Protective Services (U.S. Department of Health and Human Services, Administration on Children, Youth and Families, Children's Bureau, 2008). However, neglect is the form of maltreatment least likely to receive criminal justice considerations (Cross et al., 2005; Tjaden & Anhalt, 1994). Because of this limited attention, little is known about what variables influence these cases as they travel through the criminal justice system. This study extended upon past research by offering a closer and more comprehensive examination into variables that may influence case processing decisions specific to crimes of neglect against children. In addition, this study examined a greater number of judicial processing stages (bail, disposition, sentence and sentence length decisions) specific to crimes against children than found within any other individual study.

Several past studies of case processing of criminal child maltreatment have identified a number of victim, defendant and case characteristics that impact judicial decisions (Cashmore & Horsky, 1988; Champion; 1988; Conte & Berliner; 1981; Cross et al., 1995; Cullen et al., 2000; Faller & Henry, 2000; Finkelhor, 1983; Fridell, 1991; Goodman et al., 1992; Martone et al., 1996; Stroud et al., 2000). The majority of these

studies however, have focused specifically on only one aspect of the judicial process (e.g., decision to file charges) or only one form of child maltreatment (e.g., child sex abuse). In addition, there is a lack of explanatory research that indicates what specifically influences the case processing decisions specific to forms of criminal child neglect. Of the few examinations into judicial responses to criminal child neglect, the research found that most cases are resolved through plea bargains and that convicted defendants are likely to receive sentences other than incarceration, (Cross et al., 2003; Sedlak et al., 2005; Tjaden & Thoennes, 1992). However, little is known about what specifically influenced these decisions.

The purpose of the current study was to assess the influence of defendant, victim and case characteristics on four judicial decision making points (i.e., bail, disposition, sentence and sentence length) specific to cases involving forms of criminal child neglect. In order to more fully examine this topic area, the chosen methodology was developed under the concepts and tenets of focal concerns perspective, which have been previously utilized to explain various judicial decision making processes. This study used data collected from prosecutorial files in the Marion County, Oregon, District Attorney's Office for all cases involving arrests by The City of Salem, Oregon Police Department for Criminal Mistreatment I/II, Endangering the Welfare of a Minor and Child Neglect I/ II during 2006 and 2007.

The following section begins by discussing limitations of the current study. This is followed by a discussion of the effect of focal concerns perspective on the bail, disposition, sentence and sentence length decisions. Next, a brief assessment of focal

concerns perspective is provided. Lastly, suggestions for future research are presented along with concluding thoughts.

Limitations of Study

This study has attempted to further the understanding of what influences case processing of criminal child neglect by examining official prosecutorial data. More specifically, this study attempted to gain a more comprehensive knowledge of the effects of focal concerns perspective on judicial decision making for forms of criminal child neglect.

The study was limited to official data in one county, therefore, it is questionable whether these results would be generalized to other locations. Replication of this study within other Oregon jurisdictions as well as in other geographic locations across the U.S. would substantially increase the generalizability of the findings. Marion County is one of Oregon's most populated counties with a total population of 311,449. Of the 36 counties, it is the fifth most populated, with less than 60,000 fewer residents than the third largest county. Although data collection was limited to a single location this is common within the sentencing and courts literature, as studies of case processing of child abuse and neglect often limit their examinations to a single city or county (Bradshaw & Marks; 1990; Brewer et al., 1997; MacMurray, 1988; 1989; Sedlak et al., 2005).

Related, another limitation was the lack of diversity within the population studied. Lack of racial and ethnic diversity among the defendants and victims only permitted analysis utilizing a dichotomous variable (i.e., white and non-white). Although the specific race/ethnicity of each defendant and victim was collected, the lack of variability within the categories did not permit other coding options (collected data indicated that

defendant's were 80.4% white (non-Hispanic), 13.3% Hispanic, 3.5% black (non-Hispanic), 0.6% Pacific Islander, 0.4% Asian and 1.9% Native American). However, these distributions are closely in line with The City of Salem, Oregon's racial and ethnicity demographic distribution. The City's demographics indicate that 83.1% of the population is identified as white, non-Hispanic, while 17.3% is Hispanic. (City of Salem, Oregon, 2008). Although the current study was unable to take into account the influence of specific races/ethnicities on judicial processing within this jurisdiction the lack of variability within the overall population accounts for this limitation.

In addition, a number of desired variables were not accessible within the district attorney's filed data. For example, a defendant's offense severity score, which has been utilized within a number of studies of focal concerns perspective and sentencing in general, was not available within the files. In addition, the defendant's criminal history score was also not readily obtainable. Both of these variables are utilized within Oregon's mandatory sentencing grid. Proxy measures were utilized to assess crime seriousness and criminal history within the models. Crime seriousness was assessed by the classification of the offense (A, B, C Felony or A Misdemeanor). As Oregon's offense severity score considers the crime classification this measurement was deemed appropriate. The available information within the files did not allow specific knowledge of a defendant's criminal history only if they had one. It is not however uncommon to develop proxy measures as "prior sentencing studies often lack adequate measures of offense severity and offender's criminal history, which consistently are found to be key predictors of sentencing outcomes" (Steffensmeier & Demuth, 2001, p. 155).

In addition, controls were not available for the assigned prosecutor and judge of each case. For example, their specific demographic information (e.g. race/ethnicity, gender, age) were not identified. In addition, information specific to their personal philosophies of crimes and punishment were also unknown.

Although limitations are recognized within the study, their existence does not diminish the results found or their contribution especially as this particular study is one of the few to examine case processing of criminal child maltreatment. The next section will briefly summarize the results of the study and consider possible alternative explanations for results which were unpredicted.

