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Child Abuse Reporting

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For 30 years, advocates, program administrators, and politicians have joined to encourage even more reports of suspected child abuse and neglect. Their efforts have been spectacularly successful, with about three million cases of suspected child abuse having been reported in 1993. Large numbers of endangered children still go unreported, but an equally serious problem has developed: Upon investigation, as many as 65 percent of the reports now being made are determined to be “unsubstantiated,” raising serious civil liberties concerns and placing a heavy burden on already overwhelmed investigative staffs.

These two problems—nonreporting and inappropriate reporting—are linked and must be addressed together before further progress can be made in combating child abuse and neglect. To lessen both problems, there must be a shift in priorities—away from simply seeking more reports and toward encouraging better reports.

Reporting Laws

Since the early 1960s, all states have passed laws that require designated professionals to report specified types of child maltreatment. Over the years, both the range of designated professionals and the scope of reportable conditions have been steadily expanded.

Initially, mandatory reporting laws applied only to physicians, who were required to report only “serious physical injuries” and “nonaccidental injuries.” In the ensuing years, however, increased public and professional attention, sparked in part by the number of abused children revealed by these initial reporting laws, led many states to expand their reporting requirements. Now almost all states have laws that require the reporting of all forms of suspected child maltreatment, including physical abuse, physical neglect, emotional maltreatment, and, of course, sexual abuse and exploitation.

Under threat of civil and criminal penalties, these laws require most professionals who serve children to report suspected child abuse and neglect. About twenty states require all citizens to report, but in every state, any citizen is permitted to report.

These reporting laws, associated public awareness campaigns, and professional education programs have been strikingly successful. In 1993, there were about three million reports of children suspected of being abused or neglected. This is a twenty-fold increase since 1963, when

about 150,000 cases were reported to the authorities. (As we will see, however, this figure is bloated by reports that later turn out to be unfounded.)

Many people ask whether this vast increase in reporting signals a rise in the incidence of child maltreatment. Recent increases in social problems such as out-of-wedlock births, inner-city poverty, and drug abuse have probably raised the underlying rates of child maltreatment, at least somewhat. Unfortunately, so many maltreated children previously went unreported that earlier reporting statistics do not provide a reliable baseline against which to make comparisons. One thing is clear, however: The great bulk of reports now received by child protective agencies would not be made but for the passage of mandatory reporting laws and the media campaigns that accompanied them.

This increase in reporting was accompanied by a substantial expansion of prevention and treatment programs. Every community, for example, is now served by specialized child protective agencies that receive and investigate reports. Federal and state expenditures for child protective programs and associated foster care services now exceed \$6 billion a year. (Federal expenditures for foster care, child welfare, and related services make up less than 50 percent of total state and federal expenditures for these services; in 1992, they amounted to a total of \$2,773.7 million. In addition, states may use a portion of the \$2.8 billion federal Social Services Block Grant for such services, though detailed data on these expenditures are not available. Beginning in 1994, additional federal appropriations funded family preservation and support services.)

As a result, many thousands of children have been saved from serious injury and even death. The best estimate is that over the past twenty years, child abuse and neglect deaths have fallen from over 3,000 a year—and perhaps as many as 5,000—to about 1,100 a year. In New York State, for example, within five years of the passage of a comprehensive reporting law, which also created specialized investigative staffs, there was a 50 percent reduction in child fatalities, from about two hundred a year to less than one hundred. (This is not meant to minimize the remaining problem. Even at this level, maltreatment is the sixth largest cause of death for children under fourteen.)

Unreported Cases

Most experts agree that reports have increased over the past thirty years because professionals and laypersons have become more likely to report apparently abusive and neglectful situations. But the question remains: How many more cases still go unreported?

Two studies performed for the National Center on Child Abuse and Neglect by Westat, Inc., provide a partial answer. In 1980 and then again in 1986, Westat conducted national studies of the incidence of child abuse and neglect. (A third Westat incidence study is now underway.) Each study used essentially the same methodology: In a stratified sample of counties, a broadly representative sample of professionals who serve children was asked whether, during the study period, the children they had seen in their professional capacities appeared to have been abused or neglected. (Actually, the professionals were not asked the ultimate question of whether the children appeared to be “abused” or “neglected.” Instead, they were asked to identify children

with certain, specified harms or conditions, which were then decoded into a count of various types of child abuse and neglect.)

