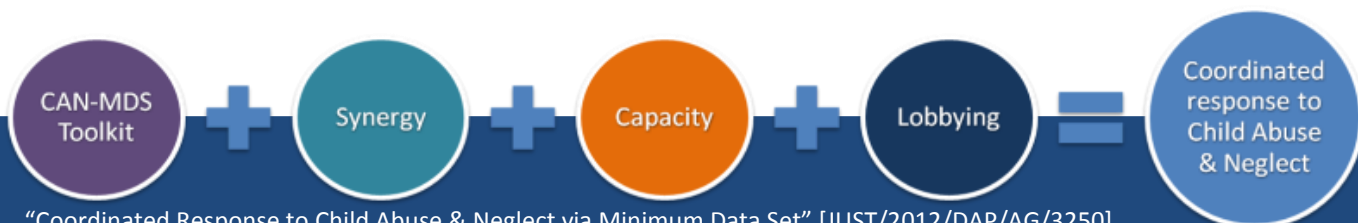


Observatoire national de l'enfance en danger (ONED)

# CAN surveillance in France: current policies and practices

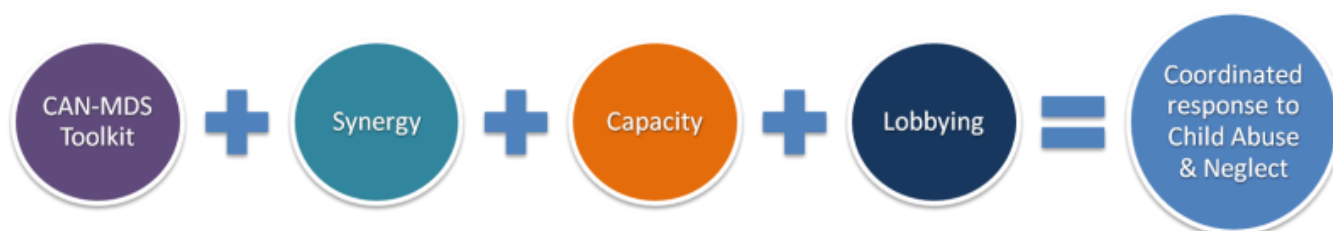
*Country Profile*

**June, 2013**



"Coordinated Response to Child Abuse & Neglect via Minimum Data Set" [JUST/2012/DAP/AG/3250]

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## 1 – The rationale for a CAN-MDS in France

The mission of preventing child abuse and neglect (CAN) and responding adequately to it is at the core of child protection services. It is of primary importance to develop tools to identify and understand the evolutions that may be taking place regarding this issue, in order to help these services and all actors of child protection to best take action against abuse and neglect.

Yet, there is precious little data in this field in France. Indeed, French legislation relies on a broader notion, that of children in danger (*enfance en danger*), which as a legal concept does not only correspond to child abuse and neglect: children who are in situations where their safety, general development and well-being are seriously compromised are also “in danger” (Article 375, French civil code). As a consequence, the available administrative data is built on this wider notion. Quite apart from the operational and philosophical advantages this definition may present in practical terms, the direct consequence is that case-management data collection does not address the question of CAN in itself, which makes it harder to compare the available data in France to the situation in other countries.

**Having CAN indicators** based on a Minimum Dataset (MDS) would be invaluable for all the professionals and researchers involved, who as of 2013 can only rely on the data collated and analysed by ONED on the activity of services and population of children in care on the one hand, and on studies done on specific structures or samples on the other (such as the data of child helpline Allô 119/SNATED, for which a comprehensive statistical analysis is done every year by ONED).

The MDS approach is particularly interesting in this framework because it can easily be set up alongside the existing case management tools and would yield information fairly quickly, helping to reinforce the tool’s usefulness in the eyes of case workers whose input is essential. The MDS methodology is not, however, something that has significantly entered standard practices in the field of social work yet: through this project, ONED also wishes to encourage the use of such tools in France.

**Setting up common tools and common definitions** of CAN, beyond the existing legal and administrative categories that are very broad, would indeed also be useful in and of itself, even if this did not lead to the setting up of an observation system and to statistics regarding CAN. Giving a simple, specific tool that describes situations of CAN to all persons confronted to CAN cases (doctors, law enforcement personnel, child protection services...) could help them “speak the same language” and have a better understanding of the important elements to note from the point of view of other services.

## 1.1 - Aims & Objectives of developing a CAN-MDS at national and Community levels

Child abuse and neglect (CAN) case-based data in France as well as in the EU are derived from a variety of inter-sectoral sources and collected via different methodologies. The follow-up of victims at local and national level is not necessarily sufficiently coordinated among the involved services. The drive for a more integrated approach, visible at national level through the implementation of the March 5, 2007 Law reforming child protection and creating inter-service entities to collect information giving rise to concern, also corresponds to a strong need felt by professionals at community level. But the lack of common operational definitions and registering practices between the different actors is a major hurdle that is yet to overcome.

This project aims at creating the scientific basis, necessary tools and synergies for establishing national CAN surveillance systems using a minimum data set (MDS). Such systems would provide comprehensive, reliable and comparable case-based information at national level for children who have received care from child protection services (social, health, educational, judicial & public order, depending on countries' specifics). A Policy and Procedures Manual will be created addressing policy makers and other related stakeholders; it will include ready-to-use tools, as well as argumentation for lobbying towards a uniform systematic registry and monitoring of abused children at local and national levels, which will have the added advantage of facilitating international comparisons.

The French observatory for children in danger (*Observatoire national de l'enfance en danger*, ONED) is uniquely positioned inside the general framework of child protection in France to help carry out this objective and has therefore decided to become a partner of the CAN via MDS project.

This country profile report is the first step, alongside the literature review, in this project. It aims to clarify the practices applied in France for CAN monitoring and to map the existing mechanisms for CAN cases follow-up (Work Stream [WS] 1).

Based on this work, a Toolkit will be developed consisting of the necessary protocols, tools, a short training module and a Guide for potential operators of a CAN-MDS system. ONED will undertake to adapt the Toolkit for France (WS 2), to create and train a national "core" groups of operators as well as to adapt and promote the Policy Manual for the establishment of national CAN-MDS systems (WS 3). Training modules will also be adapted for the French context (WS 3) and perfected using a focus group methodology (WS 4).

Finally, ONED will participate to the definition of a dissemination plan that provides materials and resources to potentially implement the CAN via MDS system in France, at local and/or national level (WS 5)

Considering ONED's unique position within the project as an entity already implementing and managing a data collection system, its participation will be strongly focused on the data collection aspects.

## 1.2 – Ethical Considerations

Ethical considerations are of prime importance when it comes to child protection and CAN, especially when it comes to using information gathered by child protection or health services to manage cases at operational level. Essential for practitioners in order to accomplish their mission, this information is nonetheless sensitive in that it concerns a vulnerable population, contains health-related data, and/or facts regarding a specific criminal investigation and judicial procedure. Using it for other purposes than the intervention of specialised services, transferring the data collected in the framework of this mission to other types of professionals, would be a very delicate endeavour and should not be done lightly.