Discussion of Research Findings

As the hypotheses within the study are specific to the individual models, this discussion will focus on their significance. The findings suggested that the indicators of blameworthiness best predicted case processing outcomes for forms of criminal child neglect within the jurisdiction under study. A brief discussion of the findings specific to the four components of focal concerns perspective variables is provided. An emphasis will be also be placed on variables that were not found to significantly impact case processing, in addition to possible explanations for these results.

Blameworthiness

Blameworthiness was found to explain the greatest amount of variance within each case processing decision, yet inconsistencies were found within this focal concern. The indicators of blameworthiness included the most serious arrest/conviction charge classifications, whether the child maltreatment arrest/conviction charge was the most serious offense, whether there were co-occurring drug arrest/conviction charges, the most

118

serious child maltreatment offense, and the defendant/victim relationship. Indicators of blameworthiness that reached statistical significance within one model did not necessarily reach significance within the others. In fact, the only semblance of consistency found among the indicators of blameworthiness was that the number of charges (i.e., arrest charges at the bail and disposition decision; conviction charges at the sentencing and sentencing length decision) reached statistical significance in all four models.

The results indicated that the charge seriousness classifications were only significantly related to the bail decision, although it was predicted for all four models. It was unexpected that the seriousness of the charge did not influence the sentence and sentence length decisions, especially as Oregon includes crime seriousness within their sentencing guidelines. Prior studies specific to focal concerns perspective have found that offense seriousness was one of the greatest correlates to the sentence and sentence length decision. It may be that the proxy measure utilized here did not adequately measure the concept of offense seriousness. In addition, the lack of statistical power in the sentence length decision may explain this statistically insignificant finding.

Although it was predicted that co-occurring drug charges would result in fewer leniencies within all four judicial stages, this variable was found to only significantly influence the bail and disposition decisions. Yet, in the cases that drug charges did co-occur, the drug possession charges within the sample were largely C felonies. This was the same charge classification as the majority of the most serious maltreatment offense within the study (Criminal Mistreatment I was the most serious maltreatment offenses within 57.5% of the cases). Therefore, the influence of the co-occurring drug charges

would have minimal influence on the sentence or sentence length decision as the offense seriousness would largely remain unchanged.

The identified research specific to the influence of the offender-victim relationship on case processing of child maltreatment is limited to the prosecutor's decision to pursue charges. The findings of the past research largely suggest that non-parental relationships between the suspected offender and victim are much less likely to be pursued for conviction than cases involving parental relationships. In addition, Spohn et al.'s (2001) test of focal concerns perspective on prosecutorial acceptance decisions found that cases with stranger relationships between the suspected offender and the victim were more likely to be rejected. It was expected within the current study that defendant's who had a parental relationship with their victim(s) would be seen as more blameworthy. The influence of the victim-defendant relationship, however, was found to only statistically influence the sentence decision. This expression of leniency towards defendants with a parental relationship to their victim(s) is consistent with the research regarding case processing of child maltreatment, and the tenets of focal concerns perspective.

Community Protection

Indicators of community protection within the current study included the defendant's gender, in addition to their criminal and child welfare history. The influence of one's child welfare history on case processing decisions was not found to statistically influence the bail, disposition, sentence or sentence length decisions. However, a defendant's criminal history was found to statistically influence the bail and sentence decision, yet not the disposition or sentence length decisions. In addition, a defendant's

gender was only found to statistically influence the sentence decision. These results indicated no support for the influence of community protection on either the disposition or sentencing length decisions and mixed support for the bail and sentence decisions.

Research specific to focal concerns perspective has found that a defendant's criminal history is one of the strongest correlates of the sentence and sentence length decisions, yet the current study did not find that a defendant's criminal history statistically influenced the sentence length decision. This finding is surprising as a defendant's criminal history is part of the Oregon sentencing guidelines for assessing sentence length decisions. It was unexpected that this variable did not reach statistical significance within the model, yet the lack of statistical power within this model may explain these particular findings. Criminal history was not found to significantly influence the disposition decision and this may be explained by the fact that the majority of guilty dispositions within this study were a result of a guilty plea. Therefore, considerations of prior criminality were largely not assessed by either judges or juries when making disposition decisions within this study.

As no identified studies assess focal concerns perspective specific to crimes against children, the influence of a defendant's Child Protective Service history on case processing is unknown. A defendant's CPS history was not found to significantly influence case processing. CPS histories are often not yet known by the assigned prosecutor at the defendant's bail decision (Marion County, Oregon Deputy District Attorney, personal communication, January 15, 2008). In addition, if a defendant has a CPS history from a different county or state the District Attorney's Office must seek this information and wait to receive the requested discovery. If this information is not known

by the prosecutor, it could not be presented, and it would not be considered by the judge or jury when making decisions.

Although sentencing guidelines are believed to reduce disparity/discrimination within sentencing decisions, the results of the current study indicated that male defendants were more likely to receive a sentence of incarceration than female defendants, when all other variables were controlled. Focal concerns perspective argues that males are perceived to be more dangerous than females, which explains why males tend to receive fewer leniencies than females within the judicial system. Kramer & Ulmer (2002), Steffensmeier et al. (1998), and Spohn & Holleran (2000) all found that men were more likely to receive a sentence of incarceration and also receive longer sentences than women, when testing focal concerns perspective on the sentencing decision. In addition, the gender of the suspect has also been found to influence prosecutorial charging decisions specific to crimes against children. MacMurray (1989), Sedlak et al. (2005) and Stroud et al. (2000) found that cases involving male suspects were more likely to be pursued by the prosecutor for purposes of conviction than cases involving female suspects. Yet, Brewer et al. (1997) and Cross et al. (1994) found that the gender of the suspect had no statistical influence.

