THE FORGOTTEN CHILDREN: VICTIMS OF DOMESTIC VIOLENCE, VICTIMS OF THE SYSTEM

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I. INTRODUCTION

Children who witness domestic violence, but who are not themselves abused, suffer similar levels of distress as those who are directly abused by their parents.[1] However, children who witness domestic violence often do not receive services for the trauma they endure since they do not appear to be typical victims of abuse.[2] The inability of child witnesses of domestic violence to confront trauma in healthy ways may result in internalizing and externalizing behaviors, such as acts of aggression[3], which in turn may lead to these juveniles being labeled as problem children and ending up in juvenile court. Children may be thrust into cycles of delinquency, which could continue into adulthood.[4] These things

* For their generous feedback and guidance on earlier drafts, I thank Professors Mary A. Lynch and Melissa L. Breger of Albany Law School. I hope that this piece provides clarity and direction for practitioners and survivors of domestic violence: you too will find your light. Finally, I thank my beloved mother, Joan A. Stephens for her endless love and support; without her, none of this would be possible. I dedicate this article to my late grandfather, Vincent G. Stephens, who lived a life of hard work and selfless sacrifices.

[1] LUNDY BANCROFT, JAY G. SILVERMAN & DANIEL RITCHIE, THE BATTERER AS PARENT: ADDRESSING THE IMPACT OF DOMESTIC VIOLENCE ON FAMILY DYNAMICS 47 (2nd ed. 2012).

[2] *See* UNICEF, BEHIND CLOSED DOORS: THE IMPACT OF DOMESTIC VIOLENCE ON CHILDREN 3 (2009), https://www. unicef.org/media/files/BehindClosedDoors.pdf.

[3] *See* Theresa L. Bundy, Effects of Witnessing Domestic Violence on Children 8, 15, 44 (Apr. 1995) (unpublished Masters Theses) (on file with Grand Valley State University).

[4] *See Children Exposed to Violence*, OFFICE OF JUSTICE PROGRAMS,

happen while the genesis of the problem is ignored and no rehabilitation, the founding purpose of the juvenile court, takes place.

The next section of this Paper introduces domestic violence broadly with a discussion of its elements and various kinds of acts that constitute the crime. It also discusses a variety of effects that domestic violence may have on children. Particularly, this section focuses on children who have not been abused or neglected, but have witnessed or been exposed to domestic violence and the trauma that they face. As a means of responding to that trauma, these children sometimes turn to delinquency to regain feelings of self-worth and power. This section also examines two manifestations of juveniles' response to trauma—gang violence and parental battering—with an understanding that there are many other ways that youth may respond. These examples are just two ways in which a juvenile may end up in juvenile court.[5]

The third section introduces the juvenile court and its purpose and provides a description of how cases are processed through the court.[6] The next section discusses current models of juvenile intervention and the ways in which juvenile courts in conjunction with community programs work together in attempting to rehabilitate delinquents. The fifth section explores recommendations for juvenile court players or any court where juvenile delinquency matters are addressed, such as family court. The recommendations will propose a more therapeutic approach to handling juveniles who come from homes with a presence of domestic violence. These recommendations include interventions to reach this unique population of youth while holding them accountable.[7] Finally, the Paper provides other considerations for all juveniles, such that trauma from domestic violence is screened for in various settings in an effort to prevent child witnesses from succumbing to delinquency. It also recommends nationwide statutory mandates to pay for counseling services, as well as the involvement of the extended family where removal from the home is necessary, so that child witnesses of domestic violence are not forgotten.

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https://ojp.gov/programs/cev.htm (last visited Mar. 1, 2019).

5 *See* Sarah M. Buel, *Why Juvenile Courts Should Address Family Violence: Promising Practices to Improve Intervention Outcomes*, 53 JUV. & FAM. COURT J. 1, 8 (2002).

6 *See id.* at 7.

7 *See id.*

II. EFFECTS OF DOMESTIC VIOLENCE ON CHILD WITNESSES

Each year, five million children witness some form of domestic violence in their homes.[8] For the purposes of this Paper, domestic violence is defined as:

> [A] pattern of abusive behavior in any relationship that is used by one partner to gain or maintain power and control over another intimate partner. Domestic violence can be physical, sexual, emotional, economic, or psychological actions or threats of actions that influence another person. This includes any behaviors that intimidate, manipulate, humiliate, isolate, frighten, terrorize, coerce, threaten, blame, hurt, injure, or wound someone.[9]

Domestic violence includes acts of violence and abuse by current or former intimate partners, parents, children, siblings, and other relatives.[10] While there are instances of domestic violence against men, given the nature of domestic violence and the statistics of those most commonly affected,[11] women are the identified population of victims of domestic violence in this Paper.[12]

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8 *10 Startling Statistics About Children of Domestic Violence*, CHILDHOOD DOMESTIC VIOLENCE ASS'N (Feb. 21, 2014), https://cdv.org/2014/02/10-startling-domestic-violence-statistics-for-children/.

9 CLINTON COMMUNITY COLLEGE, STATE UNIV. OF N.Y., POLICY ON DOMESTIC/INTIMATE PARTNER VIOLENCE AND STALKING, *https://www.clinton.edu/repository/5602.pdf*.

10 Zlatka Rakovec-Felser, *Domestic Violence and Abuse in Intimate Relationship from Public Health Perspective*, 2 HEALTH PSYCHOL. RES., no. 3, 2014, at 62, 62, https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4768593/pdf/hpr-2014-3-1821.pdf.

11 SHARON G. SMITH ET AL., CTRS. FOR DISEASE CONTROL AND PREVENTION, THE NATIONAL INTIMATE PARTNER AND SEXUAL VIOLENCE SURVEY (NISVS): 2010-2012 STATE REPORT 117, 120–21 (2017), https://www.cdc.gov/violenceprevention/pdf/NISVS-StateReportBook.pdf. "In the United States, over 1 in 3 women (37.3%) experienced contact sexual violence, physical violence, and/or stalking victimization by an intimate partner during her lifetime. *Id.* Individual state estimates of lifetime experiences of contact sexual violence, physical violence and/or stalking by an intimate partner ranged from 27.8% to 45.3% (all states)." *Id.* Further, "[n]early 1 in 4 women (23.2%) experienced severe physical violence by an intimate partner in her lifetime." *Id.* For men, the data reveals that "30.9% or nearly 1 in 3 men have experienced contact sexual violence, physical violence, and/or stalking by an intimate partner in his lifetime. *Id.* Among states, 18.5% to 38.2% (all states) of men reported any of these behaviors by an intimate partner in their lifetime," and "[a]pproximately 1 in 7 men (13.9%) experienced severe physical violence by an intimate partner in his lifetime." *Id.*