Professionals working in the field of child protection who may be entrusted with this data must be very conscious of the ethical implications that reporting it may have. Indeed, the law requires them to respect strict secrecy and confidentiality rules:

*“Persons entitled to professional secrecy who implement child protection (...) or who contribute to it are authorized to share with each other secret information so as to assess an individual situation, identify and implement adequate actions of protection and help that minors and their families may benefit from. Sharing this information is strictly limited to what is absolutely necessary in the framework of child protection. Parents, any adult with parental authority, and the children themselves according to their age and maturity are informed beforehand, in an adequate fashion, unless this information goes against the child’s interest.”*

Article L226-2-2, *Code de l’Action sociale et des familles*

Researchers and data collectors who for valid reasons may want to collate this information should be conscious of the very delicate and sensitive nature of this information, even more so than professionals of child protection who must have access to this information and are sworn to professional secrecy even in the framework of what is commonly referred to as “shared secret” (“*secret partagé*”, the exchange of confidential information between professionals, properly referred to in law as “the sharing of information of a secret nature”, *partage d’information à caractère secret*, to use the phrasing of article L226-2-2; please see *Agence nationale de l’évaluation et de la qualité des établissements et services médico-sociaux* (2011) for a more detailed presentation of the legal intricacies).

The law in France recognizes this sensitive nature of information as well as the need to use this information for research in some cases, and provides a very precise framework for dealing with such data (see chapter 3.2 below). But beyond the law itself, researchers and operators of data collection systems should bear in mind the possible ethical outcomes of their work.

The first main issue concerns the confidential nature of this information, which is directly connected to the trust children and their families need to be able to have in the institutions and professionals whose mission it is to help them. Being able to confide in services is vital if a fair and adequate response is to be had, which must be the main operating imperative here.

As a consequence, all precautions should be taken to secure any and all means used to note down this information, including but not limited to computerised databases. When using this information for research, care should be taken to avoid collecting any information that is not strictly necessary and/or could lead to the identification of the persons (children, adults, case workers) involved. Exact date and place of birth, for

instance, can be identifying in and of themselves and are rarely necessary for research purposes. The law sets up a number of rules to ensure that proper care will be taken with this data, and the agency in charge of safeguarding civil liberties with regard to information technologies (*Commission nationale informatique et libertés*, CNIL) gives advice on how to secure the confidentiality of this information. There is also an agency that guarantees ethical standards for statistical studies, the *Commission nationale de l'information statistique* (CNIS). This is dealt with in part 3.2 of the present country report.

But the ethical responsibilities of the persons in charge of collecting data and/or doing research on child abuse and neglect do not end with this formal responsibility with regard to the processes and confidentiality. There is also a scientific responsibility with the way information is analysed and presented: care should be taken to avoid sweeping generalizations and any invalid interpretation/extrapolation. Requiring rigor is, of course, part and parcel of the scientific method, but the very sensitive nature of child abuse and neglect make it even more necessary to prevent deliberate or inadvertent misrepresentations in this case.

It is therefore important to take into account the circumstances that may have an impact on the data observed (typically, for instance, issues around increase in reporting/detecting as opposed to increase in the phenomenon), to explicit them and to remain as descriptive and factual as possible when presenting the findings.

In addition, for the French context, it should be noted that the law forbids the collection of “*data that, directly or indirectly, expose the racial or ethnic origins, the political, philosophical or religious beliefs of individuals, or relate to their health and sexual experience*” (section II.8.2 of Law No 78-17). Although there is a political and scientific debate on this question, persons in charge of data collection and treatment should be particularly mindful of their responsibilities and duties with regard to this requirement.



## 2 - Country Profile

### 2.1 - How well known is the CAN problem in France?

The scientific literature on child abuse and neglect is significant in France (see ONED 2013c for a detailed presentation of the main materials available on this question). However, very few quantified estimations of the phenomenon exist and there is therefore little information available on the victims, acts and perpetrators at national level. Clinical portraits, a wide range of tools and recommendations on identifying cases of CAN and providing adequate help, studies of the life trajectories of some children who have been abused or taken into care do exist, as well as a number of studies done on some specific types of abuse (such as Tursz's study of violent infant deaths- Tursz, 2011) and monographies detailing the life events and situations of young people in certain specific institutions and territories (a precise survey of the population in the care of the *Protection judiciaire de la jeunesse*, PJJ, is for instance done on an ongoing basis). Despite this lack of research and data, there is growing awareness in the general population of CAN as a problem and initiatives are underway to remedy the scarcity of information and increase awareness of CAN and resources against it in the general population.

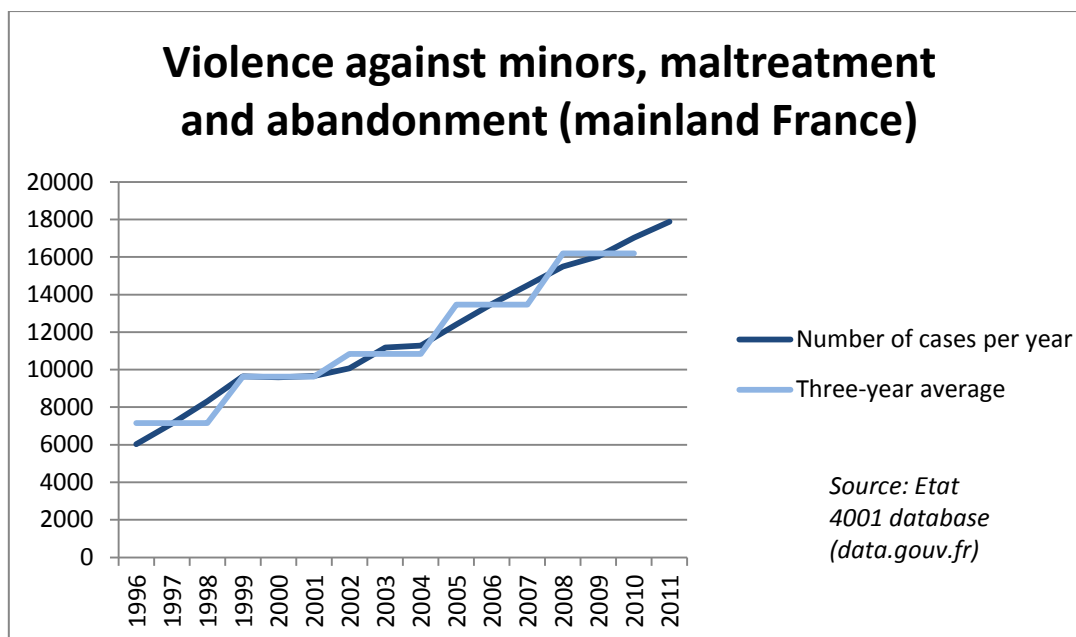
#### 2.1.1 - Quantifying the phenomenon: existing data

There is currently no aggregated statistical estimate of this problem in France. Data that are available concern the activity of different services, including health and social services, and the volume of the population in child protection (ONED 2011a, 2012b and 2013b), which is quite different from the population of CAN Victims.

Some accessible data, however, may give us valuable insights. Law enforcement agencies (police and *gendarmerie*) keep a record of all infractions they have identified over the course of their activities in each *département* for each year. This is done through a registry called Etat 4001. Aggregated data from Etat 4001 are made accessible by the French government through the open data portal <http://data.gouv.fr>.

It should be noted that this database relates to cases identified by law enforcement services: the alleged perpetrators have not necessarily been convicted or identified, or the cases systematically substantiated. Issues of double counts (same child/perpetrator identified in multiple cases) also mean it is impossible to extrapolate from the number of cases anything regarding the overall population concerned.

