

SPOTLIGHT INVESTIGATIVE JOURNALISM FELLOWSHIP

The federal government has one main law to prevent child abuse. No state follows all of it

Hundreds of thousands of children face abuse every year, but there is only one federal law that directly addresses this national tragedy. That law, a review by the Globe and Pro Publica finds, is routinely and often flagrantly violated — with consequences that should come as no surprise.

By **Emily Palmer and Jessica Huseman** Boston Globe Spotlight Fellows, December 13, 2019, 8:49 a.m.



A doll belonging to child abuse victim Jasmine Irwin rested amid the wreckage of the trailer where the family used to live in Kosciusko, Miss. The trailer was destroyed by the property owner a couple years after Jasmine's murder to discourage others from living on the property. ERIN CLARK FOR THE BOSTON GLOBE

KOSCIUSKO, Miss.

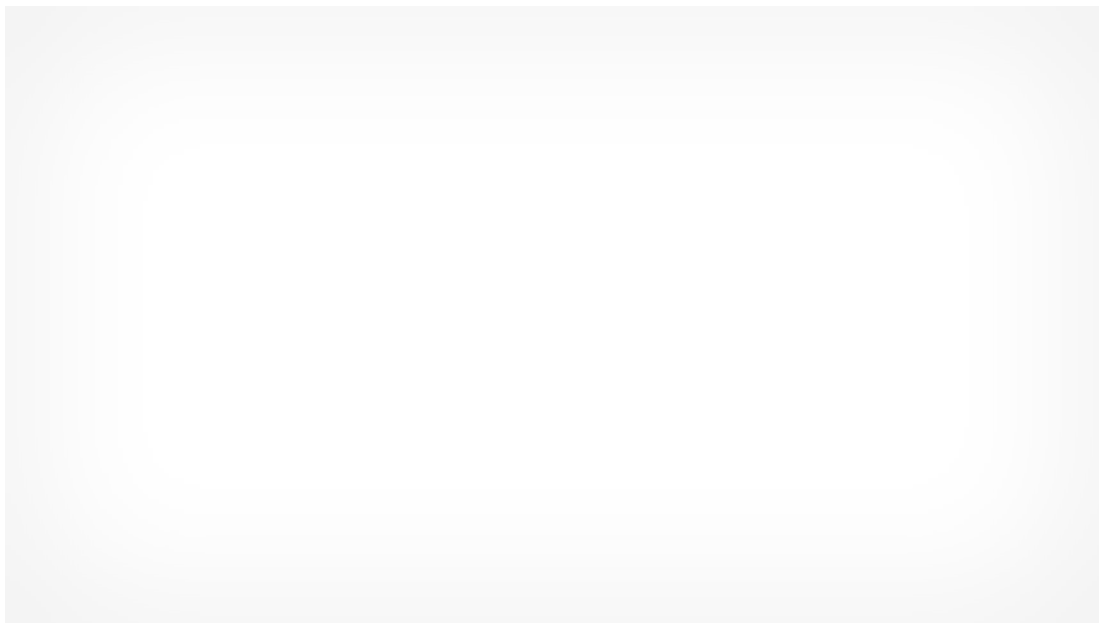
The adults in her life began failing Jasmine Irwin before she ever left the hospital.

Born severely underweight — just 4 pounds, 3 ounces — to a mother with a history of dealing and abusing methamphetamine, Jasmine might have been exposed to drugs in the womb, doctors believed, which should have jump-started intensive efforts to keep her safe.

But hospital records show staff never followed up, failing to conduct drug tests on the baby or her mother, Tami Mann, before letting Mann take Jasmine home to the family's trailer in this small town north of the state capital.

Countless children live with neglectful or abusive caretakers, which is why federal law requires states to ensure that certain professionals — like doctors and police officers — intercede when they suspect a child is in danger.

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But a national survey by The Boston Globe and ProPublica found that not a single state fully complies with the nation's primary child abuse law for children who are not in state custody. Mississippi is a significant offender. During Jasmine Irwin's life, the state violated the law in multiple ways. For example, the state did not have procedures in place to protect infants affected by their mother's drug use when Jasmine Irwin was born on Christmas Eve 2013.

And so she went unprotected. For almost two years, Jasmine lived in a home plagued by her parents' violence and addiction. Ten months after giving birth to Jasmine, Mann made clear that she was struggling to parent her children. When she entered drug rehab, she wrote on medical forms that the sight and smell of children triggered incredible anxiety for her.



