

## IN PRACTICE

# Meeting the Challenge of Child Maltreatment in Rural Areas

by Cameron R. Getto and Daniel Pollack

Rural America—idyllic, carefree hamlets nestled in open spaces with strong communal and family ties. If you represent children and families in a rural town, you know the reality: small populations far from major urban centers, limited transportation, fewer social services and jobs, and social isolation. Adding to the mix are limited resources, communication and technology challenges, long work hours, confidentiality issues, and a lack of specialists.

Data shows child maltreatment reports are higher in rural than urban areas.<sup>1</sup> This suggests rural practitioners may be more likely to encounter children who are victims of maltreatment. This is true regardless of whether the maltreatment caused the child's contact with the legal system or was revealed after the child's contact with the courts for another reason. What does this mean if you practice in a rural area? This article highlights child maltreatment trends in rural areas and offers tips for addressing common challenges when representing these children.

## Rural Child Maltreatment Trends

According to the U.S. Department of Health and Human Services, Health Resources and Services Administration, "Rural children are more likely to live in poor families, and are more vulnerable to death from injuries."<sup>2</sup> Persistent poverty (defined as 20 percent or more of a county's population living in poverty over the last 30

years) is primarily found in nonmetropolitan counties—85.3 percent.<sup>3</sup>

As youth migrate to cities, the rural population is aging. The United States Department of Agriculture, Economic Research Services, reports there were 46.2 million people living in nonmetropolitan counties in 2013. Their diverse culture, ethnicity, and economic and social status, represents almost 15 percent of U.S. residents. Spread across 72 percent of the country's land area, these counties are in the midst of a three-year plus trend of declining population.<sup>4</sup>

However, the incidence of child maltreatment is not going in the same direction. The *Fourth National Incidence Study of Child Abuse and Neglect* (2010),<sup>5</sup> a report to Congress on child maltreatment data in the U.S. during 2005-06, contains a treasure trove of information. Some highlights:

- Rural children had twice the rate of overall maltreatment as the general population. "Whether this reflects better coverage of maltreated children in the rural counties or

higher rates of actual maltreatment in rural communities is not clear. Nor is it clear how differential distribution of other factors, such as socioeconomic status and family size differences, may contribute to these metropolitan status differences."<sup>6</sup>

- The incidence of overall harm in rural counties was 1.7 times the rate in major urban counties—10.8 versus 6.4 children per 1,000.<sup>7</sup>

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## Sample Risk Assessment Questions

If you believe child maltreatment may be occurring, discreetly try to get answers to some of these questions. By asking a standard set of questions, you can determine if an appreciable risk of harm exists to warrant further investigation.

- Have you noticed any changes in the child's demeanor?
- Does the child seem himself or herself lately?
- Has the child gotten into any serious arguments or fights recently?
- Is the child complaining about any new physical ailments?
- Is the child complaining about stomach aches?
- How is the child sleeping?
- How is the child's appetite?
- Does the child exhibit unexpected developmental delays?
- Does the child seem unusually anxious or withdrawn?
- Has the child missed any school in the last few months?
- Does the child exhibit any sexualized behaviors?
- Is the child dressed appropriately for the weather?
- Is the child receiving regular medical and dental care?
- Have any of the child's relationships changed recently? Has the child experienced a death, divorce, or someone close moving away?

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- The rate of sexual abuse in rural counties (2.8 per 1,000 children) was twice the rate in major urban counties (1.4 children per 1,000).<sup>8</sup>
- Children in rural areas also had higher emotional abuse rates—2.6 times that of major urban counties (3.4 versus 1.3 children per 1,000).<sup>9</sup>
- Emotional neglect among children living in rural counties (4.7 children per 1,000) is higher than for children living in major urban counties (1.8 children per 1,000).<sup>10</sup>
- “Children in rural counties were 2.8 times more likely to be physically neglected than children in major urban counties and 2.2 times more likely than urban children.”<sup>11</sup>

## Addressing Child Maltreatment

What does the data mean for rural lawyers? First, be aware that the children you represent or have

professional contact with are at risk for maltreatment and be prepared to perform some risk assessment. Since many children may be involved with the courts for matters unrelated to maltreatment, always carefully evaluate each situation. Have a strategy to address common representation challenges where you practice.

### Face-to-Face Contact

When assessing a child's well-being, there is no substitute for firsthand, face-to-face contact. Although many court rules require children to physically appear before a judge when their rights are affected,<sup>12</sup> a judge might excuse a personal appearance when familiar with the attorneys and/or parties. This could be common in rural areas involving long distances to and from court, or when the parties lack resources and transportation. In these circumstances, a court may exercise its discretion to excuse a child's appearance,<sup>13</sup> missing an opportunity to assess the well-being of the child affected by the legal proceedings. Ask the court for an

in-person appearance by the child whenever possible and always when maltreatment is suspected. When an in-person appearance is not possible, consider using Skype or something similar to include the child in the proceedings and observe the child's demeanor.

## Risk Assessment Questions

Consider developing a standard client questionnaire with help from a mental health professional that probes for potential emotional and physical risks to children (see *Sample Risk Assessment Questions*). Questions should be broad and open-ended. For example, instead of asking whether the child seems depressed or withdrawn, ask “Does the child seem himself or herself lately.” Instead of overtly asking whether the child has suffered any injuries, ask “Has the child missed any school in the last few months?” or “Has the child gotten into any physical arguments or fights recently?” By using a standardized tool, you can determine if an appreciable risk is present. When appropriate, you can direct or focus an inquiry to determine whether a minor client is experiencing maltreatment.

## Technology

Time is precious in most legal practices. Some rural communities lack enough attorneys,<sup>14</sup> burdening the few attorneys in the community with ever more responsibility. Using simple, inexpensive technologies can maximize your reach when identifying children who may be at risk for maltreatment and helping them get services and supports.