The current study found that the defendant's gender had no significant influence on the bail, disposition or sentence length decision. These findings were not predicted by focal concerns perspective. However, "the evil woman thesis" may explain the lack of statistical difference by gender within this study. "The evil woman thesis" argues that there are cases when a female may actually be seen as equally dangerous to men due to their form of criminality (Simon, 1975). Crimes against children violate the roles of

122

femininity and perceptions of these female offenders may explain the equalization of treatment based on gender within this bail, disposition and sentence length decisions. However, the gender influence reached statistical significance within the sentencing decision. Men were found to be more likely to receive a sentence of incarceration than women. It may be that the costs associated with incarcerating women were assessed by decision-makers differently than operationalized within this study (e.g., whether she is single mother, if she had financial or family assistance/support, employment status, mental health status) and that these considerations may explain women receiving sentencing leniency in this jurisdiction.

Practical Considerations

Mixed support for the influence of practical considerations (as indicated by marital status, number of dependents, victim's mean age and whether the child victim(s) were placed into state custody) on case processing of criminal child neglect was found. At the bail and disposition decisions, the victim's mean age and whether these children were placed into state custody were found to reach statistical significance. Full support for the influence of practical considerations on the sentence decision was found as all four predictors reached statistical significance. No support for the influence of practical considerations on the sentencing length decision was found with the current study.

Research assessing focal concerns perspective suggests that a defendant's marital status and number of dependents influences judicial decisions, where defendants who are a part of a family unit are more likely to receive leniency (i.e. Hartley et al., 2007). Within the current study, the findings suggested that the mean age of the victim(s) and whether the victim(s) were placed into state custody had a significant influence on the

bail decision. When the child victim(s) were placed into state custody, the defendant had a significantly greater likelihood of having a set bail than when the child victim(s) were not placed. Although this finding was not predicted, it is understandable. If the victim(s) (who were largely the defendant's own children within the current study) were removed from the defendant's care, the consequences of releasing the defendant back into society were no longer applicable as the defendant no longer had access to the victim(s). In addition, as the victim(s) mean age increased the likelihood of the defendant receiving a set bail also increased. Although this finding was also not predicted, it may be that considerations specific to the victim's ability to defend/care for themselves influenced these decisions. For example, the age of the child often is considered when Child Protective Services decides whether to place a child into protective custody, especially in cases involving neglect, as older children are given some authority to care for themselves (DHS Supervisor, personal communication, July 23, 2007). Judges may also consider this when making bail decisions, indicating there was likely greater concern for younger children, if the defendant was allowed to return to the home.

Research specific to the influence of victim's age on the disposition decision of criminal child maltreatment are mixed. Cashmore and Horsky (1988) found that the age of the victim did significantly influence the likelihood of a guilty disposition, whereas Faller and Henry (2000) did not find any significant relationship. The current study did not find that victim age influenced the disposition decision. Rather, the only indicator of practical considerations which was found to influence the disposition decision was whether the victim(s) were placed into state custody. Although the majority of cases within the current study resolved through a guilty plea, the defendants may have

recognized that whether the victim(s) were placed within state custody could be seen as a proxy for criminal guilt. The police and/or CPS must have seen the incident as severe enough to warrant removing the children. In addition, the juvenile dependency court had to also authorize this decision based on the evidence available. The defendants may have believed that this evidence would be enough to assure guilt if they took their case to criminal trial.

Although focal concerns perspective suggests that practical considerations influence the sentence and sentence length decisions, the results of the current study indicated no support for the influence of practical considerations on the sentence length decision. This lack of significance may be explained through either lack of power within the sentence length model or through the Oregon sentencing guidelines. The Oregon sentencing guidelines specify that a defendant's criminal history and crime seriousness scores are the only factors considered when making these decisions.

Perceptual Shorthand

Focal concerns perspective argues that judicial decision makers must resolve cases with limited time and information. Therefore, they may resort to stereotypes of criminality when making decisions. However, within this study, minimal support was found across the four models specific to the influence of perceptual shorthand (as indicated by the defendant's bail status, race of victim(s) and defendant, gender of victim(s) and age of the defendant) on judicial decision making. Three of the indicators of perceptual shorthand did not reach significance within any of the models (i.e., the age of the defendant, the gender and race of the victims). In addition, no indicators of perceptual shorthand were found to influence the bail decision. However, support was

found for the influence of a defendant's bail status on the disposition, sentence and sentencing length decision. Also, the influence of a defendant's race was found to statistically influence the disposition decision.

These findings specific to the influence of the defendant's age were not as predicted. Although Brewer et al. (1997) and Cross et al. (2003) found that the age of the suspect did not significantly influence prosecutorial case acceptance, MacMurray (1988; 1989), Sedlak et al. (2005) and Stroud et al. (2000) found that cases of criminal child maltreatment involving older suspects were more likely to be accepted for prosecution. Likewise, when testing focal concerns perspective, Kramer and Ulmer (2002), Spohn and Holleran (2000) and Steffensmeier et al. (1998) found that younger defendants were less likely to receive leniency within the sentencing decisions. Yet, the age of the defendant did not reach significance within this study.

The race of the defendant was also found to be largely insignificant when assessing case processing decisions within the current study. Although focal concerns perspective suggests that defendants who are racial minorities are often granted fewer leniencies by the judicial system, the results of this study did not suggest a racial bias. The race of the defendant was only found to reach statistical significance within the disposition decision. This would be a reason for concern if the majority of the dispositions were a result of a judge or jury trial. However, the vast majority of cases within this study were resolved through a guilty plea. It may be that racial minorities feel that they have less of a chance of receiving a fair trial due to their race/ethnicity and these perceptions of judicial discrimination influenced their decision to plea guilty. However, it

was also possible that minority defendants received pressure from either the prosecutor or defense attorney to plead guilty.