Angel Wade displayed a photo of her daughter, Tami Mann, and baby Jasmine. ERIN CLARK FOR THE BOSTON GLOBE

But Mann's cry for help didn't bring the support she needed — including protections that could have started the day Jasmine was born. Instead, Mann, struggling with both

addiction and domestic violence, snapped. One day in September 2015, Mann grabbed Jasmine by the legs and pounded her headfirst into the living room floor as Jasmine's older brother watched.

"My mom just keeps being mean to her," the 4-year-old boy told investigators at the time. "And, finally, she had to go to the doctor."

Jasmine died three days later. Her short life casts a long shadow, marking her as a casualty of both a brutally dysfunctional family and of America's ongoing failure to effectively combat child abuse. The Globe and ProPublica reviewed thousands of pages of legal, criminal, medical, and child welfare records, along with recorded interviews, to piece together a full picture of the failings that led to Jasmine's death, an all-too-common tragedy.

Child abuse and neglect have never received the national attention of other American scourges such as AIDS and terrorism, even as an estimated 700,000 children are mistreated in the United States each year. It's not that Americans don't care about protecting children, but Congress and the White House have long regarded combating child abuse as a state or local concern rather than a national one. It is an attitude that goes back at least to the 1970s and the presidency of Richard Nixon.

And almost 50 years later, that ambivalence persists — down to the most basic understanding of the issue.

Today, the federal government doesn't even know how many children die from abuse and neglect — or whether the death toll is rising or falling. The most commonly cited numbers, from the National Child Abuse and Neglect Data System, put the death toll at 1,750 in 2016, the most recent year available, the highest total since the government started keeping track in 1992. But researchers believe the voluntary reporting th



Dylan Mann chased after his 14-month-old stepson Jason while they visited the grave of Dylan's niece, Jasmine Irwin, for the first time since Jasmine's death. ERIN CLARK FOR THE BOSTON GLOBE

at yields that figure badly undercounts child deaths and that the real number of fatally mistreated children could be more than twice that: somewhere between 3,000 and 4,500 each year.

The nation's primary child abuse law for children not in state custody, the Child Abuse Prevention and Treatment Act of 1974, was supposed to help address this tragic toll by requiring states to make public the name and some basic information on almost every child who died from abuse and neglect.

But, when the Globe and ProPublica tried to obtain this information from all 50 states, the District of Columbia, and Puerto Rico, nine simply refused to provide it, while many others released only some of what's required. The result is a murky, incomplete picture that makes it impossible to calculate the national death toll.

And that's only the beginning of how states are failing.

In addition to filing reports on child abuse, the law, known as CAPTA, requires states to create plans to protect infants affected by drugs and provide mistreated children with representatives in court proceedings, among dozens of other mandates, in order to receive federal dollars dedicated to child abuse prevention. But still, noncompliance runs rampant.

“Every single state,” said one leading child welfare expert, Michael Petit, is “vulnerable to successful class action litigation for being in violation of federal law, every single one of them.”

Vulnerable but also, strangely, protected. One glaring weak link in CAPTA is that it severely restricts lawsuits by private organizations, meaning children's advocates can rarely file class action lawsuits to force change. As a result, attorneys have largely given up on using the federal law to protect children who have not been taken into state custody. By comparison, federal laws protecting foster children give advocates more power to sue to improve their care.

Breaking the rules

Virtually every state fails to follow parts of the main federal child abuse law, known as CAPTA