12 *See Violence Against Women*, WORLD HEALTH ORG., (Nov. 29, 2017),

Consequently, individuals who play a maternal figure in a child's life, regardless of sex or biological relationship, are considered as mothers within the scope of this paper. Also, the abuser in the relationship is presumed to be male because abusers are predominantly identified as male.[13]

Domestic violence is witnessed by children in various ways. In addition to generally seeing an intimate partner physically abusing their mother, children may also hear the sounds associated with the abuse.[14] For example, children may hear smashing furniture, verbal threats from the abuser, and resulting crying from another room. Further, children may notice bruises on their mother, blood, or broken glass in the aftermath of the violence.[15] As a result, parents or intimate partners may be unaware of their child's knowledge of the abuse.[16]

Regardless of whether children are exposed to battering by direct observation, hearing it from another room, or observing the aftermath of it, a sense of fear and anxiety is common for child witnesses of abuse.[17] These children "are always on guard, watching and waiting for the next event to occur. They never know what will trigger the abuse, and therefore, they never feel safe. They are always worried for themselves, their mother, and their siblings. They may feel worthless and powerless."[18] Many of the concerns and fears of child witnesses of domestic violence are manifested by internalizing behaviors such as anxiety and depression and/or externalizing behaviors like aggressive and disruptive behavior in various settings.[19] Notably, children from violent homes have higher risks of post -traumatic stress disorder and alcohol or drug abuse.[20] Further, these children run away more frequently than their peers who do not have violence in their

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http://www.who.int/mediacentre/ factsheets/fs239/en/.

13 *See id.*

14 Rachel L. Melissa, *Oregon's Response to the Impact of Domestic Violence on Children*, 82 OR. L. REV. 1125, 1128–29 (2003).

15 *Id* at 1128.

16 *Id.*

17 *The Effects of Domestic Violence on Children*, DOMESTIC VIOLENCE ROUNDTABLE, http://www. domesticviolenceroundtable.org/effect-on-children.html (last visited Oct. 15, 2017) (hereinafter DOMESTIC VIOLENCE

18 *Id.*

19 Melissa, *supra* note 14, at 1129.

20 *See* Charles A. Phipps, *Children, Adults, Sex and the Criminal Law: In Search of Reason*, 22 SETON HALL LEGIS. J. 1, 83–84 (1997); DOMESTIC VIOLENCE ROUNDTABLE, *supra* note 17.

homes.[21] In fact, witnessing domestic violence has been recognized as the single best predictor of juvenile delinquency and, in the future, adult criminal activity.[22]

Furthermore, as the length of time that a child continues to be exposed to domestic violence increases, the resulting behavioral effects intensify.[23] Generally, family cohesion, marital quality, and family love and support serve as protective factors in reducing the likelihood of juvenile delinquency.[24] In households troubled with domestic violence, to the extent that these protective factors are present, they are likely to be distorted and not conducive to fostering prosocial relationships for child witnesses.[25] Therefore, the likelihood of delinquency is greater as the child witness searches for a sense of power, safety, and worth.[26] Gang membership and parental battery are two examples of externalizing behaviors that may result from the untreated trauma of the child witness of domestic violence.[27]

A) Gang Membership

Juveniles are often attracted to gangs because of problems at home and the potential that a gang will serve as a "substitute family."[28] In a quest to replace broken family bonds and to feel a sense of belonging, children from homes with domestic violence seek gang involvement in order to be protected from victimization.[29] The perceived threat of impending victimization is central to the individual decision to join a gang, as gangs are

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21 DOMESTIC VIOLENCE ROUNDTABLE, *supra* note 17.

22 *Id.*

23 BANCROFT, *supra* note 1, at 44.

24 OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, PROTECTIVE FACTORSAGAINSTDELINQUENCY5tbl.2(2015), http://www.ojjdp.gov/mpg/litreviews/Protective%20Factors.pdf.

25 *See id.* at 5.

26 DOMESTIC VIOLENCE ROUNDTABLE, *supra* note 17. *See also* Phipps, *supra* note 20.

27 *See* Drew Darnell, *Specialty Juvenile Courts in Texas: Using the Rehabilitative Juvenile Justice Approach to Reform Texas's Youngest Gang Members*, 44 ST. MARY'S L.J. 715, 742 (2013).

28 *Id.*; David R. Truman, *The Jets and Sharks are Dead: State Statutory Responses to Criminal Street Gangs*, 73 WASH. U. L. REV. 683, 704–05 (1995) ("The gang often acts as a surrogate family for its members, many of whom grew up without a strong family unit.").

29 Chris Melde, Terrance J. Taylor & Finn-Aage Esbensen, *"I Got Your Back": An Examination of the Protective Function of Gang Membership in Adolescence*, 47 CRIMINOLOGY 565, 567 (2009).

viewed as capable of thwarting future victimization.[30] In fact, juveniles who join gangs express reduced levels of fear and anxiety about victimization because of the bonds that are formed and have a sound belief that their fellow members will defend them at any time.[31]

For boys, witnessing domestic violence has been found to be a larger contributor to juvenile delinquency than child abuse victimization.[32] Particularly for girls, experiences of trauma leave them with desires of feeling protected and accepted and so gang membership appears to be appealing.[33] Also, experiences of victimization associated with family conflict, parental crime, and low-parental monitoring appear to be determining factors between girls who are successfully recruited by gangs and those who resist.[34] However, the sense of protection that a gang offers is usually false, as youth who are involved with gangs experience more victimization than non-gang involved youth.[35]

Once children become a part of this "family," it is almost impossible to break the bond.[36] Early into the initiation period, new gang members are branded with tattoos representative of the gang, and if members ever decide to leave the gang, he or she must pay their "retirement" or be killed.[37] Retirement from a gang is captured by the popular sentiment of "blood in, blood out" which means that the only ways out of gangs are either by surviving severe beatings or being murdered by other loyal gang members.[38] These issues promote increased police contact and continued gang membership which perpetuate the cycle of gang violence as members are unable to remove themselves from criminal liability incurred during their membership.[39]

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30 *Id.*

31 *Id.*

32 BANCROFT, *supra* note 1, at 45.

33 Beth Caldwell, *Latinas' Experiences in Relation to Gangs: Intersectionality of Race, Class, Gender, and the State*, 2 GEO. J.L. & MOD. CRITICAL RACE PERSP. 19, 27–28 (2010).