Child maltreatment (including abandonment) corresponds to a specific line in that database, though the category is broad (violence against minors, maltreatment and abandonment) and lumps together different types of situations that could be interesting to distinguish (abandonment for instance). By adding up all *départements* of mainland France, a national estimate can be made for each year. Graph 1 shows the evolution of child maltreatment cases in France from 1996 to 2012 as seen through Etat 4001. From 6 037 cases in 1996, the curve shows an unmistakable, fairly steady rise over the years (a fairly linear evolution with a 8% annual increase on average), reaching a staggering 17 889 cases in 2012 (+ 196%). When corrected for annual variation by using three-year averages, the rate of this increase becomes even clearer, the only lulls occurring between 1999 and 2001 and 2003/2004.



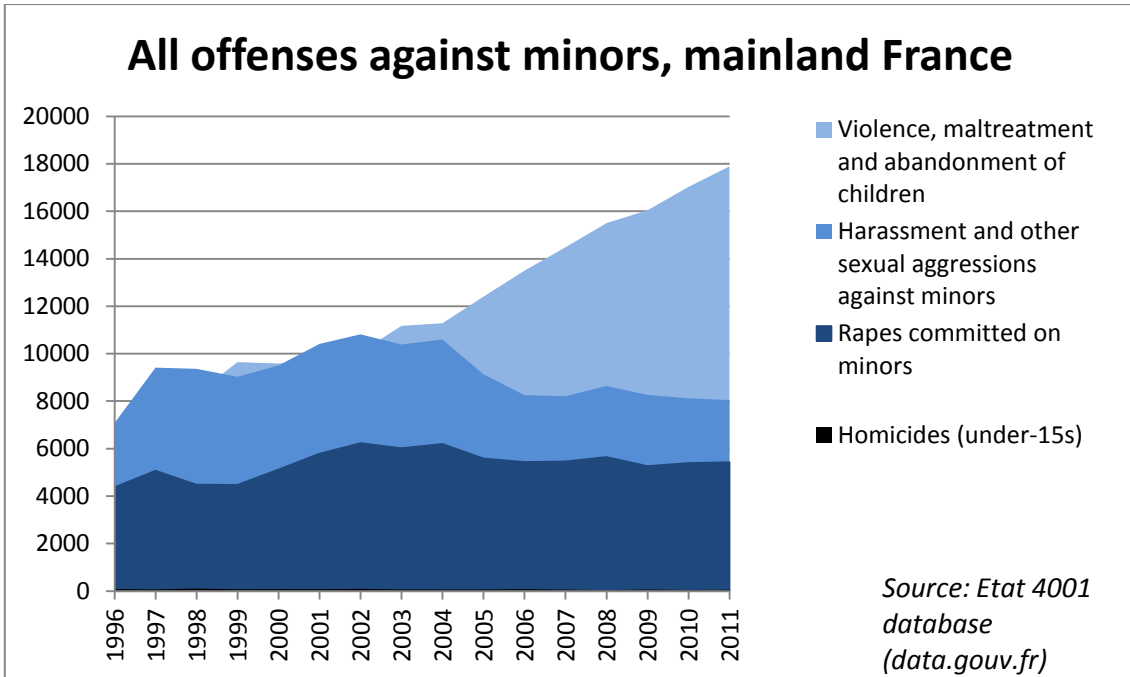
**Graph 1**

Etat 4001 also provides other relevant indicators: rapes committed on minors, harassment and sexual aggressions committed on minors, as well as homicides committed on under-15s, are specifically set apart from the same offenses committed against adults. Since they are counted using the same method, it is therefore possible to compare the evolutions, in terms of broad numbers, of these different types of offenses. The dramatic rise in numbers that can be seen regarding child maltreatment is not mirrored in other types of abuse: the number of harassment and other sexual aggressions against minors tends to diminish after an increase up to and including the year 2004; as well as the number of rapes of minors though evolutions in the latter category are much less important and are even minimal from 2005 to 2011. The number of homicides of under-15s also tends to diminish on the whole, year after year (though the much smaller numbers exclude any real comparison with the other groups).

To summarise, the most striking evolution revealed by Etat 4001 is the rising number of maltreatment cases, which has more than doubled since 1996. Harassment and other types of sexual aggressions, which used to come in slightly higher numbers than maltreatment, have not seen the same evolution and remain at similar levels than in the late 1990s (8047 in 2011 compared to 7075 in 1996 and 9412 in 1997). Rapes committed on minors have remained stable since 2005, with an average of 5455 cases a year.

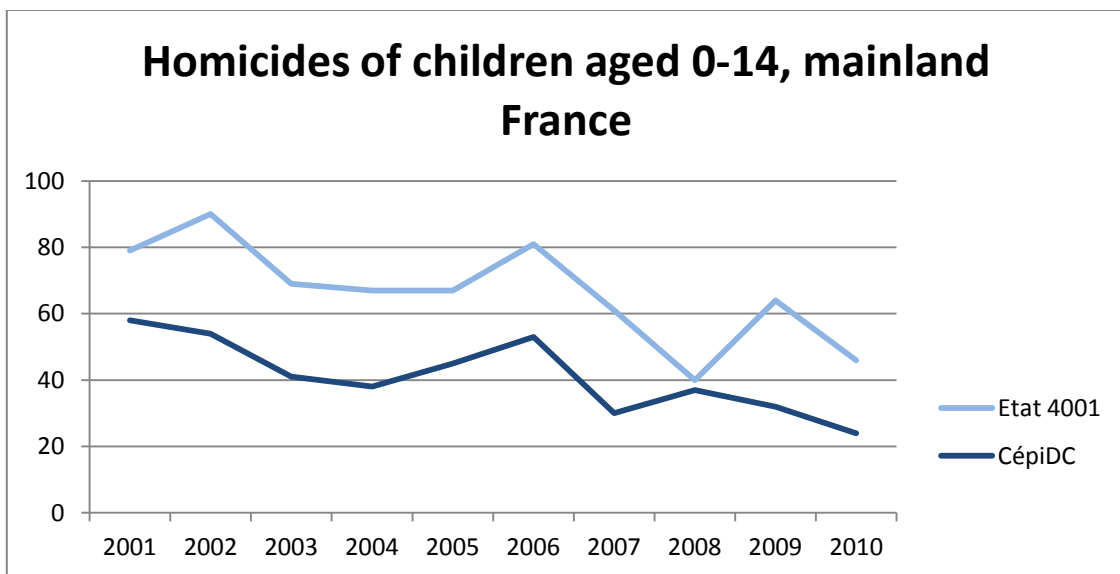
When Etat 4001 data is compared with data from other services which deal with CAN, there is a significant gap that puts into question the massive rise in maltreatment identified by the simple analysis of law enforcement data. For instance, between 1996 and 2007, Etat 4001 shows a 140% increase in child maltreatment cases (from 6 037 to 14 483). For the same period, ODAS, using social service data, only reports a 20% increase (ODAS, 2007) of children in the care system identified as having been victims of CAN.

Furthermore, there are significant variations between territories and from year to the next, which may mean that the increase is at least in part due to a growing awareness of CAN issues among law enforcement professionals and/or different reporting practices more than on an increase of CAN cases. Although Etat 4001 gives an interesting overview of some types of abuse and their evolution, the main trend it reveals is not corroborated to the same extent by other sources.