Drug-affected infants At-risk children Children in court

Child fatalities Parents in the system

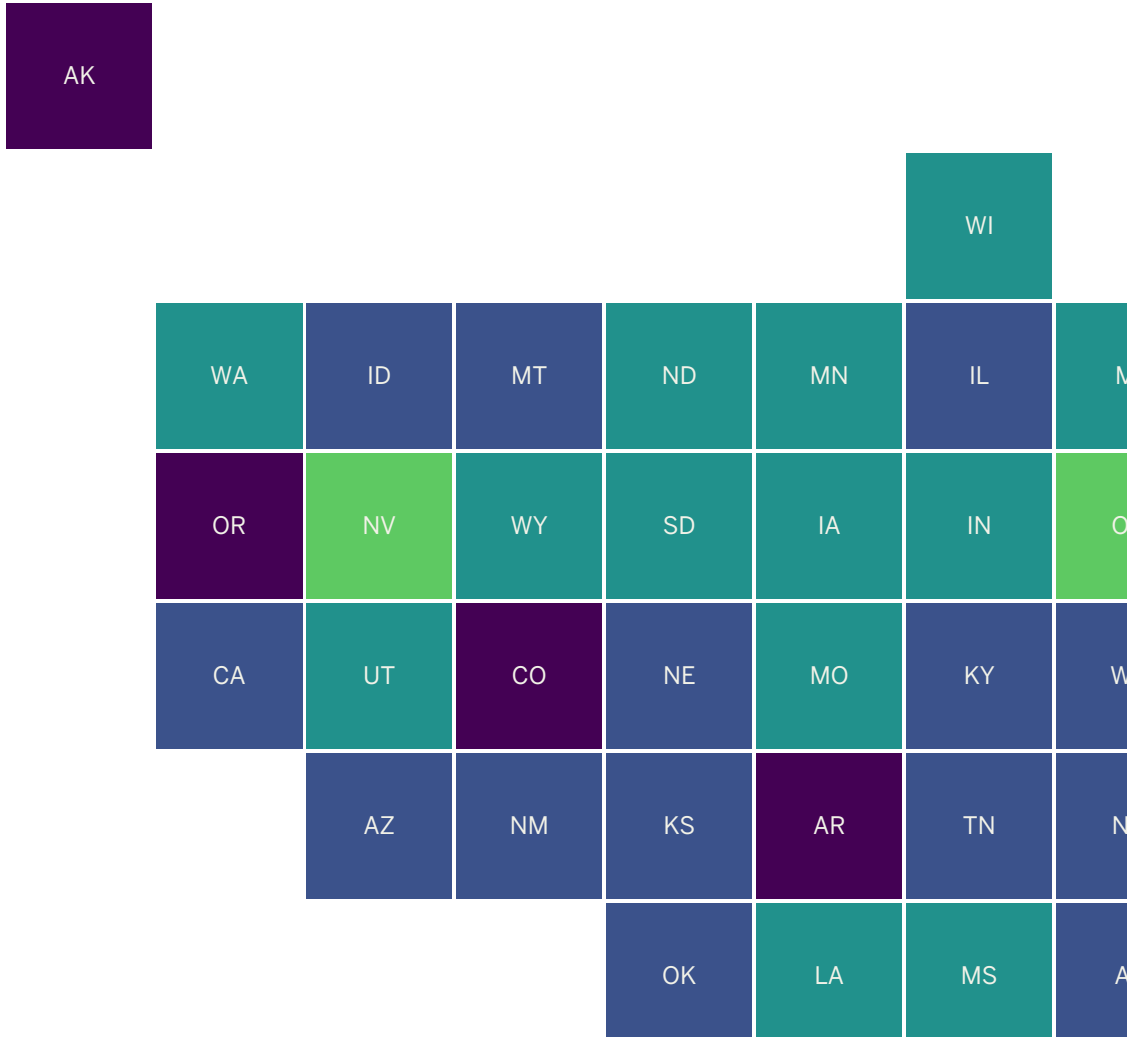
Hospitals are supposed to develop a plan to protect babies who may have been affected by drugs during pregnancy.

Tap or click on a state to know more about whether it is following the law.

Not compliant

Minimally compliant

Partially compliant



But the survey of state governments by the Globe and ProPublica, the first such national assessment of the law ever conducted, shows Petit’s assertion of noncompliance is spot on. Although states routinely file reports with the federal Children’s Bureau — the agency charged with enforcing the CAPTA requirements — broadly claiming to follow the law, the Globe and ProPublica’s survey shows that is not true. In fact, not a single state upholds all 27 provisions of the anti-child-abuse law.

The 76-question survey, which was answered by 49 states, Washington, D.C., and Puerto Rico, focused on five key areas of CAPTA, including proper care for drug-affected infants. State responses to the survey suggest that many treat strict compliance with the federal law as optional. Mississippi’s record is nothing special — in fact, its level of compliance

puts the state in the middle of the pack. As a result, vulnerable children across the country are left in the lurch.

Survey analysis revealed that:

- 49 of the 52 child protection agencies surveyed don't follow federal rules to protect babies affected by drugs during their mother's pregnancy.
- 49 of the states as well as Puerto Rico are unable to show that they follow rules mandating that children receive representation for any court proceedings regarding their possible mistreatment. The result is that, far too often, no one speaks for the best interests of the mistreated child.
- 45 agencies, including Mississippi's, do not comply with three or more of the five CAPTA mandates that the Globe and ProPublica asked about. Yet, almost every state, including Mississippi, routinely files letters with the federal Children's Bureau claiming to follow the law in order to be eligible for federal funding.
- Six agencies, including those in Florida and Michigan, do not comply with any of the federal rules the Globe and ProPublica asked about. And not one agency was found fully compliant with the federal law.