Because the information these selected professionals provided could be matched against pending cases in the local child protective agency, Westat was able to estimate rates of nonreporting among the surveyed professionals. It could not, of course, estimate the level of unintentional nonreporting, since there is no way to know of the situations in which professionals did not recognize signs of possible maltreatment. There is also no way to know how many children the professionals recognized as being maltreated but chose not to report to the study. Obviously, since the study methodology involved asking professionals about children they had seen in their professional capacities, it also did not allow Westat to estimate the number of children seen by nonprofessionals, let alone their nonreporting rate.

Westat found that professionals failed to report many of the children they saw who had observable signs of child abuse and neglect. Specifically, it found that in 1986, 56 percent of apparently abused or neglected children, or about 500,000 children, were not reported to the authorities. This figure, however, seems more alarming than it is: Basically, the more serious the case, the more likely the report. For example, the surveyed professionals reported over 85 percent of the fatal or serious physical abuse cases they saw, 72 percent of the sexual abuse cases, and 60 percent of the moderate physical abuse cases. In contrast, they only reported 15 percent of the educational neglect cases they saw, 24 percent of the emotional neglect cases, and 25 percent of the moderate physical neglect cases.

Nevertheless, there is no reason for complacency. Translating these raw percentages into actual cases means that in 1986, about 2,000 children with observable physical injuries severe enough to require hospitalization were not reported and that more than 100,000 children with moderate physical injuries went unreported, as did more than 30,000 apparently sexually abused children. And these are the rates of nonreporting among relatively well-trained professionals. One assumes that nonreporting is higher among less-well-trained professionals and higher still among laypersons.

Obtaining and maintaining a high level of reporting requires a continuation of the public education and professional training begun thirty years ago. But, now, such efforts must also address a problem as serious as nonreporting: inappropriate reporting.

At the same time that many seriously abused children go unreported, an equally serious problem further undercuts efforts to prevent child maltreatment: The nation's child protective agencies are being inundated by inappropriate reports. Although rules, procedures, and even terminology vary -- some states use the phrase "unfounded," others "unsubstantiated" or "not indicated" -- an "unfounded" report, in essence, is one that is dismissed after an investigation finds insufficient evidence upon which to proceed.

Unsubstantiated Reports

Nationwide, between 60 and 65 percent of all reports are closed after an initial investigation determines that they are “unfounded” or “unsubstantiated.” This is in sharp contrast to 1974, when only about 45 percent of all reports were unfounded.

A few advocates, in a misguided effort to shield child protective programs from criticism, have sought to quarrel with estimates that I and others have made that the national unfounded rate is between 60 and 65 percent. They have grasped at various inconsistencies in the data collected by different organizations to claim either that the problem is not so bad or that it has always been this bad.

To help settle this dispute, the American Public Welfare Association (APWA) conducted a special survey of child welfare agencies in 1989. The APWA researchers found that between fiscal year 1986 and fiscal year 1988, the weighted average for the substantiation rates in thirty-one states declined 6.7 percent—from 41.8 percent in fiscal year 1986 to 39 percent in fiscal year 1988.

Most recently, the existence of this high unfounded rate was reconfirmed by the annual Fifty State Survey of the National Committee to Prevent Child Abuse (NCPCA), which found that in 1993 only about 34 percent of the reports received by child protective agencies were substantiated.

The experience of New York City indicates what these statistics mean in practice. Between 1989 and 1993, as the number of reports received by the city’s child welfare agency increased by over 30 percent (from 40,217 to 52,472), the percentage of substantiated reports fell by about 47 percent (from 45 percent to 24 percent). In fact, the number of substantiated cases—a number of families were reported more than once—actually fell by about 41 percent, from 14,026 to 8,326. Thus, 12,255 additional families were investigated, while 5,700 fewer families received child protective help.