*Listserves.* Rarely does an attorney face a problem that has never been encountered. Many urban bar associations and some statewide organizations provide voluntary e-mail networking services (listservs)<sup>15</sup> that allow practitioners to discreetly seek advice from other attorneys. Attorneys seeking counsel from peers can carefully craft a fact pattern or hypothetical and send it to a listserv where it may be read by

attorneys throughout a state or region. Even a handful of responses to an inquiry can avoid “re-inventing the wheel” and supply multiple perspectives for approaching or handling a sensitive or difficult matter involving child maltreatment.

*Visual media.* When dealing with long distances, consider technologies such as Skype or FaceTime to allow face-to-face discussions with children who are not present at the office or in court. Nonverbal visual cues can cause an attorney or court to request a meeting or court hearing be adjourned to allow the child(ren) involved to attend. Interference by an adult in the interview or questioning of a child witness may raise suspicion that an *in camera* or other independent proceeding be considered.

### Community Resources

Develop relationships with local nonprofits, human services agencies, and religious organizations that serve at-risk children. Their missions often include doing so charitably, costing nothing, or sometimes employing a sliding scale cost structure based on ability to pay. Connecting to these organizations can tap into expert advice and a network for referring maltreated children or their families for assistance or professional services.

For example, nonprofit human service organizations such as North Coast Opportunities (NCO) offer a variety of programs to rural families, such as Rural Communities Child Care.<sup>16</sup> NCO provides child care services for rural, low-income families and nutritious meals and snacks for children enrolled in the program. When a parent must choose between leaving a child or children at home unsupervised or losing a job, these types of programs provide the supervision and nurturing kids need.

### Conflicts of Interest

When resources are scarce, or when there is a shortage of local attorneys, waiving or overlooking potential

conflicts of interest and allowing one attorney to represent multiple parties may be tempting. Although doing so can result in significant savings, do not assume that a child’s interests are aligned with the adult’s. Whether these interests are aligned can be a challenge since child maltreatment is often concealed. Exercise great care whenever there is a potential conflict between a minor client and an adult client, ensuring a guardian *ad litem* or similar individual has performed an objective evaluation of the minor’s circumstances and interests.

### Reporting Mandates

Each state has mandatory reporting requirements when child maltreatment is suspected. Some states require all people who suspect child abuse to report it to child protection authorities. Other states require listed professionals (doctors, teachers, etc.) or certain types of people to report.<sup>17</sup> Of the states that list professionals or categories of individuals required to report, not all include attorneys.<sup>18</sup>

### Conclusion

Practicing in rural communities creates challenges for attorneys representing maltreated children. We like to think rural communities are adept at finding solutions that suit their unique needs and circumstances. Just as there is no one definition of ‘rural’ there is no uniform approach to addressing child maltreatment. Rural attorneys can play a role addressing child maltreatment by drawing on their own and others’ experience, knowledge, and expertise. There are few professionals more imaginative, resilient, and resourceful than rural attorneys.

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### Endnotes

1. Sedlak, A.J. et al. *Fourth National Incidence Study of Child Abuse and Neglect (NIS-4): Report to Congress*, 2010. Washington, DC: U.S. Department of Health and Human Services, Administration for Children and Families. < [www.acf.hhs.gov/sites/default/files/opre/nis4\\_report\\_congress\\_full\\_pdf\\_jan2010.pdf](http://www.acf.hhs.gov/sites/default/files/opre/nis4_report_congress_full_pdf_jan2010.pdf) >
2. *The Health and Well-Being of Children in Rural Areas: A Portrait of the Nation 2007*, 4. Available at <http://mchb.hrsa.gov/nsch/07rural/moreinfo/pdf/nsch07titlecitotoc.pdf> (internal citations omitted).
3. U.S. Department of Agriculture, Economic Research Service. *Geography of Poverty*, 2014. <[www.ers.usda.gov/topics/rural-economy-population/rural-poverty-well-being/geography-of-poverty.aspx#.U42z9XJdX3E](http://www.ers.usda.gov/topics/rural-economy-population/rural-poverty-well-being/geography-of-poverty.aspx#.U42z9XJdX3E)>
4. [www.ers.usda.gov/topics/rural-economy-population/population-migration.aspx](http://www.ers.usda.gov/topics/rural-economy-population/population-migration.aspx)
5. Sedlack et al, 2010.
6. *Ibid.*, 3.
7. *Ibid.*, 5-53.
8. *Ibid.*, 5-53.
9. *Ibid.*, 5-54.
10. *Ibid.*, 5-54.
11. *Ibid.*, 5-59.
12. *See, e.g.*, Michigan Court Rule 2.420(B) (1)(a), providing “the minor . . . shall appear in court personally to allow the judge an opportunity to observe the nature of the injury . . . .”
13. *Ibid.* (excusing a minor’s appearance “for good cause”).
14. South Dakota H.B. 1096 (2013), providing appropriations to assist rural counties throughout South Dakota recruit attorneys.
15. *See, e.g.* “Member Resources” section of the Michigan Association for Justice’s website: [www.michiganjustice.org](http://www.michiganjustice.org). Members can join this service which gives them access to an email group to discuss issues relevant to members.
16. [www.ncoinc.org/programs/rural-communities-child-care/](http://www.ncoinc.org/programs/rural-communities-child-care/)
17. *See, e.g.*, Wyoming Statute sections 14-3-205 and 35-20-103 (requiring everyone who suspects child abuse to report it, including attorneys); MCL 722.623 (listing professionals but not including attorneys); and Oregon Revised Statutes 419B.005(3)(m) (listing attorneys as mandatory reporters).
18. *See, e.g.*, MCL 722.623.