The Globe and ProPublica monitored state compliance with the five provisions over the course of two years, contacting about 100 agencies in the process. Some states seemed almost to welcome the rankings, even if the findings made them look bad. Louisiana was found fully compliant with just two of the measured CAPTA provisions, but Catherine Heitman, a spokeswoman for the child welfare department, said that the new scrutiny could force systemwide improvements.

"We need help, we need funding," she said. "And, hey, this might actually get us the help we need."

Meanwhile, the child welfare director of Arizona, the only state that declined to share information regarding its CAPTA compliance, called it a “time consuming, lengthy, non-value added survey.”

For their part, officials at the federal Children’s Bureau acknowledge that they do not question states’ annual reports claiming to follow the law.

“Once the assurance is submitted to the federal government, the state has complied,” Monique Richards of the bureau’s communications office said in an e-mail.

The Globe and ProPublica provided the Children’s Bureau with the survey findings showing widespread national noncompliance with CAPTA, and the agency did not dispute the findings. An agency spokesperson did, however, note that “only the Children’s Bureau is vested with the authority to determine whether states are in compliance with CAPTA.”

In Mississippi, where Jasmine Irwin was born and died, state officials accepted findings by the Globe and ProPublica that the state is in violation of four of the five CAPTA provisions that were reviewed. That rating did not shake the state’s optimistic self-assessment, however.



Dylan Mann held out a photo of his niece, Jasmine Irwin. Dylan's left arm is tattooed with her name, in honor of her memory.
ERIN CLARK FOR THE BOSTON GLOBE

“We’re not perfect — yet,” said Jess Dickinson, commissioner of the state’s child welfare department. “But Mississippi is making great strides to be in full compliance with all federal requirements.”

Mississippi’s state government is at least aware of the requirements. The picture is murkier in the state’s broader medical community.

At the Madison River Oaks Medical Center, where Jasmine Irwin was born, there are still no policies in force to deal with drug-affected newborns, even after the child’s murder by her addicted mother, according to the hospital’s director of information management, who declined to comment directly on Jasmine’s case.

And the doctor who took over Jasmine’s care a day after her birth said in an interview that he had never even heard of the term “plan of safe care” even though it’s a CAPTA

requirement that is widely used by child protection officials and circulated around the medical community.

Statewide, medical providers and other officials created plans of safe care for just 155 infants identified as born affected by drugs out of the 40,000 children born in 2018, an improbably small number considering that the state is battling an epidemic of opioid abuse.

Yet, Mississippi is considered by the federal Children's Bureau to be following the federal child abuse law, making it eligible for a share of the \$85 million the bureau can dole out nationwide. It's an amount so small — \$849,046 for Mississippi in 2018 — that some states would rather do without federal money than make expensive improvements in child protections.

“It's not that we don't appreciate the intent to protect children, that's certainly not it,” said Rhenda Hodnett, Louisiana's assistant secretary of child welfare. “But one more unfunded mandate feels just like one more unfunded mandate. It puts additional stress on an already very stressed system.”



Evening light fell on the main square in quiet downtown Kosciusko, near where Tami Mann and Jasper Irwin lived with their four children. ERIN CLARK FOR THE BOSTON GLOBE

Funding for CAPTA has increased significantly in recent years, more than tripling from the \$25 million in grant money in 2017. A bipartisan House bill passed this spring included proposed increases that could more than triple current funding, a modest but important step forward in promoting compliance with the law. However, in the Senate, which held a hearing on CAPTA reauthorization on Dec. 12, there's support to keep funding steady at \$85 million. Funding will likely be determined in the new year.

Amy Harfeld, national policy director at the Children's Advocacy Institute at the University of San Diego School of Law, said Congress has repeatedly ratcheted up CAPTA's requirements over the years, while funding lags far behind. She sees the law as "a starving toothless beast wandering through Congress, in search of a proper meal."

'A long leap into the dark'

The movement to bring the federal government into the battle against child abuse began with former vice president Walter Mondale, back when he was a Minnesota senator famous for his liberal politics and reformist passion.