34 *See* Lisa De La Rue & Dorothy L. Espelage, *Family and Abuse Characteristics of Gang-Involved, Pressured-to-Join, and Non-Gang-Involved Girls*, 4 PSYCHOL. VIOLENCE, 253, 261 (2014).

35 *See id.* at 262. *See also* Melde, *supra* note 29, at 67–68.

36 Darnell, *supra* note 27, at 742.

37 *Id.* at 742–43.

38 Cecelia M. Harper, *How Do I Divorce My Gang?: Modifying the Defense of Withdrawal for a Gang-Related Conspiracy*, 50 VAL. U. L. REV. 765, 765 (2016).

39 *Id.*; Drew Darnell, *Specialty Juvenile Courts in Texas: Using the Rehabilitative Juvenile Justice Approach to Reform Texas's Youngest Gang Members*, 44 ST. MARY'S L.J. 715, 742–43 (2013).

B) Parental Battering

Children and adults unconsciously use defense mechanisms to cope with psychological distress.[40] For the child witness of domestic violence, this mechanism is called identification with the aggressor.[41] This involves children, especially boys, mimicking the actions of their father or the dominant aggressor in the intimate partner relationship and becoming violent toward their already battered mother.[42] This type of manifestation of the effect of domestic violence is used to make the child feel powerful and safer, rather than face the risk of victimization.[43]

In the aftermath of an abusive episode, children who saw or heard the violence are in need of reassurance and support which they often seek from their mother.[44] But, this period is precisely when she may be emotionally unavailable due to her own shock and injuries.[45] This disconnect between the abused woman and her children greatly distorts their perception of their mother as someone who is caring, reliable, and capable of protecting them.[46] As a result, children tend to:

> [F]eel bitter toward their mothers for failing to leave a batterer or for not challenging him. Children are largely unaware of the complex obstacles involved in leaving an abusive relationship, nor do they always realize the ways in which the batterer may retaliate against their mother on the occasions when she does assert herself.[47]

In addition to these feelings of bitterness toward their mother, children of battered women may target their mother, becoming batterers themselves, as a mode of expressing their resentment toward the batterer because they fear expressing their anger directly toward him.[48] In contrast, a juvenile may attack his or her

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40 Jerry von Talge, *Victimization Dynamics: The Psycho-Social and Legal Implications of Family Violence Directed Toward Women and the Impact on Child Witnesses*, 27 W. ST. U. L. REV. 111, 174 (2000).

41 *Id.*

42 *Id.*

43 *Id.*

44 BANCROFT, *supra* note 1, at 87.

45 *Id.*

46 *Id.*

47 *Id.* at 86–87 (citation omitted).

48 *Id.* at 86.

mother's abuser in an effort to defend or protect her, leading to the injury or even death of the abuser.[49] If these behaviors are reported, the child may end up in juvenile or family court.

III. JUVENILE COURT SYSTEM

The first juvenile court began in 1899 and was established under the doctrine of *parens patriae*.[50] The doctrine provided that the court act in place of the parents of delinquent juveniles to see to their welfare, care, and treatment.[51] The court was very informal, with hearings held in the judge's chambers, no audience, and no record of the proceedings.[52] At its conception, the juvenile court was "expected to fulfill the complicated dual roles of the societal disciplinarian who can punish children and of the parental substitute who can supervise, treat and rehabilitate and, if necessary, care for the children."[53] Essentially, the court's purpose in the beginning was rehabilitative rather than punitive; juveniles were deemed too young for criminal liability and judges sought to understand the underlying causes of delinquency in order to eliminate them.[54]

As a more formal system developed, the rehabilitative purpose was altered in order to achieve procedural safeguards and the concept of restorative justice became a regular practice of the juvenile court.[55] Restorative justice involves accountability of the juvenile with a focus on meeting the needs of the victim and community while also reserving some effort for the rehabilitation of the offender, a more punitive approach than the court's original

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49 *See e.g.*, Janice Johnson, *Alberta Teen Found Not Guilty in Shooting Death of Abusive Father*, CBC NEWS, (Sept. 28, 2015), http://www.cbc.ca/news/canada/edmonton/alberta-teen-not-guilty-shooting-father-1.3244653. Thirteen year old boy found not guilty of killing his abusive father in the midst of another abusive episode, days after his mother came off life support after almost being choked to death by his father. *Id.*

50 Benjamin Steiner, Elizabeth Roberts, & Craig Hemmens, *Where is Juvenile Probation Today? The Legally Prescribed Functions of Juvenile Probation Officers*, 16 CRIM. JUST. STUD., 267, 268 (2003).

51 *Id.*

52 *See e.g.*, Barry C. Feld, *Criminalizing Juvenile Justice: Rules of Procedure for the Juvenile Court*, 69 MINN. L. REV. 141, 147–48 (1984).

53 Ira M. Schwartz, Neil Alan Weiner & Guy Enosh, *Nine Lives and Then Some: Why the Juvenile Court Does Not Roll Over and Die*, 33 WAKE FOREST L. REV. 533, 535 (1998).

54 *Id.*

55 *See* Gordon Bazemore & Mark Umbreit, *Rethinking the Sanctioning Function in Juvenile Court: Retributive or Restorative Responses to Youth Crime.* 41 CRIME & DELINQUENCY 296, 308 (1995).

design.[56] However, with a more formalized system in place and enforcement of the tenets of restorative justice, the underlying causes of children's delinquent behavior are easily overlooked.

Based on the most recent data on juvenile delinquency cases, approximately 974,900 cases were processed throughout the United States in 2014 with 53% of those cases involving youth younger than 16 years old.[57] Generally,[58] juvenile cases may be referred for court intake by law enforcement, social service agencies, parents, schools, probation officers, or victims of crimes committed by the juvenile.[59] The proposed recommendations below are directed toward the formal processing of cases which involves requesting a waiver or an adjudicatory hearing with the filing of a petition rather than informal processing where no adjudication takes place.[60] If the case is not transferred to criminal court, the adjudicatory hearing takes place in juvenile court which then determines whether the youth committed the offense charged in the petition.[61] In cases where the juvenile is adjudicated delinquent, the case moves to a disposition hearing where options include restitution, fines, community service, probation supervision, referral to an outside agency or treatment program, or commitment to a residential facility.[62]

Alternatively, cases may be adjourned in contemplation of dismissal and the court may recommend certain actions from the juvenile such as restitution or attendance at drug counseling prior to the case being dismissed.[63] The intake and disposition periods of the case are critical because the presence of domestic violence in the homes of juvenile offenders should affect the way that cases are handled if the juvenile court remains committed to the rehabilitation of youth. Ideally, the intake process should

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56 *See id.* at 302.