Graph 2

The most straightforward indicator that is definitely available from Etat 4001 data is the number of homicides against under-15s. In this case, another database records these events and can be used for comparison: the *Centre d'épidémiologie sur les causes médicales de décès* (CépiDC: epidemiological centre on the medical causes of death) compiles all death certificates established by doctors and lists homicide as a cause of death. By adding up the numbers for all ages up to and including 14, a “bedrock” number can be identified, i.e. the number of deaths among children aged 0-14 identified as homicides by doctors (all deaths identified as homicides on the certificate lead to an investigation by law enforcement services). Graph 3 shows the evolution of homicides of children aged 0-14 as evidenced by Etat 4001 and CépiDC. Except for the year 2008, both databases show the same trends and corroborate each other. This is the one type of CAN for which solid data are available at national level.



Graph 3

### 2.1.2 - The population of children in care and current efforts to improve data collection

Outside of law enforcement data and data on the causes of death of under-15s, there are very few elements available. The lack of nation-wide statistics and data on child endangerment in France has been identified as a problem since the 1990s.

The main service providing help to children in danger, and among them victims of CAN, is the child protection system, which is organised at *département*-level (there are 101 *départements* in France) under the purview of the local political and administrative entity, the general council. The *département* is in charge of the social and educative services providing help once situations of danger have been ascertained, but also of collecting and assessing the information transmitted by professionals and individuals concerning possible situations of danger (and of liaising with the public prosecutor for cases involving penal offenses). Until 2007, there were two parallel systems, the administrative system (social services) for cases that didn't require judicial intervention, and the juvenile courts, the judicial body in charge of protecting minors (civil role) as well as of judging them when they offend (penal role), for cases which required immediate intervention or intervention regardless of the parent's wishes. No centralised system used to be in place to exchange information between the two "sides", but this has changed with the March 5, 2007 Law reforming child protection. *Département*-based social services have become crucial and central in all questions of CAN and child endangerment, with the President of the general council becoming the local "leader" of child protection and the services being tasked with the collection and treatment of all information giving rise to concern. There is considerable variation between the different *départements* in the way services are organised and how they interact with the different actors also involved in protecting children (see part 3 below), but the general legislative framework is defined by law and is therefore the same everywhere in France.

To help collect data and analyse the problems faced by children in the child protection system, a national Observatory of children in danger (*Observatoire national de l'enfance en danger*, ONED) has been created by law on January 2, 2004 as a part of the Public interest group for children in danger (*Groupement d'intérêt public enfance en danger*, GIPED) with the aim to "better understand the field of childhood in danger so as to better prevent and intervene". The March 5, 2007 Law reforming child protection has also increased ONED's role by creating *département*-level observatories of child protection (*Observatoires départementaux de la protection de l'enfance*, ODPE) and providing for the transmission of data from *départements* to the ODPE and ONED.

Despite there being a strong legal framework (consolidated by the February 28, 2011 Application decree) setting up this entity, the data collected so far are not complete, due to the ambitious nature of the observation system being created (it is individual, anonymous, longitudinal and centralised; and comprises 130 variables divided into 6 general categories) as well as to the serious discrepancies between *départements* in terms of organisation and software, which have practical consequences. A consensus-building process is currently underway to solve these problems (see part 2.2).

Despite the data collection system not being fully implemented yet, ONED's work has already produced some information on the child protection system and children in danger in France that sheds some light on the condition of children, and particularly of children victims of CAN in France.

As of December 31<sup>st</sup>, 2010 (ONED, 2013b), there are an estimated 273 000 minors who are concerned by at least one measure carried out by child protection services, which accounts for 19‰ of under-18s. This

number has increased slightly since 2003. In-home interventions represent a very significant part of measures: 53% as of December 31<sup>st</sup>, 2011 (this rate has remained stable since 2003). Of this total, 68.3% are judicially mandated (AEMO), the remaining 31.7% being decided in agreement with the family (administrative measure, AED).

Additionally, a study is carried out every year by the French child helpline service (*Service national d'assistance téléphonique à l'enfance en danger*, SNATED), which belongs to the same public interest group than ONED and manages the French child helpline, Allô 119, an emergency number that is accessible for free and confidentially in all areas of France. Out of 33 339 cases in 2012 treated by Allô 119 in 2012: over one-third (12 512) have been sent to the *départements* for assessment (as an *information préoccupante*/information giving rise to concern report [IP]). This represents 10% of all such reports in France. For 76.8% of these reports, Allô 119 has been sent feedback on the outcomes. In 69.7% of cases, CAN was reported through the IP that had not previously been known to services, which gives an idea of the relative volume of reports and population.

Other existing data from child protection services come from the work carried out by the national observatory for social action (*Observatoire national De l'Action Sociale décentralisée*, ODAS) between 1996 and 2007. According to these data, the proportion of children in the child protection system for whom experiences of CAN have been substantiated is 20%. If one presupposes that this level has remained similar (which is not necessarily the case), then by relating this to the evolutions of population in the care systems, there are 54 600 children (3.8 ‰ of the total population of persons aged 0-18 in France) who are in the care of child protection services and are or have been victims of CAN. This is the “bedrock” estimate: there is no data on the number of cases reported but not substantiated, and no definitive quantified estimation on the “dark number” of CAN cases that never even get reported or investigated.

A further extrapolation could be made on one specific type of abuse by comparing this data to the research conducted in 2005/2006 by the public Direction of research, studies, evaluation and statistics (*Direction de la recherche, des études, de l'évaluation et de la statistique*, DREES) on “life events and health” (*Événements de vie et santé* see Beck, Cavalin and Maillolchon, 2010). This retrospective survey on 10 000 respondents between the ages of 18 and 75 found that 0,2 % of men and 2,5 % of women 2005-2006 declared they had been victims of repeated sexual abuse when they were children or teenagers. Only 8% of these men and 20% of these women (in all, 19% of the reported victims) had received help from child protection services. In 2006, according to the ODAS survey, 4 300 children in the care system were survivors of child abuse. A very rough and questionable extrapolation of these data could estimate for that year the total number of children who had experienced sexual abuse at around 22 632. However, it should be noted that younger respondents in the DREES study were much more likely to have received help from the child protection system; that the definition used by DREES for sexual abuse excludes a number of cases that may have been covered by the ODAS definition; and that although both studies are reliable, the DREES study remains a victimization study.

Finally, an ambitious study on the life trajectories of a representative sample of 1500 young people who have exited the care system after the age of 10 has recently been initiated by INED, the national institute for demography (Frechon, 2013). The first partial results (809 respondents) indicate that 45% of them claim to have experienced some form of child abuse, and that this abuse had initially been identified by child protection services in 25% of cases (but it was frequently revealed later on during care).

## 2.2 – Critical review of the available data

Estimating the prevalence of CAN is therefore the main challenge with the existing data in France. The light shed by qualitative studies and limited-sample quantitative studies regarding the different types of child abuse and neglect in France, or regarding risk and protection factors, is blocked by the major hurdle constituted by the absence of reliable, recent data on France as a whole.

Though aggregated nation-wide data do exist and can be accessed, the databases of the different services involved use different counting methods and different definitions, which render comparisons and inter-connections impossible, even at bulk level. Two conditions are indeed prerequisites when trying to compare databases: the observation period must be the same, and the definition of variables absolutely similar. In the databases we have mentioned, there are obstacles that make cross-referring impossible.

The first is that these data are produced at very different intervals, even among *département* databases. Some are updated annually, while others are updated only when the *département*-wide protocol documents are modified.

Another problem is that the unit being observed and counted is rarely the child, which leads to double counts. SNATED counts phone calls, law enforcement forces count the number of complaints filed for CAN, while schools count the number of referrals to the courts for cases of children victims of abuse and/or perpetrators of violence...

Even within its limited framework, no single existing data collection system can claim to be all-inclusive: the data are not always transmitted, and not always at regular intervals.