The determination that a report is unfounded can only be made after an unavoidably traumatic investigation that is inherently a breach of parental and family privacy. To determine whether a particular child is in danger, caseworkers must inquire into the most intimate personal and family matters. Often it is necessary to question friends, relatives, and neighbors, as well as school teachers, day-care personnel, doctors, clergy, and others who know the family.

Laws against child abuse are an implicit recognition that family privacy must give way to the need to protect helpless children. But in seeking to protect children, it is all too easy to ignore the legitimate rights of parents. Each year, about 700,000 families are put through investigations of unfounded reports. This is a massive and unjustified violation of parental rights.

Few unfounded reports are made maliciously. Studies of sexual abuse reports, for example, suggest that, at most, from 4 to 10 percent of these reports are knowingly false. Many involve situations in which the person reporting, in a well-intentioned effort to protect a child, overreacts to a vague and often misleading possibility that the child may be maltreated. Others involve

situations of poor child care that, though of legitimate concern, simply do not amount to child abuse or neglect. In fact, a substantial proportion of unfounded cases are referred to other agencies for them to provide needed services for the family.

Moreover, an unfounded report does not necessarily mean that the child was not actually abused or neglected. Evidence of child maltreatment is hard to obtain and might not be uncovered when agencies lack the time and resources to complete a thorough investigation or when inaccurate information is given to the investigator. Other cases are labeled unfounded when no services are available to help the family. Some cases must be closed because the child or family cannot be located.

A certain proportion of unfounded reports, therefore, is an inherent--and legitimate--aspect of reporting suspected child maltreatment and is necessary to ensure adequate child protection. Hundreds of thousands of strangers report their suspicions; they cannot all be right. But unfounded rates of the current magnitude go beyond anything reasonably needed. Worse, they endanger children who are really abused.

The current flood of unfounded reports is overwhelming the limited resources of child protective agencies. For fear of missing even one abused child, workers perform extensive investigations of vague and apparently unsupported reports. Even when a home visit based on an anonymous report turns up no evidence of maltreatment, they usually interview neighbors, school teachers, and day-care personnel to make sure that the child is not abused. And even repeated anonymous and unfounded reports do not prevent a further investigation. But all this takes time.

As a result, children in real danger are getting lost in the press of inappropriate cases. Forced to allocate a substantial portion of their limited resources to unfounded reports, child protective agencies are less able to respond promptly and effectively when children are in serious danger. Some reports are left uninvestigated for a week and even two weeks after they are received. Investigations often miss key facts, as workers rush to clear cases, and dangerous home situations receive inadequate supervision, as workers must ignore pending cases as they investigate the new reports that arrive daily on their desks. Decision making also suffers. With so many cases of unsubstantiated or unproven risk to children, caseworkers are desensitized to the obvious warning signals of immediate and serious danger.

These nationwide conditions help explain why from 25 to 50 percent of child abuse deaths involve children previously known to the authorities. In 1993, the NCPCA reported that of the 1,149 child maltreatment deaths, 42 percent had already been reported to the authorities. Tens of thousands of other children suffer serious injuries short of death while under child protective agency supervision.

In a 1992 New York City case, for example, five-month-old Jeffrey Harden died from burns caused by scalding water and three broken ribs while under the supervision of New York City's Child Welfare Administration. Jeffrey Harden's family had been known to the administration for more than a year and half. Over this period, the case had been handled by four separate caseworkers, each conducting only partial investigations before resigning or being reassigned to new cases. It is unclear whether Jeffrey's death was caused by his mother or her boyfriend, but

because of insufficient time and overburdened caseloads, all four workers failed to pay attention to a whole host of obvious warning signals: Jeffrey's mother had broken her parole for an earlier conviction of child sexual abuse, she had a past record of beating Jeffrey's older sister, and she had a history of crack addiction and past involvement with violent boyfriends.