Comparisons to the Full Models

The current study's findings suggested that the indicators of focal concerns perspective did not uniformly predict the bail, disposition, sentence and sentence length decisions for cases of criminal child neglect. The hypotheses were specific to each individual component of focal concerns perspective, however, the factor analysis indicated that the variables of focal concerns perspective did not load as anticipated. By examining the full models, each individual indicator's explanatory power was assessed while controlling for all other indicators of each proposition of focal concerns perspective. Variables that reached significance within the individual models did not always reach significance within the full models. The statistical differences between these models indicated it may not be accurate to only test the individual propositions of focal concerns perspective against a case processing decision. It is unlikely that a judge independently considers indicators of only one aspect of focal concerns perspective without taking into account the other elements (for example, assessing blameworthiness separate from the indicators of community protection, practical considerations and the perceptual shorthand). Rather, it is more realistic that judges consider all indicators simultaneously when making their decisions.

Testing the full models allowed for a more practical interpretation of the judicial decision making, yet only with the testing of the individual models could the explanatory power of each proposition of focal concerns perspective be assessed. The discrepancies between the individual and full models, in addition to the varying findings among the

judicial case processes indicated potential problems with the operationalization of focal concerns perspective utilized within this study. In addition, the explanatory power of focal concerns perspective on the decision-making points specific to crimes against children must be questioned. Although the individual and full models all reached significance and explained a portion of the variance, the findings indicated that only a minimal number of variables were actually explaining any of this variance. This alone suggested little support for focal concerns perspective. Consistent with existing research on focal concerns perspective, this study indicated that legal factors were the strongest correlates of the case processing decisions. Although this study also suggested that some disparities exist, the unpredictability within the findings made final conclusions complex. Therefore, a discussion specific to the history of focal concerns perspective, including inconsistencies within the existing research, difficulties of testing this perspective and the explanatory strength of focal concerns specific to judicial case processing are examined.

Focal Concerns Perspective and Judicial Case Processing

Focal concerns perspective was first introduced by Steffensmeier et al. (1993) to explain the influence of gender on judges' sentencing decisions. This perspective has since been used to explain disparities in sentencing and other judicial decisions. In fact, focal concerns perspective has become the "dominant theoretical framework" to explain sentencing disparities (Hartley et al., 2007, p. 58). Yet, the explanatory power of focal concerns perspective must be questioned as the way these individual components of focal concerns perspective are measured is largely unpredictable. Focal concerns perspective attempts to explain and quantify thought processes, specific to judicial decision making, yet adequate ways to measure these thoughts and decisions remains inconsistent across

the research. A brief examination of some of the various studies utilizing focal concerns perspective is provided in order to illustrate these measurement inconsistencies.

In 1998, Steffensmeier and colleagues introduced variables to test focal concerns perspective. They expanded on their two prior focal concerns (blameworthiness and practical considerations) by introducing the concepts of community protection and perceptual shorthand. They suggested that these four focal concerns influence judges' decision making specific to sentencing. In this study, Steffensmeier et al. (1998) suggested indicators of each focal concern, which are presented in Appendix D. Although the authors suggested a number of variables to test focal concerns perspective, they were not all included within their models. They also did not clearly explain how each of these variables were or could be measured. For example, they stated that the variables *crime wrongfulness* and *crime harmfulness* could be "defined in various ways" (p. 766) yet, no explicit definitions were provided.

It was also not clear which variables were indicators of which focal concern within their models. For example, it was not known if criminal history was utilized as an indicator of blameworthiness or of community protection nor was there any discussion regarding how it may capture both concepts. They also suggested that judges' may make certain considerations for defendants with drug, alcohol or psychological disorders. However, these variables were not included within their analytical models. Steffensmeier et al. (1998) concluded that the seriousness of the offense was the most significant factor when assessing sentencing decisions. This finding remains consistent throughout focal concerns perspective research.

Since Steffensmeier and colleagues (1998) current conceptualization of focal concerns perspective, research has continued to utilize this perspective. However, the operationalization of focal concerns perspective within the existing research varies. As shown in Appendix D, the studies do not consistently measure focal concerns perspective in the same way. For example, Hartley et al. (2007), Steffensmeier et al. (1998) and Steffensmeier and Demuth (2000; 2001) all used offense severity scores as an indicator of blameworthiness. Yet, Steffensmeier et al. (1998) and Steffensmeier and Demuth (2000; 2001) used criminal history as an indicator of both blameworthiness and community protection, while Hartley et al. (2007) used criminal history as an indicator of community protection only. In addition, Steffensmeier et al. (1998) and Steffensmeier and Demuth (2000; 2001) used the offender's role in the offense as an indicator of blameworthiness. This indicator was not utilized within any of the other identified study (Demuth & Steffensmeier, 2004; Hartley et al., 2007; Kramer & Ulmer, 2002; Spohn et al., 2001; and Spohn & Holleran, 2000)

The greatest inconsistencies are found within the operationalizaiton of practical considerations. Although Steffensmeier et al. (1998), Steffensmeier and Demuth (2000; 2001); Kramer and Ulmer (2002) and Hartley et al (2007) all measured the influence of the judicial decisions on the children, the other considerations vary across studies. Indicators such as, pregnancy status, marital status, likelihood of conviction, the defendant's ability to do time, political ramification, the judges' relationship with the court, the defendant's employment and addiction history, their health situation and whether a weapon was used, have only been used in select studies. Furthermore, some

studies have not even indicated how they measured practical considerations (Demuth & Steffensmeier, 2004; Spohn & Holleran; 2000).