57 SARAH HOCKENBERRY & CHARLES PUZZANCHERA, NAT'L CTR. FOR JUVENILE JUSTICE, JUVENILE COURT STATISTICS 2014, 9 (2017), http://www.ncjj.org/pdf/jcsreports/jcs2014.pdf.

58 In New York, non-felony criminal cases against juvenile delinquents under sixteen years old are handled in Family Court, there is no separate juvenile court. *See* N.Y. State Unified Court Sys., *Crimes Committed by Children Between 7–19*, NYCCOURTS.GOV, https://www.nycourts.gov/courthelp/Criminal/crimesbyChildren.shtml (last visited Sept. 19, 2016).

59 HOCKENBERRY, *supra* note 57, at 31.

60 *Id.*

61 *Id.*

62 *Id.* at 32.

63 *Id* at 31.

specifically screen for the presence of domestic violence in the homes of juveniles and at the disposition stage, the findings from intake should be considered in the ultimate decision of how to hold each juvenile accountable for his or her actions.

IV. CURRENT MODELS FOR JUVENILE INTERVENTION

A) Step-Up

In King County, Washington, there is a juvenile court program, Step Up, which aims to address family violence with intervention programs for youth offenders and abused parents.[64] The intervention program targets 13 to 17 year old juveniles who batter their parents or dating partners and offers services to hold them accountable.[65] Juveniles are court ordered to attend the program and their parents voluntarily attend a support group within the program.[66] Using a cognitive behavioral treatment model, the program takes the position that a "youth's sense of entitlement to abuse is predictive of abusive behavior."[67] There is an intake process where each person—the child, mother, and father or intimate partner—is interviewed separately to promote truthful disclosure and safety for the victimized person(s).[68] This type of separation is important as the program recognizes that 65% of the participating juveniles witnessed domestic violence between their parents and 88% identified their father as the abuser.[69]

Further, Step-Up aims to restore family relationships by using restorative practices that encourage competency, empathy, and accountability so that youth can recognize the effects of their actions on others, take steps to repair the harm done, and restore relationships.[70] The program's collaborative approach appears to be successful as the rate of recidivism, including referrals and domestic violence filings, are significantly lower for youth who

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64 *See* Sarah M. Buel, *Why Juvenile Courts Should Address Family Violence: Promising Practices to Improve Intervention Outcomes*, 53 JUV. & FAM. COURT J. 1 (2002).

65 *Id.* at 6.

66 *Id.*

67 *Id.*

68 *Id.*

69 *Id.*

70 JUDICIAL COUNCIL OF CAL., STEP-UP: BUILDING RESPECTFUL FAMILY RELATIONSHIPS 1 (2012) (hereinafter STEP-UP), http://www.courts.ca.gov/documents/BTB_XXII_II_2.pdf.

completed the program compared to those who did not.[71] Particularly, after twelve months, the average recidivism rate was twice as high among youth who did not complete Step-Up than that of youth who completed the program.[72] As another indicator of success, Step-Up was replicated in DuPage County, Illinois and evaluation results indicate that the program is effective in reducing abusive behavior in youth.[73] Youth who participated in that program had a 52% lower recidivism rate than those who did not.[74]

B) Youthful Offender Domestic Violence Courts

Similarly, in New York, there are Youthful Offender Domestic Violence Courts ("YODVCs") which are modeled after traditional domestic violence courts to exclusively deal with domestic violence cases where the defendants are juveniles ranging from 16 to 19 years old.[75] These courts are currently in Brooklyn, Yonkers, and Bronx, New York, and the judges are trained in the dynamics of domestic violence as well as how to deal with the unique issues presented by having juvenile defendants.[76] Particularly in Brooklyn, New York, the YODVC handles cases of dating violence with strategies that are designed to promote behavioral change in juveniles, informed judicial decision-making, and community collaboration.[77] Juveniles participate in educational groups and judges receive specialized training regarding teen dating violence, including recognition of the secrecy among teens that are affected and the lack of relationship experience among teenagers.[78] With an understanding of the victims' and juvenile defendants' need for support, the court collaborates with community-based groups and schools in order to provide a more wholistic approach to ending

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71 King Cty. Superior Court, *Step-Up Evaluation Findings* KINGCOUNTY.GOV (last updated Dec. 18, 2014), http:// www.kingcounty.gov/courts/superior-court/juvenile/step-up/about/Evaluations.aspx.

72 *Id.*

73 STEP-UP, *supra* note 70, at 3.

74 *Id.*

75 N.Y. STATE UNIFIED COURT SYS. NEW YORK STATE PROBLEM SOLVING COURTS, NYCOURTS.GOV, https:// www.nycourts.gov/COURTS/problem_solving/PSC-FLYER4Fold.pdf.

76 *Id.*

77 KRISTINE HERMAN, CTR. FOR COURT INNOVATION, YOUTH DATING VIOLENCE: CAN A COURT HELP BREAK THE CYCLE? 2 (2004), http://www.courtinnovatio.n.org/sites/default/files/youthdatingviolence.pdf.

78 *Id.*

teen dating violence.[79]

The Brooklyn YODVC works in conjunction with a youth batterer accountability program, STEPS to End Family Violence ("STEPS").[80] That program makes efforts to deter abusive behaviors, encourage self and group reflection so that youth hold themselves accountable, and generally emphasize the dangers associated with their abusive and controlling behavior.[81] Unlike the Step -Up program in King County, Washington, where juveniles are court ordered to attend, juveniles in Brooklyn are offered the STEPS program as part of a plea bargain, in conjunction with an adjournment in contemplation of dismissal.[82] An initial evaluation of the program indicates a 62% completion rate, but more current data is needed on completion and recidivism rates to measure the program's long term success.[83]

V. RECOMMENDATIONS

Many youthful offenders come to the juvenile justice system from circumstances involving trauma and adverse childhood events such as domestic violence.[84] In the case of the child witness of domestic violence, "the domestic violence goes undetected because most juvenile courts do not screen for it; and if the court does find it, staff do not know of specialized resources to which they can refer the parties."[85] As such, intervention efforts should directly inquire about a juvenile delinquent's childhood for the purpose of, in addition to other risk factors, identifying unaddressed trauma from witnessing or being exposed to domestic violence. Once children have been classified as witnesses of domestic violence, further efforts should be made to match these youth with appropriate treatment in order to prevent persistence of antisocial behavior into early adulthood.[86] Youth younger than

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79 *Id.*

80 *Id.* at 3.