An additional problem is that some data are collected before an intervention is decided, and some afterwards, with no linkage between one and the other.

Finally, it would be of prime importance to have data from medical services. But there are very few public statistics on the activity of hospital services outside of the field of infectious diseases, particularly when it comes to general practitioners and city or country doctors. The main existing database outside of the infectious-disease related mechanisms (Sentinelles or SOS Médecins) is the OSCOUR database regarding the activity of emergency services but it isn't set up in all hospitals- see Bousquet and Caserio-Schönemann (2012).

The need for more homogeneity and more information regarding children in danger has been recognized by the various actors involved, particularly concerning the data collected by ONED.

The February 28, 2011 Decree lists 130 variables that are considered fundamental to understand the population in care – and among it those who are/have been victims of CAN. These variables, selected using international recommendations and existing data in the various services' software, are divided into 6 categories: indications on the child (date of birth, gender, school information, disability), the source reporting the situation (date, function of the person), general characteristics of the caregivers and the household (family composition, living arrangements, information about the caregivers...), information on the situation itself after assessment, the measures taken, and the end or renewal of said measures. The aim is to create an anonymous database that gives information both on the situations and on the response given, and that allows for longitudinal studies on the trajectories of children. Because of complications linked to

differences between different *départements* (see ONED 2011b), this observation system is still being set up, but the difficulties it has experienced have led to a consensus-building process.

Through this process, variables have been redistributed according to the ease of extraction, from the simplest, unequivocal data collected by all, to those that can only be obtained after assessment, to those that require interconnection with other services and finally to those for which no consensual definition exists at the moment.

Alongside the elaboration of this ambitious surveillance mechanism, it would be useful for all to have a more operative tool for CAN itself, a tool that would be connected to case management, as this would mean more reactivity and the articulation of observation objectives and diagnostic/case-management tool.

## 3 – Legal Framework

### 3.1 - Legislation, policies and mandates for reporting and recording of CAN cases in different professional fields

#### 3.1.1 - Professional secrecy vs. obligation to report: the legal requirements

Finding the correct balance between the secrecy that must be maintained in order to work with families and children on the one hand, and the necessity to put an end to abusive situations by reporting them to the authorities on the other is a tricky equation for all professionals whose work leads them to witness or suspect situations of child abuse and neglect. Whereas the legislation in some other countries tend to err on the side of secrecy, the rule in France for suspected CAN sets a clear obligation to report and protects those who do report.

Article 434-1 of the penal code creates an obligation for all people (not only civil servants or certain professionals) to inform authorities of any felony they might know about when the consequences can be mitigated or reoccurrence prevented. The penalty can go up to 3 years in prison and a 45 000 EUR fine. This, however, is limited to felonies, and does not include misdemeanours: rape, for instance, must be reported, but not sexual assault. The added limitation on preventing reoccurrence or limiting effects also gives some margin of appreciation.

Additional, more detailed, rules apply for offenses against children and vulnerable persons. Article 434-3 of the penal code institutes an obligation to report for “deprivations, maltreatment or sexual offenses inflicted on children under the age of 15 (...)”. Here again, the penalty for failure to report can go up to 3 years in prison and a 45 000 EUR fine.

By contrast, unduly revealing information that one has received in the framework of professional secrecy entails a smaller penalty (up to a year in prison and a 15 000 EUR fine, article 226-13 of the Penal code). Furthermore, article 226-14 excludes from the scope of article 226-13 the cases in which the law authorises or demands disclosure, and specifically to persons reporting cases of child abuse and to doctors reporting cases of deprivation or abuse they have witnessed (with the victim’s consent, see below). In cases of suspected or witnessed child abuse and neglect in particular, the law is overwhelmingly in favour of reporting.

Officials and civil servants have an added responsibility and a particularly clear code of conduct when it comes to reporting felonies or crimes (including CAN). Article 40 of the penal procedure code specifies that they are to warn the public prosecutor immediately, and to send any and all information in their possession (*« Toute autorité constituée, tout officier public ou fonctionnaire qui, dans l'exercice de ses fonctions, acquiert la connaissance d'un crime ou d'un délit est tenu d'en donner avis sans délai au procureur de la République et de transmettre à ce magistrat tous les renseignements, procès-verbaux et actes qui y sont relatifs »*). This applies regardless of whether or not reoccurrence can be prevented or damage limited.

There are additional, specific articles that concern different types of professionals who are particularly in contact with children and give them a particular responsibility in the prevention and detection of child abuse.



**The Education code** gives a special responsibility to all persons who intervene in schools in a professional capacity: doctors, other health professionals, social workers, magistrates, teachers, anyone involved in sports, culture and recreation activities, as well as law enforcement professionals are all specifically listed by article 542-1 as having a role to play in the prevention and detection of child abuse and neglect. They are to receive mandatory sessions on CAN issues, especially sexual abuse, during their initial and ongoing training. Teachers in particular are at a particularly strategic position and are encouraged to voice their concerns.

**Doctors** also have a number of specific rules and permissions. Their obligation to report is not absolute, in that some level of discretion is theoretically possible in some situations, particularly when they do not have explicit consent from a victim aged 15-17. However, they are protected by article 226-14 of the Penal code if and when they decide to report situations of CAN, and they are also protected from disciplinary action. The Code of medical ethics insists in its article 43 that doctors must “defend the child when they feel that his or her best interests are not correctly understood or protected by the adults around them”. Article 44 explicitly states that when the victim of abuse is a child (or is otherwise incapacitated), doctors must alert the relevant authorities, through rare exceptions are possible.

**Social workers**, including those from child protection services (*Aide sociale à l'enfance*, ASE, see below) and medico-social professionals from PMI (*Protection maternelle et infantile*, see below), whose obligation of professional secrecy is particularly strict, have a particular regimen when it comes to reporting suspicions of child abuse and neglect. Article L 226-2.1 of the Code for social action and families gives them an obligation to report to the president of the general council (the political and administrative body that oversees social services in each *département*) or to his/her appointed representative all information giving rise to concern regarding children who might be in danger (according to the definition given by article 375 of the Civil code). In this case, the obligation to report goes beyond CAN, as children considered “in danger” are not necessarily victims of CAN.

### 3.1.2 - Reports, referrals and “information giving rise to concern”: different types of information

As the different systems and requirements according to different professional situations attest, while there is a clear obligation to report situations of CAN, *how* this information is reported is not self-evident. Social workers, including medico-social workers, report situations to their hierarchy, which then decides what to do. Other codes don't say to whom the report should be made, using the all-encompassing “authorities”.

In situations of extreme and obvious danger, which require immediate action, alerting the justice system is fairly straightforward. But when a professional has suspicions as opposed to certainties, or when there is danger but not enough to warrant judicial action, the judicial system may not be of much use: in those cases, reporting the situation to the child protection system for assessment is more adequate.

Knowing to whom one should report situations was all the more confusing until 2007, since some *départements* had instituted special inter-service committees for the assessment of situations, while others hadn't. Since child protection services are organized at *département*-level, albeit in accordance with the law, which is decided at national level, there was and still is considerable variation in the organisation of services from one *département* to the next. Until the March 5, 2007 Law reforming child protection, there was no provision in the law to organise the way *départements* dealt with reports.