In addition, Kramer and Ulmer (2002) suggested that an absolute conceptualization of focal concerns perspective may not exist. They contend that there is no way to measure the definitions of each focal concern as these definitions vary by courts, communities and culture. Although focal concerns perspective is not a theory, it is utilized to theoretically explain sentencing and other judicial decisions. However, unless focal concerns perspective can be tested it arguably "has no scientific value" (Akers 2000, p. 7). Kramer and Ulmer (2002) contend that a defendant's offense severity and prior record score would be positively associated with sentencing severity but only to the degree that they match definitions of blameworthiness and community protection. However, it is these definitions that they claim cannot be measured, how then can it be possible to know whether these concepts are associated with sentencing severity?

Hartley et al., (2007) were the first known authors to clearly indicate which variables capture each component of focal concerns perspective, making their operationalization possible to duplicate. As demonstrated, they too assert that focal concerns perspective has a history of not being properly operationalized. They are the first identified authors to take the initial steps to improve the explanatory power of this perspective.

<center>Future Directions for Focal Concerns Perspective</center>

The results of the current study suggested minimal support for focal concerns perspective on case processing of criminal child neglect. An affirmation of the validity of focal concerns perspective is difficult due to the lack of standardized formulation of the

<center>131</center>

perspective. However, it is recognized that focal concerns perspective continues to be a widely accepted explanation for judicial decision-making, in particular sentencing decisions. It may be that judicial concerns specific to crimes against children are unusual compared to other forms of criminality. Focal concerns perspective simply may not address these unique considerations. Therefore, the scope of focal concerns perspective must also be questioned. It may be that focal concerns perspective adequately accounts for the aggregate of criminal cases (from the least to the most serious offenses), yet not necessarily select forms of criminality. However, not until a consistent, testable formulation of focal concerns perspective is created can assertions regarding its range of scope be made.

Although focal concerns perspective "has become the dominant theoretical framework used to explain disparities in judges' sentencing decisions" its explanatory power is questionable (Hartley et al. 2000, p. 58). The existing research illustrates minimal consistency in how to measure the tenets of focal concerns perspective. Arguably focal concerns perspective is not a theory, yet researchers utilizing focal concerns perspective suggest that it has a theoretical framework (Hartley et al. 2007; Spohn & Holleran 2000; Steffensmier et al. 1993). In order for a theory to be explanatory it must meet scientific criteria, the most important being that it has "clearly defined concepts" (Akers 2000, p. 6). The tenets of focal concerns perspective have remained unchanged since Steffensmeier et al. (1998) asserted that judicial decisions are based on considerations of blameworthiness, community protection, practical considerations and a perceptual shorthand. However, how to capture these concepts in a reliable, testable format remains uncertain.

How to capture each of the four propositions of focal concerns perspective remains largely unclear when assessing the available literature. The individual variables used to measure each focal concern arguably attempt to capture complex thought processes and decisions made by judicial players. It may be that operationalizing these decision-making processes through variables utilized in court files and secondary data may not be entirely appropriate. As "we cannot know with any degree of certainty what goes through a judge's mind during the sentencing process" it is doubtful that analyzing these types of data can capture the complexities and interplays within and between these propositions of focal concerns perspective (Spohn 1990, p. 1215). Therefore, a different approach may be required.

In order to adequately understand these decision making processes, researchers of focal concerns perspective may need to follow, watch, listen to, and question judicial decisions makers, rather than trying to measure their decisions through available quantifiable data. Steffensmeier et al. (1998) and Kramer and Ulmer (2002) have both interviewed judges when assessing sentencing decisions based on focal concerns perspective, yet their analyses have placed limited focus on what they uncovered during these interviews. A clearer understanding of what judges' perceive as significant is suggested in order to create consistency within the operationalization of this perspective, which would then make uniform quantifiable testing possible.

In addition to an apparent lack of understanding of the complexity of judicial decision making, support for focal concerns perspective is often asserted within the identified studies, even when the perspective was not adequately tested (i.e. Kramer & Ulmer 2002; Spohn et al. 2001; Steffensmeier et al., 1998). These studies have suggested

support for the perspective when variables that are known indicators of focal concerns perspective reached statistical significance. Yet, "it is not enough for a theory to fit known facts about crime or contain empirical evidence consistent with its propositions. It must also be possible to subject the theory to empirical falsifications; in other words, it must be open to evidence that may counter or disprove its hypothesis with negative findings" (Akers 2000, p. 7). Such evidence has not been identified within current focal concerns perspective research.

Focal concerns perspective is also not parsimonious. Focal concerns perspective includes four propositions yet the indicators of these are vast and have not been exclusively determined. In addition, these four concerns have not been shown to effectively and consistently explain judicial decision-making. The only consistency among the studies are that legal variables, such as offense seriousness and criminal history, continue to be found to significantly influence judicial decision making. These findings are not surprising as existing sentencing research and many state laws indicate that legal variables are designed to directly determine sentencing decisions. These findings beg the question as to why the extralegal components of focal concerns perspective are not simply utilized as control variables. As "one should use only those variables that capture the largest amount of variance in the dependent variable[s]" these variables may not appropriately fit within the theoretical framework of focal concerns perspective (Williams, 1999, p. 91).

The current study indicated that that the influences of extralegal factors on judicial decisions were secondary to the relevant legal factors. These extralegal variables also tended to continuously explain only a minimal amount of the variance. For example,

the indicators of perceptual shorthand, which are all extralegal variables, explained only

1.4% of the variance of the bail decision within the current study. With such limited

explanatory power, the inclusion of these variables makes minimal contribution to

explained variance, in addition, it is difficult to determine if the "explained variance is a

product of error in the dependent variable" (Williams 1999, p. 84). It may be that a

perspective utilizing fewer propositions captures just as much of the explained variance

as the inclusion of all four components of focal concerns perspective.