Here is how two of the Hardens' caseworkers explained what happened: Their first caseworker could not find Ms. Harden at the address she had listed in her files. She commented, "It was an easy case. We couldn't find the mother so we closed it." Their second caseworker stated that he was unable to spend a sufficient amount of time investigating the case, let alone make the minimum monthly visits because he was tied down with an overabundance of cases and paperwork. He stated, "It's impossible to visit these people within a month. They're all over New York City." Just before Jeffrey's death every worker who had been on the case had left the department. Ironically, by weakening the system's ability to respond, unfounded reports actually discourage appropriate ones. The sad fact is that many responsible individuals are not reporting endangered children because they feel that the system's response will be so weak that reporting will do no good or may even make things worse. In 1984, a study of the impediments to reporting conducted by Jose Alfaro, coordinator of the New York City Mayor's Task Force on Child Abuse and Neglect, concluded that "professionals who emphasize their professional judgment, have experienced problems in dealing with the child protective agency, and are more likely to doubt the efficacy of protective service intervention, are more likely not to report in some situations, especially when they believe they can do a better job helping the family."

Shifting Priorities

The emotionally charged desire to "do something" about child abuse, fanned by repeated and often sensational media coverage, has led to an understandable but counterproductive overreaction on the part of the professionals and citizens who report suspected child abuse. For thirty years, advocates, program administrators, and politicians have all pushed for more reporting of suspected child abuse and neglect.

Potential reporters are frequently told to "take no chances" and to report any child for whom they have the slightest concern. There is a recent tendency to tell people to report children whose behavior suggests that they may have been abused—even in the absence of any other evidence of maltreatment. These "behavioral indicators" include, for example, children who are unusually withdrawn or shy as well as children who are unusually friendly to strangers. However, only a small minority of children who exhibit such behaviors have actually been maltreated.

Thirty years ago, even fifteen years ago, when many professionals were construing their reporting obligations narrowly to avoid taking action to protect endangered children, this approach may have been needed. Now, though, all it does is ensure that child abuse hotlines will be flooded with inappropriate and unfounded reports.

Few people fail to report because they do not care about an endangered child. Instead, they may be unaware of the danger the child faces or of the protective procedures that are available. A study of nonreporting among teachers, for example, blamed their "lack of knowledge for detecting symptoms of child abuse and neglect." Likewise, few inappropriate or unfounded

reports are deliberately false statements. Most involve an honest desire to protect children coupled with confusion about what conditions are reportable.

Confusion about reporting is largely caused by the vagueness of reporting laws and aggravated by the failure of child protective agencies to provide realistic guidance about deciding to report. In 1987, a national group of thirty-eight child protection professionals from nineteen states met for three days at Airlie House, Virginia, under the auspices of the American Bar Association's National Legal Resource Center for Child Advocacy and Protection in association with the American Public Welfare Association and the American Enterprise Institute. The "Airlie House group," as it has come to be called, developed policy guidelines for reporting and investigative decision making. (I was the rapporteur for the effort.) One of the group's major conclusions was that "better public and professional materials are needed to obtain more appropriate reporting." The group specifically recommended that "educational materials and programs should: (1) clarify the legal definitions of child abuse and neglect, (2) give general descriptions of reportable situations (including specific examples), and (3) explain what to expect when a report is made. Brochures and other materials for laypersons, including public service announcements, should give specific information about what to report—and what not to report."

Based on these recommendations, a relatively clear agenda for reform emerges; we must

1. clarify child abuse reporting laws,
2. provide continuing public education and professional training,
3. screen reports,
4. modify liability laws,
5. give feedback to persons who report, and
6. adopt an agency policy.

Clarify child abuse reporting laws. Existing laws are often vague and overbroad. They should be rewritten to provide real guidance about what conditions should and should not be reported. This can be accomplished without radically departing from present laws or practices. The key is to describe reportable conditions in terms of specific parental behaviors or conditions that are tied to severe and demonstrable harms (or potential harms) to children.

It would help, for example, to make a distinction between direct evidence, meaning firsthand accounts or observations of seriously harmful parental behavior, and circumstantial evidence, meaning concrete facts, such as the child's physical condition, that suggest that the child has been abused or neglected. Behavioral indicators, however, should not by themselves be considered a sufficient basis for a report.