Mondale had been horrified by research documenting an alarming rate of child mistreatment across the nation and he wanted “to make it visible so that people couldn’t avoid the problem,” he said in an interview with the Globe and ProPublica.

Despite his alarm, Mondale was also a realist who knew he could pry only so much out of Congress and President Nixon, who had labeled a previous Mondale attempt to help children and families “a long leap into the dark.”

So when Mondale proposed the Child Abuse Prevention and Treatment Act, he deliberately kept it modest and general, including just a few million dollars in federal funds to help states upgrade child protection programs.

He wanted to focus CAPTA largely on increased support for training of law enforcement officers, who often see children in dangerous situations before social workers ever get involved. His bill called for officers to actively cooperate with child welfare workers, though it was vague about what that meant. He said in the interview that he had envisioned the federal law as a way to pressure state and local governments, along with other organizations, to work hand-in-hand with law enforcement.

Children’s advocates hoped the new law, which Congress passed overwhelmingly in December 1973, would grow stronger over time — gaining political traction and federal dollars — even as critics denounced it as a token effort.

But Mondale’s law didn’t evolve the way advocates had desired. Over the years, Congress piled on new provisions — such as protections for children expected to be homeless or victims of sex trafficking — but provided few specifics on how states should comply and few penalties if they didn’t.

For many advocates, however, CAPTA has become a cruel joke — and not just because Congress provides so little money to fund it. In addition, they say, many mandates are too vague to be enforced, making them little more than political aspirations.

A case in point: CAPTA requires that children be represented by court-appointed advocates, known as “guardians ad litem,” when they go to court to address issues such as who it is safe for them to live with. But the law allows for just about anyone to serve in the role, creating great variation in the quality of representation.

While some states provide children with attorneys, others, such as Vermont and Hawaii, may pull someone with absolutely no training into the courtroom; sometimes, they haven’t even met the children before representing them. And in Puerto Rico, the child enters the courtroom completely unrepresented — a direct violation of CAPTA.

Glenda Gerena Rios, the deputy administrator of Puerto Rico’s child welfare system, did not respond to a request for comment regarding the agency’s failure to provide children with court representation.

Every other state and territory receiving CAPTA funds requires that children receive representation in the courtroom, but most do not meaningfully track whether such representation actually happens, making it impossible to know whether their laws are being followed.

Results from the 13 states that do meaningfully track such representation suggest that children do not consistently receive the representation promised under federal law. For instance, more than 20 percent of children in Florida who go to court for allegations of maltreatment do not receive representation.

Despite that shortcoming, Florida claims it is not violating CAPTA, which requires that children in “every case” receive such representation.

“By the express terms of CAPTA, Florida is in compliance because it has both a law in effect and a statewide program,” David Frady, then-communications director of Florida’s

child welfare department wrote last year in response to the Globe and ProPublica's survey findings. "The fact that the program has not achieved 100 percent representation at this time does not mean the state is not compliant with the requirement to operate a statewide program."



Siblings Lacey and Dylan Mann stood in the front yard of Dylan's home. Their sister, Tami Mann, struggled with drug use and run-ins with CPS while raising her four children. ERIN CLARK FOR THE BOSTON GLOBE

In cash-strapped states like Mississippi, so few guardians ad litem are assigned to represent children that they may be burdened with as many as 200 cases each, making individual attention to the needs of each child nearly impossible.

Jasmine Irwin and her siblings were assigned a guardian ad litem who told the Globe and ProPublica that he was juggling about 100 cases. When that representative quit five months before Jasmine's death, the children were shuffled to another guardian ad litem who also serves as a youth court judge. Asked how many cases she had at the time, that second representative, Kasey Burney-Young, said: "I truly don't know," adding that she

provides representation around the state. (Burney-Young declined to speak to the specifics of Jasmine's family's case.)