Suggestions for Future Research

Future research should continue to examine whether those who commit crimes

against children, in particular their own children, are assessed differently by the courts

than those who commit crimes against other persons. This type of information could

further our understanding of whether the crime victim influences perceptions of justice.

In addition, research suggests that children who are victimized are more likely to grow

into adult offenders, therefore, appropriate judicial responses to offenders of child

maltreatment may actually prevent future criminality among the victims.

It is also encouraged that future research examine the effect of familial role

variables on the case processing decisions. As found within the factor analysis, the

defendant's gender, number of dependents and relationship with the victim were found to

load together. This suggests that "familial paternalism" may better explain case

processing decisions specific to criminal child maltreatment. Familial paternalism

suggests that any gender disparity within the judicial system is not due to gender

leniency, but rather considerations of the costs associated with punishing individuals in

familial roles (Daly, 1987). Any leniency then is likely due to the greater level of informal control that women with children have, which can reduce their threat to society.

In addition, the current study indicated that 89.2% of all arrests for Criminal Mistreatment I/II, Endangering the Welfare of a Minor and Child Neglect I/II were accepted by the prosecutor for pursuit of conviction. Although little research was found specific to processing of child neglect, Sedlak et al. (2005) found that only 10% of child neglect cases were pursued by the prosecutor. The findings within the current study suggest that the police within this particular jurisdiction may be better prepared at investing and collecting evidence specific to child neglect.

The City of Salem, Oregon has a law enforcement team (Drug Activity Response Team) that was designed and implemented to focus on drug activity complaints, however, the recognition that child maltreatment (most commonly neglect) often co-occurs in homes with drug activity is known and recognized. These DART officers have been trained to recognize child maltreatment, specifically Endangering the Welfare of a Minor, Child Neglect and Criminal Mistreatment, within the homes they investigate. DART officers have received training from the Drug Enforcement Agency, State of Oregon, Department of Human Services, Child Welfare and the Marion County District Attorney's Office, in addition to their initial training by The State of Oregon Department of Public Safety Services (Marion County Deputy District Attorney, personal communication, January 15, 2008). These trainings focused on recognizing and identifying child maltreatment and Drug Endangered Children. These officers also have been trained to appropriately document the maltreatment within police reports. Their perception of child neglect as a crime in addition to their fact finding techniques may

ensure this greater prosecutorial acceptance. As discussed, this study was limited to official data in one county, therefore, similar assessments within other jurisdictions are also encouraged.

Conclusions

With limited existing examinations of the effects of victim, defendant and case characteristics on case processing of criminal child maltreatment, several questions regarding the influence of these variables on processing decisions remained. This study provided a closer examination of the influence of these characteristics on judicial processing of forms of criminal child neglect. In addition, this study specifically examined the influence of focal concerns perspective on these decisions. Through this study, a greater understanding of how these cases progress and what influences case processing specific to crimes of child neglect were identified. Child maltreatment remains largely under-investigated and prosecuted within the criminal justice system, yet recognition of this form of criminality and further examinations into how these cases are processed will hopefully shed light on the enormity of child maltreatment within this country. Ignoring this form of criminality disregards these children and the justice they deserve.

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Oregon Revised Statutes –Crimes Against Persons

163.205 Criminal mistreatment in the first degree. (1) A person commits the crime of criminal mistreatment in the first degree if:

(a) The person, in violation of a legal duty to provide care for another person, or having assumed the permanent or temporary care, custody or responsibility for the supervision of another person, intentionally or knowingly withholds necessary and adequate food, physical care or medical attention from that other person; or

(b) The person, in violation of a legal duty to provide care for a dependent person or elderly person, or having assumed the permanent or temporary care, custody or responsibility for the supervision of a dependent person or elderly person, intentionally or knowingly:

(A) Causes physical injury or injuries to the dependent person or elderly person;

(B) Deserts the dependent person or elderly person in a place with the intent to abandon that person;

(C) Leaves the dependent person or elderly person unattended at a place for such a period of time as may be likely to endanger the health or welfare of that person;

(D) Hides the dependent person's or elderly person's money or property or takes the money or property for, or appropriates the money or property to, any use or purpose not in the due and lawful execution of the person's responsibility;

(E) Takes charge of a dependent or elderly person for the purpose of fraud; or

(F) Leaves the dependent person or elderly person, or causes the dependent person or elderly person to enter or remain, in or upon premises where a chemical reaction involving one or more precursor substances:

    (i)Is occurring as part of unlawfully manufacturing a controlled substance or grinding, soaking or otherwise breaking down a precursor substance for the unlawful manufacture of a controlled substance; or

    (ii)Has occurred as part of unlawfully manufacturing a controlled substance or grinding, soaking or otherwise breaking down a precursor substance for the unlawful manufacture of a controlled substance and the premises have not been certified as fit for use under ORS 453.885.

    (2) As used in this section:

    (a) "Controlled substance" has the meaning given that term in ORS 475.005.

    (b) "Dependent person" means a person who because of either age or a physical or mental disability is dependent upon another to provide for the person's physical need.

    (c) "Elderly person" means a person 65 years of age or older.

    (d) "Legal duty" includes but is not limited to a duty created by familial relationship, court order, contractual agreement or statutory or case law.

    (e) "Precursor substance" has the meaning given that term in ORS 475.940.

(3) Criminal mistreatment in the first degree is a Class C felony. [1973 c.627 §3;

163.200 Criminal mistreatment in the second degree. (1) A person commits the crime of criminal mistreatment in the second degree if, with criminal negligence and:

(a) In violation of a legal duty to provide care for another person, the person withholds necessary and adequate food, physical care or medical attention from that person; or

(b) Having assumed the permanent or temporary care, custody or responsibility for the supervision of another person, the person withholds necessary and adequate food, physical care or medical attention from that person.