To remedy the relative swamping of judicial services that was a consequence of this fairly confused situation, the March 5, 2007 Law changed the vocabulary, distinguishing between *signalement*, the formalized report

to judicial services, and *informations préoccupantes*, information giving rise to concern, any type of information that warrants some form of assessment of a situation by social services, even when the person reporting the information is not certain that any CAN is involved. Each *département* has set up its own reporting and assessment unit, usually called CRIP (*cellule de recueil des informations préoccupantes*) and a protocol with the judicial system. The following chart shows the circuit of information giving rise to concern:



Chart 1

Although direct referral to the justice system still exists for situations of emergency and extreme danger, the standard course of action is to send the information to the CRIP as “information giving rise to concern”. The CRIP then assesses and decides whether the situation should be referred to the justice system, should lead to an intervention or a longer investigation by social services; or if doesn’t warrant any kind of action at all. If a report is made directly to the justice system but doesn’t justify a judicial intervention, the report is transmitted to the CRIP.

This reform has also simplified data collection at national level.

The January 2nd, 2004 Law regarding the care and protection of children had created ONED as a part of the GIPED with the aim to “better understand the field of childhood in danger so as to better prevent and intervene”. One of the missions listed by the law was to collect data regarding child protection so as to reach a quantified estimation of how many children are concerned by child protection. With the March 5, 2007 Law, the creation of CRIP units in each *département* de facto creates an entry point for child protection services: a further decree on February 28, 2011 structures ONED’s observation system around the study of information giving rise to concern. The creation of a network, around ONED, of *département*-level observatories (*observatoires départementaux de la protection de l’enfance*, ODPE) by the 2007 Law, also demonstrates the effort made by the legislator to collect these data.

Despite the unavoidable difficulties in setting up the system, which have been described previously, there exists a strong framework to collect data on children in danger, and among them on child abuse and neglect, and the strength of this system is that it shadows the reporting and assessment protocols defined by law.

## 3.2 – Legal provisions for administration of sensitive personal data

The general framework for the administration of sensitive personal data is set by the January 6, 1978 Law No 78-17. This law sets a number of definitions, among which the definition of treatments of personal data:

*“Constitutes a treatment of personal data any operation or group of operations that relate to such data, whatever means are used. This includes collecting, recording, organising, conserving, adapting or modifying, extracting, consulting, using, communicating via broadcast, diffusion or any other type of publication, comparing or interconnecting, as well as encrypting, deleting or destructing these data” (Article 2).*

The processes concerned by this law therefore include virtually any type of data collection, whatever the means. Personal data relates to any data that could lead to the identification of the persons involved (which goes beyond names, and also includes, for instance, date of birth). Sensitive personal data are personal data that concern health, political or religious beliefs, or criminal records.

All treatments of personal data should be declared to the national organism in charge of supervising them and enforcing the 1978 Law, the national commission on information technologies and freedom (*Commission nationale informatique et libertés*, CNIL), though there are simplified processes for some types of everyday treatments. When the data in question are sensitive, then an explicit authorisation should be obtained from CNIL before implementing the system. It should be noted that article 8-1 of the 1978 law explicitly forbids the collection of “ethnic” or “racial” data, which are considered on par with other sensitive data. Article 226-19 of the Penal code sets a 300 000 EUR fine, as well as 5 years in prison, for anyone who collects this sensitive data outside of narrowly described exceptions, which are the grounds on which CNIL grants its authorisations (CNIL, 2013).

To ask for such an authorisation, it is necessary to answer a questionnaire on the purpose of the data collection, the validity of the tools used, the physical and logical security of the system, and the length of time for which the data will be kept. The tools themselves (questionnaires etc) must also be sent to CNIL. CNIL has very strict rules regarding the protection of the anonymous nature of information collected, and has issued a number of guidelines on double encryption and other processes on its website [www.cnil.fr](http://www.cnil.fr).

In addition, before asking for authorisation from the CNIL, researchers with projects concerning health are required by law (article 54 of the January 6, 1978 Law) to refer to the Consultative Committee on the treatment of information in the framework of research on health (*Comité consultatif sur le traitement de l'information en matière de recherche dans le domaine de la santé*, CCTIRS), which evaluates the relevance of the chosen tools and methods to the desired aim, and provides advice.

Still in the field of health, Consultative committees to protect persons inside of bio-medical research (*Comité consultatif de protection des personnes dans la recherche biomédicale*, CCPPRB), have been created in 1988 and are mentioned in the Public health code. They have become Committees for the protection of persons (*Comités de Protection des Personnes*, CPP) in 2006. They are in charge of weighing the merits, risks and information of research projects involving volunteers, be they ill or not.

In addition to these particularly important, legally-defined institutions, there are a number of specific advisory committees that issue non-binding recommendations for different sciences. Of particular note are the National committee on statistical information (*Commission nationale de l'information statistique*, CNIS)

for public statistics and the National consultative council of ethics (*Conseil consultatif national d'éthique*, CCNE) for life sciences and medicine.

## 4 - Brief overview of child maltreatment prevention and child protection in France

### 4.1 – Roles and responsibilities

In addition to the circuit of information described in part 3.1.2, the following chart (Chart 2) gives a number of indications on the general framework defined by the March 5, 2007 Law. It includes a few activity figures regarding the decisions taken by social services and the judicial system for the protection of children, based on the data from 2012 (ONED 2013b). Services indicated in blue are “administrative” (= specialised or general social services). The justice system, indicated in red, can take action when there is emergency or immediate danger, or when the family refuses administrative intervention, or when an intervention in agreement with the family is ruled out. The in-home or placement measures decided by the judicial system are predominantly carried out by professionals from the social services.

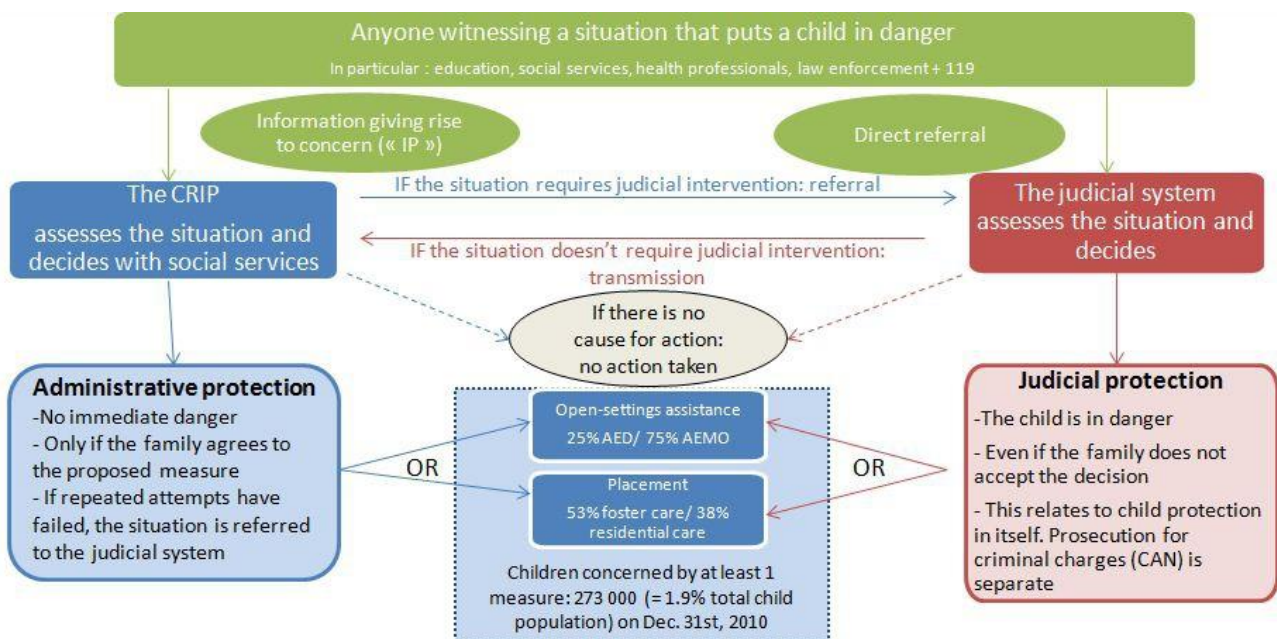


Chart 2

Agencies and services who are particularly tasked with the prevention of CAN and the protection of children involve at varying degree a wide number of actors from various services. The following categories are the main types of actors that can be listed.