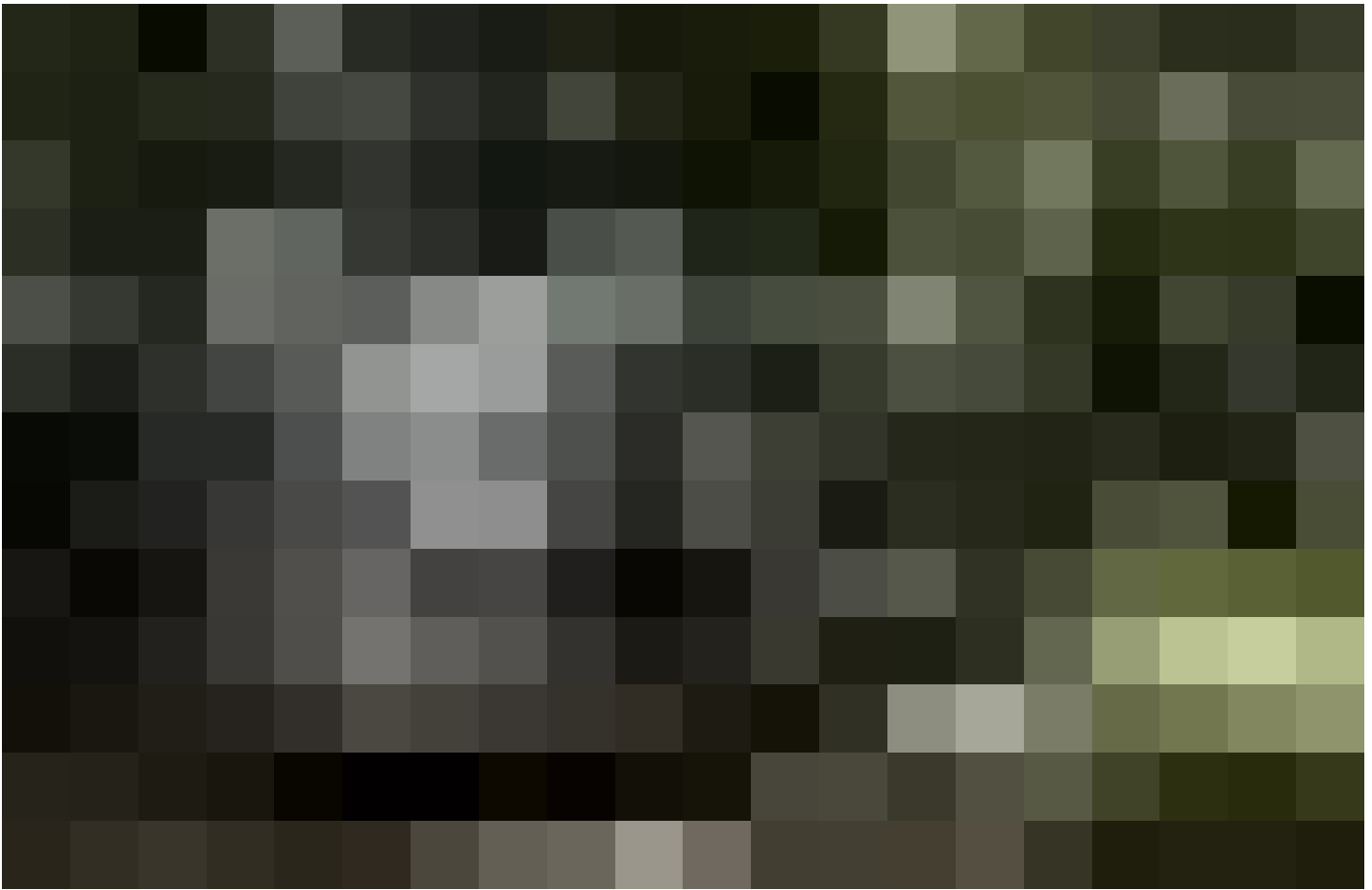
Jasmine's grandmother could not recall a single visit outside of court conducted by either representative. By this measure, as with so many, the children were left largely unprotected — and tragedy was the predictable result.

'They weren't doing their jobs'

The trouble in the home where Jasmine lived her short life, and where she died, could not have been more obvious.

The child's mother, Tami Mann, released to the Globe and ProPublica her full legal and medical records. Additional state child welfare documents and personal interviews paint a desperate portrait of a family in free fall, and of an often passive and ineffective official response.

This was a household in which violence was no stranger. There had been numerous domestic violence calls, according to law enforcement and court records. Long before Jasmine's murder, Jasper Irwin had threatened to kill Mann, his estranged girlfriend and mother of their children. He rammed her car with his flat-bed truck in October 2013; she was five months pregnant with Jasmine at the time.



Tami Mann was five months pregnant with Jasmine when Jasper Irwin crashed into her passenger side door with this truck.
ERIN CLARK FOR THE BOSTON GLOBE

Mann escaped the car crash without serious injury to herself or to the unborn child. And, as she did multiple times over the course of their tumultuous relationship, she contacted law enforcement.

