



# Constructions of Deviance

Social Power, Context, and Interaction

4th Edition

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researchers' own observations, to enhance its internal validity. Participant observers spend long amounts of time in the field becoming close to the people they study and learning how their subjects perceive, interpret, and act upon the complex and often contradictory nature of their social worlds. In contrast to the detached and objective relationships between survey researchers and their subjects, participant observers rely on the subjectivity and strength of the close personal relationships they forge with the people they study to get behind false fronts and to find out what is really going on. Depth understanding is especially important when studying a topic such as deviance, where so much behavior is hidden due to its stigma and illicit status. Also critically important is the ability of participant observation to study deviance, as Polsky (1967) urged, it occurs *in situ*, in its natural setting, not via the structural constraints of police reporting, or the interpretation and recollection of questionnaire research. But although often less costly than survey research to conduct, it is very time consuming, as depth relationships take long to develop. Field research also lacks the generalizability characterizing careful survey research, as subjects tend to be gathered through a referral (snowball) technique or because they are members of a common "scene," thus giving them shared patterns of behavior that may be found with them more strongly than with broader practitioners of the deviance. We share with readers our own experiences with participant observation in the selection on field research where we talk about what it is like to carry out such research with a criminal, and potentially dangerous, group.

The empirical selections that fill the remainder of this book are primarily based on participant observation studies of deviance for two main reasons. First, as Becker (1973) remarked, participation observation is the method of the interactionist perspective; it offers direct access to the way definitions and laws are socially constructed, to the way people's actions are influenced by their associates, and to the way people's identities are affected by the deviant labels cast on them. Second, these types of studies offer a deeper view of people's feelings, experiences, motivations, and social psychological states, which give a richer and more vivid portrayal of deviance than charts of numbers.

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# Child Abuse Reporting

DOUGLAS J. BESHAROV WITH LISA A. LAUMANN

*Besharov and Laumann discuss official statistics in our first selection on varieties of ways that deviance is studied. They note the spectacular rise in our official knowledge about the extent of child abuse, with rates increasing by 300 percent over a recent thirty year period. Such a dramatic change cannot be solely attributable to changes in deviant behavior, but must also involve a measurement artifact. They root the increase in the mandatory reporting laws, the media campaigns surrounding child abuse, and the changed social definition of what constitutes abuse. Besharov and Laumann discuss two ironically opposing problems associated with child abuse statistics, the presence of both unreported and unsubstantiated cases. On the one hand, they claim, we are still unaware of many cases of child abuse because it tends to be hidden, defined as a private family matter, and regarded as "normal" childrearing practice. At the same time, the way we as a society tumultuously attacked this "discovered" social problem and deputized numerous social groups to document it resulted in cases that could not be substantiated. Some of these were unsubstantiated because they were investigated and found to be lacking in substance, but others were unfounded because the families could not be located, or the child abuse, when investigated, was able to remain hidden. The huge increase in the number of cases requiring investigation has overburdened the investigatory dockets of social service agencies and diminished their ability to resolve all allegations. Some desperate situations are being attended to, but others are slipping through the cracks due to over-reporting problems. These cases signal continued ambiguity over definitions of child abuse. Together these problems cast light on the work of social welfare agents to gather official statistics and some of the problems these data encompass.*

**F**or 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 1,000 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 (NCPA), 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, case-workers 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 NCPA 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 a 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. . . .