#### Social and socio-educative branch

##### - Département-level social services

**Generalized social services** (*service sociaux départementaux polyvalents, SSDP*) are accessible to all and can come across situations of danger. They are involved in the assessment of situations inside the CRIP and can provide help to the family if the CRIP decides that this is the best course of action. Depending on the family's means and composition, they can provide assistance, either financially or through family counselling for instance

**Medico-social services for mothers and children** (*Protection maternelle et infantile*, PMI) are specialised mother and child universal-access health care centres from pregnancy to age 6. PMI services are available everywhere; their mission is to ensure health prevention, screening and vaccination for all children. They also include mental health services. They are available to all children. There are 20 mandatory health visits between birth and the age of 6 for all children; these visits are organized by the PMI and are 100% reimbursed by the French health care system

**The specialised social services for children** (*Aide sociale à l'enfance*, ASE) are the main actor in charge of child protection. Most child protection measures, whether in-home or through placement in foster family care or in residential care, are carried out by ASE or ASE-affiliated organisations, regardless of the origin of the measure (judicially mandated or decided in agreement with the family by administrative services).

#### **- Other social services and related organisations**

Municipality-based social action centres (CCAS) also exist, though the help they provide is more limited in nature and quantity than *département*-based social services. There is also a specific social service inside schools.

Many different organisations provide some sort of help to families and can have a role akin to social services. These actors can be confronted to situations of child abuse and neglect and report these situations to the CRIP or to the justice system.

### **Law enforcement and the Justice system**

- **Juvenile courts** (*tribunaux pour enfants*) are specialised jurisdictions. Juvenile courts play a key role in the child protection since only they can intervene in situations of immediate danger or when it becomes necessary to override or do without the parents' will. Established by the February 2nd, 1945 Ordinance on Juvenile justice completed by the 1958 Decree granting them a formalised educative role, these courts have two functions: they give a judicial response to offenses committed by minors (penal role), and they provide protection and educative assistance to children who are in danger (educative role). These courts are mentioned both in the Civil code and in the Code for social affairs and families; they are distinct from other courts in that they are not specialised in terms of infractions but in terms of public: the idea is to guarantee that in all matters regarding children (under-18s), the primacy of educative action over all other considerations will be maintained.

- **The judicial child protection services** (*Protection judiciaire de la jeunesse*, PJJ) are a specialised educative service that caters to children in danger, particularly those who have been convicted of penal offenses. Although they are important, they represent a very small proportion of all child protection measures.

- **The brigade for the protection of minors** (*Brigade de protection des mineurs*, BPM) is a specialised branch of police services that deals with offenses committed against minors. It deals with a wide variety of situations. In 2010, BPM at national level has overseen 1 006 penal cases for a total of 777 alleged perpetrators, 401 of which have been placed in custody. It has also led 1 659 investigations on the basis of information transmitted by judicial services and other police services. It has also investigated 1 795 cases of missing children, nearly all of which have been solved.

- Other **law enforcement services** (police at national or city-level, *gendarmerie*) can in the course of their work elucidate or reveal situations of child abuse and neglect.

- Professionals specialised in the **protection of victims of intimate partner violence** also cater to children who frequently are victims of CAN, either through exposure to this violence or through additional acts of violence targeting children (co-occurrence). Persons involved in law-enforcement related programmes to protect victims as well as NGOs working to protect victims of intimate partner violence are therefore in contact with victims of CAN and child protection services.

### **Education**

School obligation lasts from age 6 to age 16 in France. Before that, most children are schooled at age 3 (80% of 3-year-olds), and some as early as age 2 (13% of 2 year-olds). Schools therefore have an important role to play in preventing CAN and in providing children with safe surroundings and qualified professionals who can help them when they are experiencing CAN.

Teachers receive particular training on preventing and detecting CAN. The presence within the school of social services specifically targeting pupils (*services sociaux en faveur des élèves*), as well as of specialised medical services, are a great asset for them. This explains why most CRIP have a formalised inter-agency protocol with the public school system, and why in the 2011 survey of information giving rise to concern, most *départements* identified schools as the main sources of information and referrals (2011b).

### **Other services**

#### **Health and medicine**

Hospitals, doctors and other types of health practitioners are crucial in identifying and investigating cases of CAN. **Specialised medico-judicial services** (*unités d'accueil médico-judiciaires*, UAMJ) have been set up in a number of locations in France to help give appropriate attention to children victims of abuse. General practitioners have a key role to play in the detection of CAN.

#### **Other professionals working with children**

The list of all professionals working with children inside and outside schools given by article 542-1 of the Code of education is an indication of all those persons who according to the law are given a special role in preventing and detecting CAN.

### 4.1.1 - Agencies mandated with the recording of child abuse and neglect cases

The agencies involved in child protection that have been mentioned have case-management information on families and children who may be victims of CAN. However, the information is collected according to different methodologies, without a standardized, inter-service protocol specifically to screen for CAN; and most importantly this information is not recorded in the specific framework of data collection and analysis.

The only organism with a clear mandate at national level to collect information regarding children in danger in France, as was previously mentioned, is ONED. Local-level observatories (ODPEs) and ONED at national level are tasked with the collection and analysis of information giving rise to concern in France, and part of the variables that these observatories collect concern CAN. Closest to the case-management level are ODPEs.

Setting up an ODPE is a legal obligation stemming from the March 5th, 2007 Law (*Code de l'action sociale et des familles*, article L 226-3-1). According to the data collected by ONED (2013b), more than half of all *départements* had set up their observatory by the end of the year 2012, and 19 were about to open in the near future. However, out of 54 existing ODPEs, only 18 have one or more full-time employee(s) operating them.

Most *départements* have set up an organisation that revolves around all or part of the following elements: a strategic steering entity sets up the operational framework; a technical committee or various issue-oriented committees give an overview of the field and emit a series of recommendations. A *département*-level conference convenes each year to present what has been done and to follow the progress of setting up the inter-agency circuits. The issues on which to focus are determined at the same time as the tools and procedures to collect information are set up. Through the inter-agency work permitted by each of these entities, the ODPE gives a contextualised, territory-based analysis of child protection.

There is a positive trend in the setting up of ODPE inside the different *départements*. On the long run, this common approach implies setting up networks and provides for cooperation between observatories so as to articulate findings and methods.

ONED is in charge of articulating and animating this network, and is therefore uniquely positioned to help gather their needs and feedback as well as provide them with tools that can help them in their mission.

The setting up of ODPEs at the same time as that of CRIP has led to differing perimeters of how information giving rise to concern is coded and counted in different *départements* (ONED, 2011b). This kink is currently being ironed out by the consensus-building process all actors involved have agreed on, and which has already led to a number of recommendations by Legros et al. (2013). Through a double encryption system that protects the anonymity of the information collected, it will be possible to link together data regarding specific situations over time.