Police put out a warrant for Irwin's arrest for the felony charge of aggravated assault and extreme indifference to life, but following an interview at the police station the day after the incident, Irwin was released pending further investigation, according to a police investigator's report. Mann later dropped the charges.

And the couple, who met at the strip club where Mann once worked, would soon make up, as they typically did. (Jasper Irwin declined to be interviewed, saying his version of events was reflected in the record, which included his own criminal conduct.)

Today, Mann, 31, is serving 46 years in prison for Jasmine's murder and other offenses. But the case has significance that extends well beyond her obvious and admitted guilt.

Time and again, protective measures required by CAPTA went unfollowed and a very loud question went too long unanswered — why were these children, who were removed from their parents' care for a year, placed back in the hands of parents so plainly unfit?

The need for the question to be faced grew only more obvious with time. The Attala County Sheriff's Office — which had processed domestic violence incidents between the couple for years — knew the parents by name. “It was nothing for them to fight,” one officer told an investigator after Jasmine's death, then referring to Mann: “And she usually dropped charges.”

Officers in the sheriff's department knew what social workers did not: that the couple's four children — including an infant — were inside the trailer one day in July 2015 when Irwin, who was acting “hysterical” and “irrational,” shoved Mann into a wall, punching her and threatening to use a weapon.

Still, the sheriff's report of the incident shows that officers never notified social workers about what happened. A deputy sheriff noted the couple's appalling history, but checked “no” when asked if he had contacted the state's Department of Human Services, which then oversaw the child welfare department.

Caseworkers, limited to their own observations and others' reports of mistreatment, rely on law enforcement to notify them of household violence, potentially raising red flags that can save children's lives.



Sheriff Tim Nail recalled many trips made to the Irwin and Mann household for various domestic issues. ERIN CLARK FOR THE BOSTON GLOBE

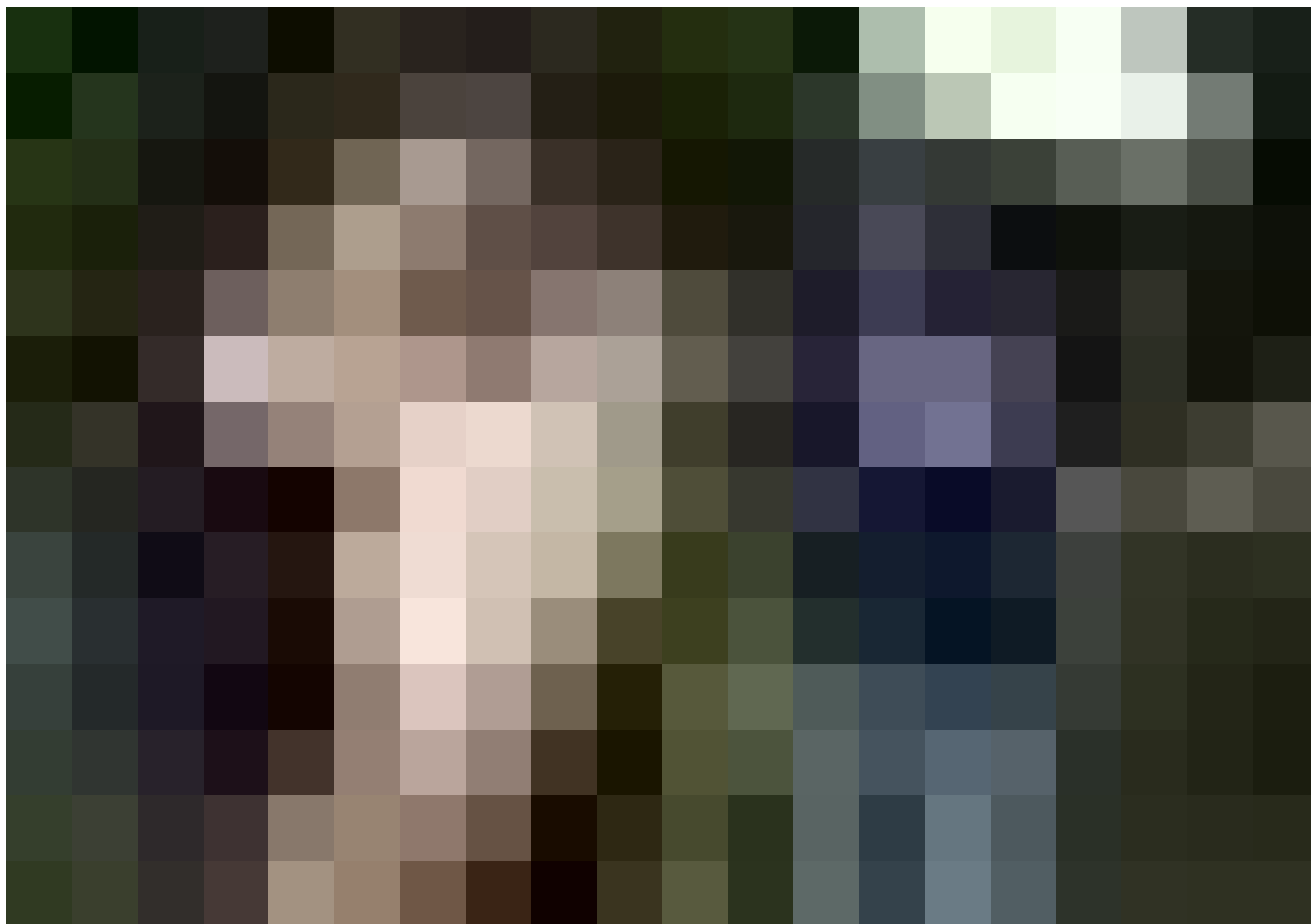
Asked about that lapse, Attala County Sheriff Tim Nail, who also served in the position when Jasmine died, said the agency had no policy requiring such reporting — although having law enforcement notify child welfare of such situations has been a goal of CAPTA from the start.

