



## Parental substance use: How child welfare workers make the case for court intervention

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### ABSTRACT

Parental substance use (PSU) is a factor in many child welfare cases; however, little is known about how child welfare agencies and their workers make the case to juvenile or family courts that PSU-related acts and omissions are harmful to children. This qualitative data-mining study explores the ways in which child welfare workers draw on child maltreatment statutes, risk assessment tools, and practice guidelines to frame evidence and make the case that PSU is harmful or poses a substantial risk of harm to children. Narrative data were extracted from child welfare court reports located in electronic case records from two California counties. Analysis revealed that workers cited multiple sources and types of evidence to make the case that, due to substance use, parents had failed to protect their children from harm or risk of harm and/or had failed to provide for their children's basic needs. Moreover, workers noted that these failures constituted neglect under California law. In addition, similarities and differences emerged within and across counties in how workers made the case that children were in need of protection, which suggested that state and local policy-practice guidelines influenced the structure of court reports and arguments made for state intervention. Implications for policy and practice are discussed and recommendations for future research are identified.

### 1. Introduction

Substance misuse is a widespread social problem in the United States. The 2012–2013 National Epidemiologic Survey on Alcohol and Related Conditions found that 29.1% of adults experience a diagnosable alcohol use disorder (Grant et al., 2015) and 9.9% of adults experience a diagnosable drug use disorder (Grant et al., 2016) at some point in their lifetime. Substance misuse among parents has been shown to disrupt family stability and cohesion (Ryan & Huang, 2014; Ryan, Marsh, Testa, & Louderman, 2006) and affect children's short- and long-term physical and emotional health and cognitive development (Bountress & Chassin, 2015; Felitti et al., 1998; Smith & Wilson, 2016). Studies have found that parental substance misuse can adversely affect parents' ability to meet their children's basic needs (Hayward, DePanfilis, & Woodruff, 2010; Suchman, Pajulo, DeCoste, & Mayes, 2006) and that children whose parents use substances are at elevated risk of child maltreatment (Berger, Slack, Waldfogel, & Bruch, 2010; Staton-Tindall, Sprang, Clark, Walker, & Craig, 2013). Moreover, each year an estimated 400,000 infants are affected by prenatal exposure to substances (Young et al., 2009). These prenatal exposures can lead to a range of developmental and behavioral outcomes (varying from none to severe) based on the type of prenatal exposure and the duration and timing of that exposure (Behnke & Smith, 2013; Frank, Augustyn, Knight, Pell, & Zuckerman, 2001; Lambert & Bauer, 2012; McQueen &

Murphy-Oikonen, 2016).

How child welfare systems should respond to parental substance use, and the impact of parental substance use on infants and children, has been the subject of extensive debate. Concerns in the late 1980s about prenatal exposure to crack cocaine and the potential effect of the crack epidemic on children pushed state and federal legislators to adopt new laws that criminalized prenatal and parental substance use (Gustavsson, 1991; Hacking, 1991; Korn, 2016). Worries about parental use of methamphetamine in the first decade of the 21st century and the impact of the opioid crisis on children in more recent years have again encouraged federal and state lawmakers to enact new criminal and child welfare statutes regarding the use, manufacturing, and distribution of controlled substances by parents (Gutmacher Institute, 2017; Korn, 2016; Price et al., 2012; U.S. Department of Health and Human Services, 2017; Weber, 2006).

Despite decades of concern, few states have explicitly defined parental substance use (PSU) *itself* as a type of child maltreatment warranting dependency; however, nearly all states now incorporate language about PSU into their child maltreatment statutes (Child Welfare Information Gateway, 2016; U.S. Department of Health, & Human Services, Administration for Children and Families, 2018). Terms such as substance and/or drug *misuse* or *abuse* are used in statutory language to convey legislative concerns related to parental use, dependence, and addiction and the resulting impact on children. Review of state statutes

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finds that legislatures rarely use clinical definitions of substance misuse in law. Instead, statutes describe the ways in which parental substance use or abuse, manufacturing, and/or distribution can threaten child safety, cause direct harm to children, or prevent parents from meeting the needs of children (see [Child Welfare Information Gateway, 2016](#)). In addition to these statutory reforms, over the last two decades, child welfare systems across the nation have adopted risk and safety assessment tools, such as Structured Decision Making, to help improve frontline child welfare worker decision making ([Children's Research Center, 2015](#); [Cuccaro-Alamin, Foust, Vaithianathan, & Putnam-Hornstein, 2017](#)). While these tools do not include diagnostic criteria or directly equate PSU with child maltreatment, assessment tool guidelines describe how PSU can pose a risk or immediate safety threat to children (see [Children's Research Center, 2015](#)).