### **4.2.1 - Creating synergies: *Who could participate in the CAN-MDS? Core and extended national CAN-MDS groups***

The main synergies to be developed concern the link between case management-level and data collection system operators, so as to have an MDS that is useful to practitioners as well as coherent for the persons managing and analysing the database.

Therefore, a core group should be organised around the personnel who, at *département*-level, operate the ODPEs, as well as representatives from the CRIPs in *départements* that haven't implemented an ODPE yet. Since the CRIP is in charge of the first inter-professional assessment of the situation, the persons who are involved in them are particularly aware of the practical realities of multi-disciplinary analysis.

An extended national group should involve the main types of professionals who deal with cases of potential CAN.

The broad field of social services should be represented in the consultation regarding the MDS (social workers, educators from ASE, medico-social professionals from PMI), perhaps also including management-level professionals from the *départements* whose operational point of view would be very useful. It may be relevant to include persons from an accredited NGO working with child protection services, since their organisational realities may be different.

Similarly, the services of juvenile court judges or deputy public prosecutors in charge of minors should be associated to the creation of the MDS, as well as PJJ representatives and specialised investigators from the BPM.

Health professionals are of course to be included, both general practitioners and those who work inside the specialised medico-judicial services for children.

### 4.3 – Available infrastructures and resources

In the framework of the CAN via MDS project, ONED has a unique position in its national context with regard to other partners, mainly because it already has a legally-based mandate to collect data on situations of danger, especially CAN, and is already fairly advanced in the process of setting up this observation system. Although many issues in the French context may arise around using common tools for case-management and data-entry, such as the proposed MDS, ONED is unquestionably the only agency in the French context with the standing and network to undertake such an endeavour, thanks to its relationship with *départements* and the ODPEs. In addition to ONED and ODPEs, which collect data that can be linked to study the evolution of situations over time, there are a number of registries and agencies who collect valuable data that can be used to consolidate an analysis of CAN in France.

- **The Directorate of research, studies, evaluation and statistics** (*Direction de la Recherche, des études, de l'évaluation et de la statistique*, DREES) gives precious indications regarding all in-home measures and placement carried out or financed by ASE (as well as the reasons for placement), the number and profiles (gender, age) of children receiving help, and the exchange of information between courts and social services. There are also elements regarding the number of available places in ASE institutions, and ASE spending per capita (total population and/or beneficiaries). These data are aggregated at national level, but are nonetheless very interesting to study the child protection system's activity as a response to situations of danger and CAN.

- **The Directorate of the judicial protection of youth** (*Direction de la Protection judiciaire de la jeunesse*, DPJJ) collects data on the measures it carries out. This is useful in addition to the elements from social services. The data are aggregated.

- **Child helpline Allô 119**, the national phone helpline for children in danger (SNATED) has a very interesting database which is analysed every year using the same variables and methods. As opposed to other databases, this is flow data that can lead to some trajectory analysis. It is, however, limited due to possible "recruitment" bias and inconsistencies in the information received because of the medium used (telephone) and its anonymous nature. The data collected concerns the calls received, cases treated and reports sent; there are also data on callers, children described and alleged perpetrator, and some follow-up elements regarding the information giving rise to concern sent to the *département* services.

- **Juvenile justice courts** collect stock data on the number of children in danger for whom a case has been opened in the justice system.

- **Etat 4001**, as has been described, has stock data on the number of complaints filed for CAN cases and on the findings of law enforcement services.

- **The public school system** (*Education nationale*) has stock data on the reports by education professionals to the CRIP on cases of CAN, as well as aggregated data from social services and health professionals on the number of children with specific problems

- **The epidemiological centre on the medical causes of death** (CépiDC) publishes aggregated data on the causes of death by age and by cause of death. Some of them can be identified as CAN (please note there is no category for shaken baby syndrome).

It should be noted that to consolidate a database through an MDS, no interconnection of databases should be required, even to these agencies, though their aggregated data can be used as element of comparison and reflection. Any new treatment of data in addition to the existing system would require a preliminary agreement by CNIL.

## 5 - Advocating towards the adoption of a CAN-MDS

**The process** of getting together professionals from all services that respond to CAN cases would in and of itself be precious in light of the necessary integrated approach services are bound to develop in the framework of the March 5, 2007 Law and the creation of CRIPs. Developing common, inter-service tools, even if it is limited to the adaptation and adoption of an MDS, would help representatives from the various fields to reflect on the definitions and requirements they use in their practice, and to reach common grounds for the analysis of CAN.

Many different sectors, each with its own professional culture(s), interact in the framework of child protection and family support: health, social work, justice, housing and employment are all areas that should be better articulated to better identify situations and improve the system's response to them. For instance, general practitioners are frequently not aware of how the child protection system works and frequently do not adequately report situations they are faced with that would require intervention: getting some momentum around a common effort would help develop a **common culture of prevention and intervention**.

Advantages to developing a CAN-MDS are therefore numerous, even on the short term. On the longer term, the **full implementation of a CAN-MDS** would also help remedy the lack of data on this particular question in France.

The absence of data on child abuse and neglect in France is a major issue both for practitioners working in the field of child protection and for decision-makers at political and legislative level. Raising awareness and evaluating the needs of victims both require a fairly updated estimation of how many cases there are, what types of abuse and neglect are more prevalent than others, to adapt prevention and response strategies.

And yet there is a consensus among all actors of the field that there is indeed need for more actions against child abuse and neglect. The latest national campaign to raise awareness on CAN occurred in 1997. Following an evaluation in 2007, the necessity for more campaigns of the sort has been identified and has become a concern of public authorities.

Limited initiatives have taken place in this framework. In 2012, a charter on the protection of children in the media has been signed by the Ministry for family and a number of actors of the field giving a few guidelines on child protection issues to the media and to ensure that they would broadcast information on resources against CAN. 135 000 posters advertising child helpline 119 have been posted in 68 000 schools.

But a wider, ambitious campaign to prevent CAN and promote existing resources for victims and witnesses has still not been launched. A very active campaign to make CAN the issue of the year 2014 has received favourable attention from the deputy Minister for Families.

One very practical problem linked to this absence of data is that it is difficult to identify the main issues that lead to the detection of CAN cases, and the different factors that seem to have an impact on child protection.

Providing a simple tool to help detect and understand CAN would be invaluable in this framework, in parallel to the development of ONED's database and observation system: it could fairly quickly provide some information, and could help practitioners in the analysis of cases using common references and tools.

## 5.1 - Recent and on-going developments

The main challenge of the French protection system could be summarised in the question of developing a more integrated, holistic, approach, and this goes for data collection and reporting practices as well as for the organisation of services at central level.

Information and interventions are scattered between different actors, it is very difficult to get a general overview of standards and practices in France, although this is necessary if equality of treatment is to be maintained.

The 2013 consensus-building process initiated to help set up a solid observation system for ONED represents a first step in getting experts from these different fields together. The expert committee has released a number of recommendations: in particular, the different variables have been divided into 4 categories in terms of availability. ONED should be able to publish its first consolidated scoreboard for group-1 variables during the last trimester of 2014. As it currently is, the observation system set up by ONED already provides some much-needed information on child protection; and when it is completely consolidated we should be able to have a better understanding of these children's situation and trajectories.

The perspective of consolidating an MDS for the detection and surveillance of CAN would be a welcome development that could help enhance and accompany this momentum.

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