Over the course of Jasmine's life, others would call the abuse hot line at least three times, but often the cases went unsubstantiated, according to child welfare records. For example, a few months after Jasmine's birth, Mann overdosed in an attempt to end her life, her medical records show. A day later, someone called the child abuse hot line, records show, reporting physical neglect and emotional abuse/neglect of the children. The report went unsubstantiated, meaning that caseworkers could not gather enough information to determine if there was a danger to the children.

Mann's mother, Angel Wade, became so frustrated at the chronic lack of action by the social workers and other professionals that she went to a judge after Jasmine's birth and

asked for help with her daughter's drug problem.

“It was the point where I knew it was court-ordered rehab or burying my daughter,” she recalled. “And I couldn't face the idea of losing one of my kids.”



Angel Wade held her step-grandson Jason as Dylan Mann looked on. They were visiting Jasmine's Irwin's grave. ERIN CLARK FOR THE BOSTON GLOBE

Wade succeeded in getting her daughter into a drug rehab program in the fall of 2014 and the children were placed in foster care, bouncing around different family homes. But it was only a temporary respite, and by the time Mann entered the program, she was already pregnant again.

Fifty days of court-ordered drug treatment later, Mann returned home to a trailer without her children. She enrolled in parenting classes, gave birth to the couple's fourth child — another girl — and got the children back in May 2015. And she still faced many of

the problems she had before rehab: little money and unresolved psychiatric and drug issues.

Caseworkers visited the family frequently in the last months of Jasmine's life. But those visits were little more than drive-bys, said Jasmine's grandmother.

"Each and every one of them should be held accountable for her death and not just Tami," Wade said.

The Globe and ProPublica asked Tonya Rogillio, Mississippi's deputy commissioner for child welfare, about Wade's assertion.

Rogillio said that the agency had done its best for the Irwin family.

"The truth is that the home was being extensively monitored by both the agency and contract service providers," she said. "Unfortunately, we can neither predict nor prevent every evil act by a child's parent."

Forty-five years of neglect

The last caseworker to visit Tami Mann's trailer while Jasmine was alive told officers she "tiptoed in the bedroom in hopes of not waking her up."

Jasmine appeared to be asleep. In reality, the child was mortally injured, with new and old bruises marking her body. She died three days later.

Today, Jasmine's siblings have been adopted by relatives, and Jasmine Irwin lives on in the memory of family members such as her uncle, Dylan Mann, who got Jasmine's name tattooed on his right forearm last year.

As for Tami Mann, she felt a flood of regret almost immediately after she killed her daughter. Just days after the fatal attack, investigators videotaped Mann, dressed in black and white jail stripes, walking investigators through the family's trailer.

With a cracking voice, she gestured to the couch in the living room.

“That’s her baby doll,” she said.

A doll was perched on the sofa, a pink blanket tucked under its chin.

In a more recent phone call from prison, Mann wept frequently.

“Today, I just remember what happened to Jasmine,” she said. “It’s something I never forget.”

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