The incorporation of PSU-related language into child maltreatment statutes and assessment tools reflects social beliefs and concerns about PSU, including the emergence of new knowledge about PSU and its effects on children, and the relationship between PSU and risk of child maltreatment. The language related to PSU in maltreatment statutes and assessment tools likely influences the types of referrals child welfare systems receive, how those referrals are processed (i.e., investigated, substantiated, and promoted to case status), and how allegations of PSU-related child maltreatment are presented to and adjudicated by dependency courts (i.e., juvenile or family courts) ([Barry, McGinty, Pescosolido, & Goldman, 2014](#); [Henry, 2017](#)). Studies have found that PSU-related acts and omissions, including prenatal substance exposure, often trigger referral to child welfare agencies (e.g., 53% of all infants diagnosed with prenatal substance exposure at birth in California were reported to child welfare services) ([Putnam-Hornstein, Prindle, & Leventhal, 2016](#); [Young, Boles, & Otero, 2007](#)); that PSU is identified as a risk factor in a high proportion of child welfare cases (e.g., 40–80% of all child welfare involved families are affected by PSU) ([U.S. Department of Health, & Human Services, Administration for Children and Families, 2018](#); [Young et al., 2007](#)); and, PSU-related problems account for more than half of all foster care placements ([Barth, Wildfire, & Green, 2006](#); [Connell, Bergeron, Katz, Saunders, & Tebes, 2007](#)). Together, these findings show that PSU is a common problem among child welfare involved families and, in some cases, PSU itself may be the reason for referral to the child welfare system. On their own, however, these findings tell us little about how, in the absence of clear legislative mandates that define PSU as a type of maltreatment, child welfare workers (hereafter *workers*) construe PSU-related acts and/or omissions as harmful to children. Nor do they tell us how, within an adversarial child welfare system in which allegations of maltreatment must be adjudicated by dependency courts (hereafter *courts*), workers make the case that PSU-related acts and omissions are harmful to children and ongoing state intervention is needed.

### 1.1. Study goals and overview

This exploratory study begins to address this gap in the literature by examining the ways in which, in the absence of clear statutory mandates that define PSU as a type of child maltreatment, workers make the case to the courts that PSU is harmful to children. Through review of electronic child welfare case records, this study examines the ways in which workers in two California counties make the case that PSU-related acts and omissions are harmful to children and that ongoing court supervision and child welfare services are needed. California maltreatment statutes, case law, and child welfare policy-practice documents are referenced throughout in order to situate child welfare practice within the complex federal, state, and local policy-practice environments in which child welfare practice operates.

This study found that workers drew on various sources of evidence to make the case that PSU-related acts and omissions were harmful to children or posed a substantial risk of harm. Across counties and cases, workers consistently framed PSU-related acts and omissions as child

neglect, arguing that as a consequence of PSU, parents had failed to protect or adequately provide for their children. Workers argued that parents had failed to protect their children by directly exposing them to licit and illicit substances and/or substance use-related activities, or by failing to provide for their children by not meeting their basic care and supervision needs. This framing of PSU-related acts and omissions as a type of maltreatment mirrored state statutes and policy-practice guidelines generated by state and local agencies, suggesting that these formal policy instruments shape workers' understanding of the acts and omissions that constitute maltreatment. Moreover, there were similarities and differences within and across counties in how workers made the case that children were in need of protection, which also suggested that state and local policy-practice documents influenced the structure of court reports and arguments made for state intervention. Implications for child welfare policy and practice are discussed and recommendations to enhance both are made.

## 2. Methodology

This case study was part of a larger practice-based research study undertaken in partnership with the University of California, Berkeley and a regional social services consortium of county child welfare agencies in California, to better understand and improve child welfare practice through qualitative data-mining ([Henry, Carnochan, & Austin, 2014](#)). Qualitative data-mining (QDM) is the mining of narrative text data from administrative databases. This method enables researchers to gain a more nuanced understanding of child welfare populations, client needs, and child welfare interventions. Moreover, QDM techniques allow researchers to examine in a relatively non-intrusive manner how child welfare workers define and respond to child maltreatment in daily practice. With the parallel examination of policy-practice documents, the researchers are also able to trace how workers' responses may be shaped by state and local policy and practice frameworks and guidelines ([Henry et al., 2014](#)). All text data used in this study were generated by workers during the course of their regular child welfare duties and were extracted from California's administrative data system, the Child Welfare Services/Case Management System (CWS/CMS). This study was approved by institutional review boards at the University of California, Berkeley, Hunter College at the City University of New York, and the California State University, East Bay. Permission to use these data was also granted by the county agencies participating in the study.

### 2.1. Use of case study

Federal law establishes policy mandates for child welfare agencies; however, child welfare statutes are created at the state level and interpreted, administered, or enforced by state or local child welfare agencies and courts. Similarly, federal agencies establish practice guidelines and benchmarks, but how these guidelines or benchmarks are implemented or met is typically left to state and local jurisdictions; thus, child welfare policy and practice vary across place and time ([Child Welfare Information Gateway, 2018](#)).

In California, much of child welfare policy is created at the state level (e.g., child maltreatment laws and practice guidelines), but child welfare services and child welfare cases are administered and adjudicated at the county level. To capture both variations and similarities in practice and the interplay between state and local policies and practice, child welfare case records from two counties were selected for this case study. These counties were *typical* of other California counties in that practice in both counties was governed by state and local policies. In case study, analysis of such typical cases is viewed as providing a deeper or *thicker* understanding of how individuals or organizations respond to a particular phenomenon within a specific policy-practice context ([Stake, 1995](#); [Yin, 2013](#)).

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