(2) Criminal mistreatment in the second degree is a Class A misdemeanor.

(3) As used in this section, "legal duty" includes but is not limited to a duty created by familial relationship, court order, contractual agreement or statutory or case law. [1973 c.627 §2; 1993 c.364 §1]

163.547 Child neglect in the first degree. (1)(a) A person having custody or control of a child under 16 years of age commits the crime of child neglect in the first degree if the person knowingly leaves the child, or allows the child to stay:

(A) In a vehicle where controlled substances are being criminally delivered or manufactured;

(B) In or upon premises and in the immediate proximity where controlled substances are criminally delivered or manufactured for consideration or profit or where a chemical reaction involving one or more precursor substances:

> (i) Is occurring as part of unlawfully manufacturing a controlled substance or grinding, soaking or otherwise breaking down a precursor substance for the unlawful manufacture of a controlled substance; or

> (ii) Has occurred as part of unlawfully manufacturing a controlled substance or grinding, soaking or otherwise breaking down a precursor substance for the unlawful manufacture of a controlled substance and the premises have not been certified as fit for use under ORS 453.885; or

(C) In or upon premises that have been determined to be not fit for use under ORS 453.855 to 453.912.

(b) As used in this subsection, "vehicle" and "premises" do not include public places, as defined in ORS 161.015.

(2) Child neglect in the first degree is a Class B felony.

(3) Subsection (1) of this section does not apply if the controlled substance is marijuana and is delivered for no consideration.

(4) The Oregon Criminal Justice Commission shall classify child neglect in the first degree as crime category 6 of the sentencing guidelines grid of the commission if the controlled substance being delivered or manufactured is methamphetamine. [1991 c.832 §1; 2001 c.387 §1; 2001 c.870 §11; 2005 c.708 §2]

163.545 Child neglect in the second degree. (1) A person having custody or control of a child under 10 years of age commits the crime of child neglect in the second degree if, with criminal negligence, the person leaves the child unattended in or at any place for such period of time as may be likely to endanger the health or welfare of such child.(2) Child neglect in the second degree is a Class A misdemeanor. [1971 c.743 §174; 1991 c.832 §2]

163.575 Endangering the welfare of a minor. (1) A person commits the crime of endangering the welfare of a minor if the person knowingly:

(a) Induces, causes or permits an unmarried person under 18 years of age to witness an act of sexual conduct or sadomasochistic abuse as defined by ORS 167.060; or

(b) Permits a person under 18 years of age to enter or remain in a place where unlawful activity involving controlled substances is maintained or conducted; or

(c) Induces, causes or permits a person under 18 years of age to participate in gambling as defined by ORS 167.117; or

(d) Distributes, sells, or causes to be sold, tobacco in any form to a person under 18 years of age; or

(e) Sells to a person under 18 years of age any device in which tobacco, marijuana, cocaine or any controlled substance, as defined in ORS 475.005, is burned and the principal design and use of which is directly or indirectly to deliver tobacco smoke, marijuana smoke, cocaine smoke or smoke from any controlled substance into the human body including but not limited to:

(A) Pipes, water pipes, hookahs, wooden pipes, carburetor pipes, electric pipes, air driven pipes, corncob pipes, meerschaum pipes and ceramic pipes, with or without screens, permanent screens, hashish heads or punctured metal bowls;

(B) Carburetion tubes and devices, including carburetion masks;

(C) Bongs;

(D) Chillums;

(E) Ice pipes or chillers;

(F) Cigarette rolling papers and rolling machines; and

(G) Cocaine free basing kits.

(2) Endangering the welfare of a minor by violation of subsection (1)(a), (b), (c) or (e) of this section, involving other than a device for smoking tobacco, is a Class A misdemeanor.

(3) Endangering the welfare of a minor by violation of subsection (1)(d) of this section or by violation of subsection (1)(e) of this section, involving a device for smoking tobacco, is a Class A violation and the court shall impose a fine of not less than $100. [1971 c.743 §177; 1973 c.827 §20; 1979 c.744 §8; 1981 c.838 §1; 1983 c.740 §31; 1991 c.970 §5; 1995 c.79 §52; 1999 c.1051 §153]

MARION COUNTY DISTRICT ATTORNEY
P.O. BOX 14500, 555 COURT ST NE
SALEM, OREGON 97309

MEMORANDUM OF UNDERSTANDING BETWEEN MARION COUNTY DISTRICT ATTORNEY'S OFFICE AND MARI PIERCE

In order to allow Mari Pierce, doctoral candidate at IUP, full access to prosecution files held by the Marion County District Attorney's Office, the parties agree to the following:

Ms. Pierce and Ms. Morris, Deputy District Attorney, will set a series of dates and times to meet to create a list of cases to be used for the research component of Ms. Pierce's doctoral thesis. The general topic of the thesis is "Criminal Accountability for Parents of Drug-Endangered Children." Ms. Pierce wishes to access files involving cases prosecuted by the Marion County District Attorney's Office in the last six years to analyze the effect of criminal prosecution of parents of drug-endangered children. The data collection will include the number of children impacted, the charges filed, the sentences imposed, the involvement of the child welfare agency and the juvenile court, and the success or recidivism of the parents.

Of particular interest to Ms. Pierce is the impact of the creation of Marion County's Drug-Endangered Children's Team in 2002, partnering the district attorney's office, law enforcement, parole and probation, and child welfare workers in an effort to better identify drug-endangered children and insure the long-term safety of those children. One area of emphasis will be the impact of the creation of Salem Police Department's Drug-Activity Response Team in 2004 on the success of the Marion County Team.