81 AMANDA B. CISSNER, CTR, FOR COURT INNOVATION, PROCESS EVALUATION OF THE BROOKLYN YOUTHFUL OFFENDER DOMESTIC VIOLENCE COURT 32 (2005), http://www.courtinnovation.org/sites/default/files/YODVC_ evaluation1.pdf.

82 *Id.* at 22.

83 *Id.*

84 Kevin T. Wolff, Michael T. Baglivio, & Alex R. Piquero, *The Relationship Between Adverse Childhood Experiences and Recidivism in a Sample of Juvenile Offenders in Community-Based Treatment*, 61 INT'L J. OFFENDER THERAPY & COMP. CRIMINOLOGY 1210, 1214–15 (2017).

85 Buel, *supra* note 64, at 2.

86 Wolff, *supra* note 84, at 1233. Statutes in Connecticut (CONN. GEN. STAT. §

16 years old accounted for approximately 50% of delinquency cases that were handled formally by juvenile courts in 2014.[87] This particular population of youth is the target of interventions discussed in this section because it represents the youngest offenders which often means that there is more time to work with them to promote change and break the cycle of violence before entering young adulthood.

While the Step- Up program focuses on juveniles who batter their parents, and the Brooklyn YODVC focuses on teen dating violence, both intervention models provide valuable guidelines to form the foundation of a more inclusive approach to juvenile crime intervention.[88] Both programs recognize that domestic abuse is a prevalent issue among teens, but neither of them vividly point out the fact that a juvenile's delinquent behaviors, both inside and outside of the home, may be a manifestation of his or her untreated trauma from witnessing domestic violence.[89] Without this vital piece of the puzzle, efforts to hold juveniles accountable for their actions and end the cycle of violence ignore the genesis of the problem and render efforts of rehabilitation questionable. Using pieces of the Step-Up program and the Brooklyn YODVC and incorporating the concept of therapeutic jurisprudence in juvenile cases may provide promising intervention techniques that will uphold both the restorative and rehabilitative goals of the juvenile court for the child witness turned defendant.[90]

54-216 (2018)), Illinois (720 ILL. COMP. STAT. § 5/12-3.2 (2018)), Louisiana (LA. STAT. ANN. § 14:35.3(I) (2018); LA. CHILD. CODE ANN. art. 1570.1 (2018)); and Nevada (NEV. REV. STAT. § 200.485(7) (2011)) require perpetrators of domestic violence to pay for any counseling that a child victim may require and this includes both direct victims of domestic violence and child witnesses. However, the recommendation for counseling is at the court's discretion.

87 HOCKENBERRY, *supra* note 57, at 38.

88 STEP-UP, *supra* note 70, at 2; HERMAN, *supra* note 77, at 2. Both intervention models promote self-awareness, maintaining trust or empathy in family relationships, and strategies that may enable victims to identify threats and ultimately avoid violence. *Id.*

89 DOMESTIC VIOLENCE ROUNDTABLE, *supra* note 17.

90 *See* Michael S. King, *Restorative Justice, Therapeutic Jurisprudence and the Rise of Emotionally Intelligent Justice*, 32 MELBOURNE U. L.R. 1096, 1119–20, (2008) (explaining that the judicial officer may employ methods that are "therapeutic and emotionally intelligent").

A) Therapeutic Jurisprudence

Founded under principles of rehabilitation,[91] the juvenile justice system could benefit greatly from applying the doctrine of therapeutic jurisprudence to juveniles that come to its attention.[92] Therapeutic jurisprudence focuses on self-determination as a vehicle for activating the motivation needed for successful action.[93] In other words, the doctrine recognizes that coercion does not promote change. Instead, coercion promotes inertia because being compelled to act in ways that are contrary to one's belief may be perceived as offensive and thus lead to resistance and the individual remaining unchanged.[94] As such, therapeutic jurisprudence proposes the use of processes to empower individuals, such as giving offenders a voice in determining the content of their own rehabilitation journey or providing the option to engage in a problem-solving court.[95] The involvement of court actors in the rehabilitation of juvenile offenders is not that of playing the role of a therapist.[96] It is the ways in which these actors handle each case, in conjunction with the juvenile's self-motivated goal of rehabilitation, that will create change.[97] Rather than being coercive and focusing entirely on holding the juvenile accountable, attorneys and judges should take a more therapeutic approach and acknowledge the unaddressed trauma that these youth deal with while attempting to hold them accountable.

Acknowledging that child witnesses of domestic violence need help to handle the resulting trauma and behavioral effects should be the first step of any model of juvenile intervention. During the

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91 Schwartz, *supra* note 53, at 535.

92 *See* Patrick Geary, Note, *Juvenile Mental Health Courts and Therapeutic Jurisprudence: Facing the Challenges Posed by Youth with Mental Disabilities in the Juvenile Justice System*, 5 YALE J. HEALTH, POL'Y, L., & ETHICS, 671, 691–93 (2005).

93 King, *supra* note 90, at 1115.

94 *Id.*

95 *Id. See* SUZANNE M. STRONG, RAMONA R. RANTALA & TRACEY KYCKELHAHN, U.S. DEP'T OF JUSTICE, CENSUS OF PROBLEM-SOLVING COURTS, 2012, 1–2 (2016), https://www.bjs.gov/content/pub/pdf/cpsc12.pdf. Problem solving courts "were created to address underlying problems that result in criminal behavior. Problem-solving courts are typically diversionary, meaning that a participant agrees to follow the guidelines of the court to avoid prosecution, incarceration, or other typical criminal justice outcomes. . . . Youth specialty courts serve juvenile offenders and address underlying issues that result in court involvement. Youth specialty courts include youth/teen courts and truancy courts." *Id.*

96 King, *supra* note 90, at 1118.

97 *Id.*

referral or intake process, a part of the inquiry should be whether the juvenile has witnessed domestic violence between his or her caregivers, the frequency of it, and any immediate or long-term effects that the exposure might have had on the juvenile. The juvenile should be directly involved in the accountability aspect of the court, including crafting the terms of treatment and supervision as a part of the self-determination process of therapeutic jurisprudence. The Step-Up program's model of including parents in the intervention should be replicated.[98] While it may be unlikely that the batterer will attend and admit to his actions in an effort to help the juvenile, counseling for the abused mother and child witness together could go a long way in rebuilding that relationship and possibly pulling the juvenile out of a life of violence. If the bond between mother and child can be rebuilt, the juvenile may no longer need the bond sought through a gang, regain his or her feelings of worth, value, and respect for his or her mother, and learn to have open conversations with his or her mother to continue a healthy relationship.[99]

Further, programs like STEPS should also provide resources for juveniles who openly express wanting to change their behavior. For example, as a part of accountability, a juvenile on probation could receive prolonged, individualized services beyond the current 12 to 21 -week programs.[100] This might include a tutor so that the juvenile can keep up in school, and job training to keep the juvenile engaged, especially during the summer months. Notably, these resources are available to juveniles in various fragmented settings. By bringing everything under one umbrella so that the juvenile, in conjunction with court actors, can choose his or her path, there is likely to be more success when compared to forcing the juvenile to obey a one-size-fits-all method of punishment.