Direct evidence includes eyewitness observations of a parent's abusive or neglectful behavior; the child's description of being abused or neglected, unless there is a specific reason for disbelief; the parent's own description of abusive or neglectful behavior, unless it is long past; accounts of child maltreatment from spouses or other family members; films, photographs, or other visual material depicting sexually explicit activity by a minor; newborns denied nutrition, life-sustaining care, or other medically indicated treatment; children in physically dangerous situations; young children left alone; apparently abandoned children; demonstrated parental

disabilities (for example, mental illness or retardation or alcohol or drug abuse) severe enough to make child abuse or child neglect likely; and demonstrated parental inability to care for a newborn baby.

Circumstantial evidence includes “suspicious” injuries suggesting physical abuse; physical injuries or medical findings suggesting sexual abuse; for young children, signs of sexual activity; signs of severe physical deprivation on the child’s body suggesting general child neglect; severe dirt and disorder in the home suggesting general child neglect; apparently untreated physical injuries, illnesses, or impairments suggesting medical neglect; “accidental” injuries suggesting gross inattention to the child’s need for safety; apparent parental indifference to a child’s severe psychological or developmental problems; apparent parental condonation of or indifference to a child’s misbehavior suggesting improper ethical guidance; chronic and unexplained absences from school suggesting parental responsibility for the nonattendance; and newborns showing signs of fetal exposure to drugs or alcohol.

Provide continuing public education and professional training. Few people fail to report because they want children to suffer abuse and neglect. Likewise, few people make deliberately false reports. Most involve an honest desire to protect children coupled with confusion about what conditions are reportable. Thus, educational efforts should emphasize the conditions that do not justify a report, as well as those that do.

Screen reports. No matter how well professionals are trained and no matter how extensive public education efforts are, there will always be a tendency for persons to report cases that should not be investigated. Until recently, most states did not have formal policies and procedures for determining whether to accept a call for investigation. Such policies should be adopted by all states and they should provide explicit guidance about the kinds of cases that should not be assigned for investigation.

Reports should be rejected when the allegations fall outside the agency’s definitions of “child abuse” and “child neglect” as established by state law. Often, the family has a coping problem for which they would be more appropriately referred to another social service agency. (Prime examples include children beyond the specified age, alleged perpetrators falling outside the legal definition, and family problems not amounting to child maltreatment.) Reports should also be rejected when the caller can give no credible reason for suspecting that the child has been abused or neglected. (Although actual proof of the maltreatment is not required, some evidence is.) Reports whose unfounded or malicious nature is established by specific evidence, of course, should also be rejected. (Anonymous reports, reports from estranged spouses, and even previous unfounded reports from the same source should not be automatically rejected, but they need to be carefully evaluated.) And, finally, reports in which insufficient information is given to identify or locate the child should likewise be screened (although the information may be kept for later use if a subsequent report about the same child is made).

In questionable circumstances, the agency should recontact the caller before deciding to reject a report. When appropriate, rejected reports should be referred to other agencies that can provide services needed by the family.

Modify liability laws. Current laws provide immunity for anyone who makes a report in good faith but give no protection to those who, in a good-faith exercise of professional judgment, decide that a child has not been abused or neglected and hence should not be reported. This combination of immunities and penalties encourages the overreporting of questionable situations.

Give feedback to persons who report. If persons who report are not told what happened, they may conclude that the agency's response was ineffective or even harmful to the child, and the next time they suspect that a child is maltreated, they may decide not to report. In addition, finding out whether their suspicions were valid also refines their diagnostic skills and thus improves the quality and accuracy of their future reports. Reporters also need such information to interpret subsequent events and to monitor the child's conditions.

Adopt an agency policy. Appropriate reporting of suspected child maltreatment requires a sophisticated knowledge of many legal, administrative, and diagnostic matters. To help ensure that their staffs respond properly, an increasing number of public and private agencies are adopting formal agency policies about reporting. Some state laws mandate them. The primary purpose of these policies, or agency protocols, is to inform staff members of their obligation to report and of the procedures to be followed. Such formal policies serve another important function: They are an implicit commitment by agency administrators to support frontline staff members who decide to report. Moreover, the very process of drafting a written document can clarify previously ambiguous or ill-conceived agency policies.