Ms. Pierce will be given access to any and all files of interest under the supervision of Ms. Morris. She will be granted access to the District Attorney's Office computer network, including the juvenile database. The collection of data may include the copying of reports, which will be redacted to insure the family's anonymity. Ms. Morris will cooperate in the collection of data where necessary and appropriate and may identify partners and interested individuals to be interviewed for research purposes.

In return, the District Attorney's Office will receive a shortened version of the research findings to be used and disseminated as the District Attorney's Office sees fit.

This memorandum of understanding may be altered as the data collection begins and continues at the request of either party and with the agreement of the District Attorney and Ms. Pierce.

Signed this 5th day of November, 2007.

Signatures on File

Walter M. Beglau
Marion County District Attorney

Sarah S. Morris
Deputy District Attorney, Marion County

Dr. Jennifer Roberts
Dissertation Chair, IUP

Mari Pierce
Doctoral Candidate

Appendix C

Hartley, Maddan & Spohn (2007) Principal Component Factor Analysis of the Theoretical Model

Variables	Factor 1	Factor 2	Factor 3	Factor 4	Factor 5	Factor 6	Factor 7
Offense Seriousness	0.765						
Drug Offense	0.863						
Drug Minimum	0.895						
Citizen		-0.798					
Pretrial Status		0.605					
Ethnicity		0.836					
Number of Counts			-0.481				
Disposition			0.857				
Accept Responsibility			0.836				
Criminal History				0.825			
Armed Career Criminal				0.333			
Career Criminal				0.660			
Sex				-0.314			
Marital Status					0.778		
# of Dependents					0.781		
Violent Offenses						0.750	
Gun Minimum						-0.743	
Departure							0.646
Race							0.531
Age							0.473

Rotation Method: Varimax

<u>Blameworthiness</u>
Factor 1 (Nature of Offense)
Factor 3 (Offender Responsibility)

<u>Community Protection</u>
Factor 4 (Perceived Dangerousness)
Factor 6 (Dangerousness)

<u>Practical Considerations</u>
Factor 5 (Potential System Strain)

<u>Perceptual Shorthand</u>
Factor 2 (Perceptual Shorthand I)
Factor 7 (Perceptual Shorthand II)

(Hartley et al., 2007, p. 71).

Appendix D

Various Operationalizations of Focal Concerns Perspective

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Author(s)	Year	Focal Concerns Utilized	Indicators of Focal Concerns

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Author(s)	Year	Focal Concerns Utilized	Indicators of Focal Concerns
Steffensmeier, Kramer and Streifel	(1993)	Blameworthiness	Prior Record Offense Severity
		Practical Considerations	Children Pregnancy Physical Ailments Mental Health Issues
Steffensmeier Ulmer and Kramer	(1998)	Blameworthiness	Offense Severity Crime Wrongfulness Crime Harmfulness Criminal History Prior Victimization Offender's Role
		Community Protection	Nature of the Offense Case Information Criminal History Use of a Weapon Drug Dependency Education History Employment History Family History
		Practical Implications	Relationship with Court Flow of Cases Correctional Resources Ability to "Do Time" Health Conditions Special Needs Costs to Corrections Children/Family Community Perception
		Perceptual Shorthand	Race Age Gender
Steffensmeier And Demuth	(2000)	Blameworthiness	Offense Severity Criminal History Prior Victimization Offender's Role Biographical Information
		Community Protection	Nature of the Offense Criminal History Case Information Employment History Education Community Ties
		Practical Implications	Ability to "Do Time" Likelihood of Recidivism Community Perception

			Judge's Future Career
			Costs to Corrections
			Children/Family
		Perceptual Shorthand	Gender
			Race
			Social Class/Position
Spohn and Hollerman	(2000)	Blameworthiness	Not Specified
		Community Protection	Not Specified
		Practical Considerations	Not Specified
		Perceptual Shorthand	Age
			Race/Ethnicity
			Gender
			Employment Status
Steffensmeier and Demuth	(2001)	Blameworthiness	Offense Severity
			Biographical Information
			Criminal History
			Prior Victimization
			Offender's Role
		Community Protection	Nature of the Offense
			Case Information
			Criminal History
			Offender Characteristics
		Practical Implications	Ability to "Do Time"
			Costs to Corrections
			Children/Family
			Community Perception
		Perceptual Shorthand	Gender
			Race/Ethnicity
			Social Class/Position
Spohn, Beichner and Davis-Frenzel	(2001)	Blameworthiness	Not Specified
		Community Protection	Not Specified
		Practical Considerations	Likelihood of Conviction
		Perceptual Shorthand	Stereotypes of Rape and Rape-Behavior
			Character of Victim
			Victim's Cooperation
Kramer and Ulmer	(2002)	Blameworthiness	Varies
		Community Protection	Varies
		Practical Considerations	Prosecutorial/Court Time
			Jail and Prison Resources
			Political Ramifications
			Impact on Victims
			Impact on Offender
			Impact on Family
		Perceptual Shorthand	Race
			Gender
			Age

157

Demuth and Steffensmeier	(2004)	Blameworthiness Community Protection Practical Considerations Perceptual Shorthand	Variables Identified but not which category: Offense Severity, Criminal History, Race Ethnicity, Age, County, Mode of Conviction
Hartley, Maddan And Spohn	(2007)	Blameworthiness	Offense Severity Score Drug Offense Drug Minimum Number of Counts Type of Disposition Accepts Responsibility
		Community Protection	Criminal History Armed Career Criminal Career Criminal Gender Violent Offense Gun Minimum
		Practical Considerations	Marital Status Number of Dependents
		Perceptual Shorthand	Citizenship Status Pretrial Status Race Ethnicity Age Dispositional Departure

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