Using therapeutic jurisprudence in conjunction with intervention programs allow juveniles to remain in their respective communities. As such, juveniles can continue in their local schools, have further opportunities to bond with prosocial peers, and with effective counseling, may be able to regain relationships with their abused mothers in instances where that bond has been

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98 *See* Buel, *supra* note 64, at 5 ("Judges taking an active, supervisory role with abusive youths will more often witness violence cessation than those wed to the status quo.").

99 Darnell, *supra* note 28 at 742; Truman, *supra* note 28 at 704–05.

100 *See e.g.*, Herman, *supra* note, 77 at 3–4; Step-Up, *supra* note 70, at 1.

lost. Notably, juveniles who remain in their communities, even during predisposition periods, have lower rates of recidivism when compared to their peers who are sent to detention centers,[101] the ultimate alternative to using therapeutic jurisprudence. The court must not forget that these youths are part of a vulnerable population of juveniles affected by trauma such that sending them away to detention centers is more likely to add to the damage already done. In fact, approximately 25% of previously detained youth continue to be delinquent into adulthood, falling deeper into the system.[102]

Furthermore, grouping delinquents together in one place may be a feasible way to approach treatment and rehabilitation since they will all be in one location and can easily be monitored. However, although convenient, this grouping of delinquent youth can also negatively impact their rehabilitation.[103] In detention facilities, delinquent youth have many more opportunities to interact with delinquent peers, compared to being in their communities, and such interaction is likely to include the sharing of skills to further delinquent behavior rather than desist.[104] Thus, although removing delinquents from mainstream society seems to be a rational way of delivering treatment, this segregation of exclusive delinquents has been shown to lead to increased recidivism after release.[105]

Nonetheless, the doctrine is not without critics. Notably, therapeutic jurisprudence has been described as "offender-oriented,"[106] largely because early applications of the doctrine were centered around court procedures and offenders.[107] However, critics that take this perspective fail to recognize that therapeutic jurisprudence upholds universal values, such as respect and self-

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101 Cheri J. Shapiro et al., *Natural Experiment in Deviant Peer Exposure and Youth Recidivism*. 39 J. CLINICAL CHILD & ADOLESCENT PSYCHOL. 242, 242 (2010).

102 OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, ALTERNATIVES TO DETENTION AND CONFINEMENT 1 (2014), https://www.ojjdp.gov/mpg/litreviews/AlternativesToDetentionandConfinement.pdf.

103 Thomas J. Dishion, et al., *Deviant by Design: Risks Associated with Aggregating Deviant Peers into Group Prevention and Treatment Programs*, PREVENTION RESEARCHER, February 2008, at 8, 10; Patrick Bayer, et. al., *Building Criminal Capital Behind Bars: Peer Effects in Juvenile Corrections*. 124 Q. J. ECON. 105, 105 (2009).

104 Dishion, *supra* note 103, at 10.

105 *See* Bayer, *supra* note 103, at 105.

106 King, *supra* note 90, at 1116.

107 *Id.* at 1117.

determination, which are applicable to both the delinquent and victim.[108] In fact, because a delinquent's changes are self-driven based on their role in how they are held accountable for their actions, victims are not left without justice since the delinquent is more likely to follow rules that they had a part in creating.[109] Thus, an incorporation of therapeutic jurisprudence into juvenile justice would not only hold delinquents accountable, but is also likely prevent future delinquency due to more effective rehabilitation than the current system offers.

Additionally, therapeutic jurisprudence has been referred to as a "fiction that complex human behaviors can be dealt with as if they are simple diseases,"[110] such that the practice effectively demolishes prosecutorial discretion and interferes with corrections.[111] This might be a fair critique since the foundation of therapeutic jurisprudence is the involvement of all court actors in the rehabilitation of delinquents and not just prosecutors. However, the doctrine does not reduce human experiences and behaviors to "diseases." Rather, it recognizes that changes in human behavior can be influenced by looking at delinquents as individuals instead of using generally coercive tactics in attempting to promote change.[112] Taken as a whole, therapeutic jurisprudence could be a vital shift in the way courts approach the facilitation of rehabilitative services for the child witness of domestic violence turned delinquent, as well as the broader population of juvenile delinquents.

VI. OTHER CONSIDERATIONS

The focus of this Paper has been on juvenile delinquents and how society can prevent them from becoming victims of the juvenile justice system, which was created to rehabilitate them. Primarily, the Paper stresses the importance of recognizing the genesis of the problems of juvenile delinquents by screening for and ultimately treating unaddressed trauma from witnessing domestic violence in the home. Domestic violence does not only

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108 *Id.* at 1116.

109 *Id.* at 1115.

110 Morris B. Hoffman, *Therapeutic Jurisprudence, Neo-Rehabilitationism, and Judicial Collectivism: The Least Dangerous Branch Becomes Most Dangerous*, 29 FORDHAM URB. L.J. 2063, 2064 (2002).

111 *Id.* at 2094–95.

112 King, *supra* note 90, at 1115.

affect juvenile delinquents[113]; children can be resilient and go on day to day without turning to crime. Juvenile delinquents are a small population of children and so society should explore how to treat children before they end up in juvenile court. Therefore, it is important to screen constantly for domestic violence so that every child witness can receive help for the trauma they live with and to the extent possible, there should be nationwide mandates where abusers are held financially responsible for the medical and/or psychological needs of child witnesses of domestic violence. By looking at the issue as a whole, rather than treating a segment of the juvenile population, perhaps we can end the cycle of violence before it begins.