Prospects for Change

The problem of inappropriate reporting was entirely foreseeable. In fact, as early as 1977, sociologist Saad Naji predicted that unfounded reports would increase as total reporting rose. In describing the effect of contemporary increases in the number of reports on confirmation rates, he wrote: "As the rates of reporting increased, the rates of confirmed maltreatment increased rapidly up to a certain point, after which the rate of increase tended to lessen considerably.... The relations between the rates of reporting and the estimated probability that maltreatment cases will be confirmed, however, exhibited the reverse pattern: the probability of confirming reports of suspected cases dropped sharply as the rates of reporting increased." As mentioned above, some level of inappropriate reporting is the inescapable result of a system that relies on reports from hundreds of thousands of friends, neighbors, and family members—as well as often poorly trained professionals.

What was thoroughly unpredictable was the great resistance to doing something about the problem. As described below, some efforts to reform the system have been made, but many advocates still deny that there is a problem (or at least try to minimize its importance).

Why has it proven so difficult to mount a concerted effort to reduce the number of inappropriate or unfounded reports? First and foremost has been the well-intentioned fear that any attempt to limit inappropriate reporting would inevitably reduce the number of real cases reported. The more careful people are about reporting and the more aggressive agencies are about screening, the more likely it is that a child in serious danger will escape notice. A formal legal opinion from

Iowa's attorney general explained the rationale for this broader approach to reporting: "We will never know if a report of child abuse is valid or not until the appropriate investigation is made."

But this practical wisdom has been taken to unreasonable extremes. Too many advocates have ignored the severe burden that so many inappropriate cases place on the system's resources. They seem unwilling to make—or even to recognize—the trade-off between gaining large numbers of additional reports and the system's ability to respond.

Second, there has been a certain expediency to well-publicized increases in reports. Ever rising numbers of reports have helped mobilize public and professional support for expanded funding. News stories about brutal cases of child abuse make our hearts go out to its innocent victims. We all want to do something to alleviate their pain and to prevent other children from suffering a similar fate. Thus, advocates and program administrators have had an incentive to remain quiet about the number of cases closed after an initial investigation.

Third, although many inappropriate reports do not amount to "child abuse" or "child neglect," they nevertheless involve families who need social service assistance. Thus, accepting and investigating unfounded reports is seen as a means of providing needed services to families in trouble. In effect, the child protective system is being used to fill gaps in what should be community-wide child welfare systems. Even if this strategy was more likely to succeed, it should be shunned. The child protective process is coercive—and often traumatic—and should be limited to situations in which the child is so endangered that social services must be forced upon unwilling parents.

Fourth, for many years, the child protective system was able to absorb the increase in reports by hiring more staff. Although money was never plentiful, the 1970s and much of the 1980s saw expansion in many states. But, of course, by the end of the 1980s, state budgets became progressively tighter—and programs were being cut rather than expanded.

Change is apparent, however. Most states, as well as most research studies, are now careful to distinguish between total reports and substantiated ones. And as mentioned above, the 1987 recommendations of the Airlie House group gave a legitimacy to those concerned about inappropriate reporting and provided the outlines for reform. In scattered communities across the nation, various elements of the recommendations listed above (as well as other ideas) are being adopted.

And there is reason to expect still more change. Recently, the flood of unfounded reports has involved more middle-class families than before. Unlike the poor, who have grown used to governmental intrusions, middle-class parents who feel that they have been wrongly accused and unnecessarily investigated fight back. Thousands have joined groups like Victims of Child Abuse Laws (VOCAL) to lobby for changes in state and federal laws as well as in agency procedures.

The continuing pressure of state budget cuts has added another group of players to the process. In many states, senior managers have, for the first time, focused their attention on the issue. They are eager, if not desperate, for any ideas that would enable them to do more with existing or

pared down resources. If they could be convinced that a shift away from simply seeking more reports and toward encouraging better ones would save money without unreasonably endangering children, they would push for the change.

Hence, it seems that the coming years will see an acceleration of this shift. And, notwithstanding the opposition of advocates, I believe that reasonable efforts to reduce the number of unfounded reports would strengthen the overall child protective system as well as public support for it.