A) Screening for Domestic Violence in the Home

Children react to traumatic events in various ways including, but not limited to, aggression, problems with attachment, depression, and regressive behavior.[114] As discussed above, these issues may grow out of unaddressed trauma stemming from witnessing domestic violence.[115] Early detection of these issues is an important step in treating child witnesses and preventing prolonged antisocial behavior. Screening for domestic violence in the home does not have to first occur when a child encounters the juvenile justice system. In fact, at that point, it is almost too late because the child has already succumbed to violence. Rather, screening should be done at every point possible where a child encounters an agent of the state or any mandated reporter. This includes a number of points for screening as discussed in a 2012 report by the National Task Force of then Attorney General Eric Holder, Jr:

> Every professional and paraprofessional who comes into contact with pregnant women and children must routinely identify children exposed to (or at risk for) violence, provide them with trauma-informed care or services, and assist them and their families in

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113 Nat'l Soc'y for the Prevention of Cruelty to Children, *Domestic abuse: Who is Affected,* NSPCC.ORG, https:// www.nspcc.org.uk/preventing-abuse/child-abuse-and-neglect/domestic-abuse/who-is-affected/ (last visited Feb. 21, 2019).

114 OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, U.S. DEP'T OF JUSTICE, CHILDREN'S EXPOSURE TO VIOLENCE: A COMPREHENSIVE NATIONAL SURVEY 2 (2009), https://www.ncjrs.gov/pdffiles1/ojjdp/227744.pdf [hereinafter CHILDREN'S EXPOSURE TO VIOLENCE]; Melissa, *supra* note 14, at 1129.

115 *See* Buel, *supra* note 64, at 2.

> accessing evidence-based trauma-specific treatment. This includes physicians; nurses; emergency medical technicians; therapists; police officers; family and juvenile court judges and attorneys; domestic violence and sexual assault advocates; child welfare workers; sexual abuse evaluation specialists; home visitors; childcare providers; teachers; school counselors; summer camp staff; faith-based organizations; local, regional, and national youth group organizations; and the paraprofessional staff working in all of these fields.[116]

Further, the screening does not need to be very formalized such that the child may feel intimidated. Rather, simplified inquiries can gather vital information needed to determine whether a child has been exposed to domestic violence. Asking whether a child has seen one parent push or shove, threaten to hurt, or damage the property of another parent or intimate partner can lead to discussions about life at home.[117] Also, using key words such as "slap," "kick," or "choke" in inquiring about the things a child has seen at home may provide practitioners with further details about the extent of domestic violence in the home.[118] Once a child is identified as a witness of domestic violence, further inquiry should be made into whether the child has been exposed to other kinds of violence so that any treatment that is recommended does not leave trauma from other aspects of the child's life untouched.[119]

However, where children slip through the cracks and their trauma remain undetected, those who encounter the juvenile justice system should be treated the same as their prosocial peers. Every attempt should be made to identify children who have witnessed domestic violence and any trauma that may have resulted from it. The disposition of those juveniles' cases should include particular reference to the fact that they are living with unaddressed trauma and court mandates on how to address said trauma via coordinated community responses across disciplines while also holding the juveniles accountable for their actions.[120] If the juvenile court is going to continue to operate under the doctrine

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116 ROBERT L. LISTENBEE, JR. ET AL., U. S. DEP'T OF JUSTICE, REPORT OF THE ATTORNEY GENERAL'S NATIONAL TASK FORCE ON CHILDREN EXPOSED TO VIOLENCE 70 (2012), https://www.justice.gov/defendingchildhood/cev-rpt-full.pdf [hereinafter DOJ REPORT].

117 *See* CHILDREN'S EXPOSURE TO VIOLENCE, *supra* note 114, at 2.

118 *See id.*

119 *See id.* at 8.

120 *See id.* at 9.

of *parens patriae* in good faith, it must screen every juvenile that it encounters before making a final disposition of cases. As previously discussed, the doctrine places the juvenile court in the place of parents to ensure the welfare of children;[121] therefore, screening for domestic violence and other adverse childhood events that might have led to trauma should be mandatory in order to begin the healing process and potentially prevent recidivism that could spiral into a life of crime.

B) Nationwide Statutory Mandates

Recognizing that engaging in therapeutic jurisprudence or screening for domestic violence in the homes of juvenile delinquents may not by itself be an effective means of ending the cycle of violence, the use of statutes in conjunction with the previous recommendations could solidify a wholistic approach to dealing with juvenile crime. In Connecticut, payment for medical, psychiatric, and psychological and social services may be ordered as part of restitution where a child witnesses domestic violence, regardless of whether that child is related to the victim.[122] Similarly, Illinois has taken steps to clearly define crimes that will mandate payment for counseling where a child is the witness of domestic violence.[123] Specifically, Illinois requires that:

> [A] defendant who commits, in the presence of a child, a felony domestic battery, aggravated domestic battery, aggravated battery, unlawful restraint, or aggravated unlawful restraint against a family or household member shall be. . . . [l]iable for the cost of any counseling required for the child at the discretion of the court.[124]

Further, a "child" is defined as "a person under 18 years of age who is the defendant's or victim's child or step-child or who is a minor child residing within or visiting the household of the defendant or victim."[125] Statutes like those imposed in Connecticut[126] and Illinois[127] are meant to hold perpetrators of domestic violence accountable for their actions while providing

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121 *See* Steiner, *supra* note 50, at 268.
122 CONN. GEN. STAT. § 54-216 (2017).
123 *See* 720 ILL. COMP. STAT ANN. 5/12-3.2(c) (West 2017).
124 720 ILL. COMP. STAT ANN. 5/12-3.2(c) (West 2017).
125 *Id.*
126 CONN. GEN. STAT. § 54-216 (2017).
127 720 ILL. COMP. STAT ANN. 5/12-3.2(c) (West 2017).

opportunities for child witnesses to start the healing process and confront trauma.[128] However, only two additional states, Louisiana[129] and Nevada[130], provide statutes that require perpetrators of domestic violence to actually pay for the medical and/or psychological services that a child witness may need.[131]

Notably, legislatures recognize that children witnessing domestic violence is a legitimate issue as many states have statutes that provide for harsher sentencing terms where a child has witnessed the perpetrator's act of domestic violence.[132] Nonetheless, the fact remains that the focus of most of these statutes are on punishing the perpetrator, rather than remembering the children who may become delinquents or grow up to become abusers themselves. Simply put, these forgotten children need more statutory support and perpetrators of domestic violence need to pay for whatever services are mandated, to the extent that they can. States should replicate the statutes of Connecticut and Illinois in enacting their own statutes in service of child witnesses of domestic violence.

For states that already have statutes that add an aggravating factor to sentencing when a child witnesses domestic violence,[133] amending those statutes to include a counseling or medical component for those children, payable by the perpetrator, would more effectively serve them and ultimately their communities. If

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128 *See* CONN. GEN. STAT. § 54-216 (2017); 720 ILL. COMP. STAT ANN. 5/12-3.2(c) (2017).

129 *See* LA. CHILD. CODE ANN. art. 1570.1 (2017).

130 *See* NEV. REV. STAT. ANN. § 200.485(8) (West 2017).

131 LA. CHILD CODE ANN. art. 1570.1 (2017); NEV. REV. STAT. ANN. § 200.485(8) (West 2017).

132 Alaska (ALASKA STAT. ANN. § 12.55.155(c)(18)(C) (West 2017)), Arizona (ARIZ. REV. STAT. ANN. § 13-701(D)(18) (2017)), California (CAL. PENAL CODE § 1170.76 (West 2017)), Hawaii (HAW. REV. STAT. ANN. § 706-606.4(1)(b) (West 2017)), Mississippi (MISS. CODE ANN. § 97-3-7(6) (West 2017)), Montana (MONT. CODE ANN. § 45-5-206(3)(a)(v) (West 2017)), Ohio (OHIO REV. CODE ANN. §§ 2929.12(B)(9), .17(N) (West 2017)), South Carolina (S.C. CODE ANN. §§ 16-25-20(B)(5)(a), -65(D)(3) (2017)), and Washington (WASH. REV. CODE ANN §§ 9.94A.535(3)(h)(ii), .537(4) (West 2017)).

133 Alaska (ALASKA STAT. ANN. § 12.55.155(c)(18)(C) (West 2017)), Arizona (ARIZ. REV. STAT. ANN. § 13-701(D)(18) (2017)), California (CAL. PENAL CODE § 1170.76 (West 2017)), Hawaii (HAW. REV. STAT. ANN. § 706-606.4(1)(b) (West 2017)), Mississippi (MISS. CODE ANN. § 97-3-7(6) (West 2017)), Montana (MONT. CODE ANN. § 45-5-206(3)(a)(v) (West 2017)), Ohio (OHIO REV. CODE ANN. §§ 2929.12(B)(9), .17(N) (West 2017)), South Carolina (S.C. CODE ANN. §§ 16-25-20(B)(5)(a), -65(D)(3) (2017)), and Washington (WASH. REV. CODE ANN. §§ 9.94A.535(3)(h)(ii), .537(4) (West 2017)).

abusers are unable to pay, the responsibility should then fall on the court system to provide those services. Indeed, should child witnesses of domestic violence succumb to delinquency, the resources would come from the juvenile court under the overarching doctrine of *parens patriae*.[134]

However, the responsibility to get children to these mandated services ultimately falls on the parent and this could be very problematic. Parents may be "in denial about the negative impact of domestic violence upon their children or minimize such impact."[135] Thus, ordering an abuser to pay for counseling or medical services may be met with resistance by both the abuser and victim of domestic violence because of their perception that the child's exposure, if any, was not long enough to cause trauma and necessitate counseling.[136] These attitudes will ultimately prevent child witnesses from receiving the level of care necessary to handle the trauma which may not be readily apparent to their parents. Thus, where the court's efforts to have the parents bring the child to counseling fails, the court should keep a record of it so that in the event that the child becomes delinquent, counseling can be a part of any disposition to be set using the principles of therapeutic jurisprudence.

In contrast, courts may consider involving the extended family in an effort to ensure that the child is not only in a violence free environment, but also receives the mandated counseling. Instead of courts sanctioning parents who fail to get child witnesses of domestic violence to counseling, resources should be used to place the child with a family member who is capable of getting them to counseling and generally overseeing their well-being. The issue of finances then arises because courts cannot assume that people are readily financially able to support a child. However, the U.S Department of Health and Human Services has a kinship care[137] program which provides training, monthly payments, and support

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134 *See* Charles E. Springer, *Rehabilitating the Juvenile Court*, 5 NOTRE DAME J.L. ETHICS & PUB. POL'Y 397, 409 (1991).

135 Bruce J. Winick, *Applying the Law Therapeutically in Domestic Violence Cases*, 69 UMKC L. REV. 33, 66 (2000).

136 *Id.*

137 Children's Bureau, U.S. Dep't of Health & Human Servs., *Kinship Care*, CHILD WELFARE INFORMATION GATEWAY, https://www.childwelfare.gov/topics/outofhome/kinship/ (last visited Mar. 30, 2018) ("Kinship care refers to the care of children by relatives or, in some jurisdictions, close family friends (often referred to as fictive kin). Relatives are the preferred resource for children who must be removed from their birth parents because it maintains the children's connections with their families.").

services for caregivers who take on the responsibility.[138] Further, local programs provide additional resources for caregivers such as parenting classes, support groups, and developmental screening for children, among many others,[139] that help to make the added responsibility more feasible. With kinship care already being an established program, making child witnesses of domestic violence eligible for removal from their parents where they fail to obey court ordered counseling requirements should be seamless. All of the above steps should be taken as soon as practicable upon a child witnessing domestic violence in order to prevent the festering of trauma that could lead to delinquency.

VII. CONCLUSION

Children are exposed to domestic violence in various ways and need not be directly abused in order to suffer trauma. When that trauma goes untreated, the child may display disruptive and aggressive behaviors, which should be viewed as cries for help. Adverse childhood events, like witnessing domestic violence, have been recognized as contributors to juvenile delinquency. To end the cycle of violence, juvenile courts should take a more therapeutic and wholistic approach to hold juveniles accountable, while recognizing the root of the problem and working toward addressing the trauma long term. Further, it is recommended that community members screen for the presence of domestic violence in the home in order to properly serve child witnesses. Once recognized, state statutes should require that the perpetrators of domestic violence pay for services, to the extent possible, that can help child witnesses overcome any resulting trauma and prevent future delinquency. Where parents fail to get their child to counseling, records of such failure should be kept and should the child end up in juvenile court later on, those records should be reviewed and counseling included in the disposition of their case using the approaches recommended under therapeutic jurisprudence. Finally, kinship care programs should be utilized so that the extended family can get involved and facilitate

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138 *Id.*

139 *See e.g.*, GRANDFACTS: STATE FACT SHEETS FOR GRANDFAMILIES: NEW YORK, 2–7 (2017), http://www.grandfamilies.org/Portals/0/State%20Fact%20Sheets/Grandfamilies-Fact-Sheet-New-York.pdf. 3% of children live with a relative and no parent present. *Id.* at 1.

mandated counseling as well as keep the child from violent environments. Child witnesses of domestic violence deserve more than sad eyes for their circumstances. They too are victims of domestic violence and if changes are not made, they will become victims of a broken juvenile justice system, and society.