Meeting the Challenge of Protecting Children

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Protecting children from abuse and neglect is not brain surgery—it is much more difficult. Brain surgeons have the advantage of a decade of specialized training and the use of the latest and most advanced technology. Front-line child protective service caseworkers often have only a bachelor’s degree in the liberal arts and job tenure of three to five years. The latest technology in child protective service work is a cell phone and, if budgets allow, a laptop computer.

Brain surgeons never have to choose between fixing the brain and losing the patient or saving the patient and letting the brain stop functioning. Child protective service work involves choices between three often incompatible goals—preserving the family, assuring the safety and well-being of the child-victim, or assuring the child has permanent caregiving from a loving parent. Prioritizing safety can lead to removing children from parents who might have responded to help. Preserving often leads to re-abuse and even a fatality. Permanency by placement with birth parents runs the same risks as preservation. To achieve permanency through adoption requires the early termination of parental rights.

Today I want to speak to what those in the field of child protective services refer to as the front end of the system. The front end of the system can be conceptualized as a series of gates through which reports of suspected child abuse and neglect may pass or be halted. The initial gate that lies outside of the formal child welfare system is the decision by a professional or concerned individual of whether to report an instance of child abuse or neglect. As you know, some individuals are mandated by state law to report suspected abuse or neglect. Other individuals, because of their professional positions, are required to report suspected maltreatment. While the Federal Child Abuse Protection and Treatment Act requires states to have a procedure for mandatory

Field Center Recommendations for Reform

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Pennsylvania is a national outlier in the investigation and substantiation of child abuse. In 2009, Pennsylvania’s substantiated child abuse rate was the lowest in the country at 1.4 per 1,000 children, compared to the national average of 9.3 per 1,000. There are many factors that contribute to this. Some of the reasons are the “high bar” for determining abuse, the ambiguity of the definition and perceived need to identify a perpetrator, and Pennsylvania’s unique two-tiered system that excludes a significant number of cases from being counted in state data.

Pennsylvania’s current child abuse reporting law is flawed. We find the statute to be both confusing and widely open to interpretation. The law should serve as a roadmap for caseworkers to investigate reports of child abuse, yet there are fundamental differences from county to county on how the law is applied. If a child is abused, then it should not matter if he or she lives in Monroe or Montgomery County; it should be clear and the same determination should be made.

Pennsylvania’s laws are not victim or child-focused. If a child is abused, then that child should be determined to be abused. In practice, in many Pennsylvania counties, caseworkers fail to substantiate abuse if they cannot identify the perpetrator, as the current statute requires that abuse be

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As I look back on my seven years of involvement with The Field Center, I couldn’t be more pleased with the important contributions the Center has made to the field of child welfare. Despite the area being so complex and multi-faceted, the Center has applied its unique expertise to help raise awareness about the plight of abused children and also to bring forth improvements in the child welfare system, the very system that is designed to help keep children safe. The Center has been featured more prominently than ever in the past year, as an important contributor to the legislative process as the state of Pennsylvania considers needed revisions to its child abuse reporting requirements. Examples of recent work include:

• Encouraging a thoughtful, evidence-based response to the Penn State sexual abuse tragedy. One of the Center’s Faculty Directors is serving on Pennsylvania’s Task Force on Child Protection to foster critical reforms and help protect our children from harm.

• Finding new ways to prevent victims of child abuse and neglect from falling through the cracks. One example is the groundbreaking research conducted by a Center Fellow aimed at improving jurisdictional barriers to child abuse and neglect reporting and investigation.

• Serving as leaders to help children and youth who are leaving foster care to have successful and productive lives. The Center’s involvement in this area was recently featured in the March/April issue of Social Work Today.

• Connecting families with community-based services, such as housing, job training, and health care, so that children who have been removed from their parents’ care can be returned home with an added safety net.

Clearly, the Center has established a reputation for itself as being a catalyst for change and also an experienced voice of reason when it comes to raising the bar in the child welfare arena. It seems as if only yesterday, we were celebrating the Center’s 5th year anniversary. Now, in 2013, we will be reaching yet another milestone – our 10th anniversary! My preeminent hope is that the seeds of change we have planted will come to fruition and we will have further cause to celebrate all the Center has accomplished. We cannot afford to do anything less, for the children, our future, are dependent upon our steadfast commitment to doing what is well and good for their benefit.

Although I will no longer be serving as Chairperson of the Field Center Advisory Board, my commitment to the organization is firmly planted. It has been an honor and privilege to serve and I look forward to celebrating many more of the Center’s accomplishments in the coming years.

Warm regards and best wishes for a safe and productive summer,

Renee Dillon Johnson

Renee Johnson
Forty years ago this year, President Richard Nixon vetoed the Comprehensive Child Development Bill of 1972. The bill, which passed both chambers of Congress with wide bipartisan support, would have provided quality child care to low-income families with the aim of promoting healthy child development among at-risk children (Stine, 1972). Recognizing that low-income children face significant developmental challenges compared to their peers, by seeking to correct for those challenges early in life, the bill would have created a preventative system ensuring the well-being of at-risk children. Responding to the veto in 1974, the bill’s sponsor, Senator Walter Mondale, crafted a new bill called the Child Abuse Prevention and Treatment Act (CAPTA), which established the structure of the child welfare system in place today — a system that is a classic example of what is known as “residual” social welfare policy, in which a system responds only after a problem has occurred. Thus within two years after witnessing the failure for their approach, focusing on child development, advocates and lawmakers had entirely revised their strategy, emphasizing a more scaled-back, residual approach to protecting at-risk children.

In 1976, the man who invented Head Start, Edward Zigler, called the veto of the Comprehensive Child Development Bill the “greatest failure of my professional life” and predicted that this residual approach embodied by CAPTA was doomed to failure (Zigler, 2009, p.154). He wrote: “Our society… is almost totally uninformed in primary prevention. This state of affairs…leads me to be pessimistic about our country’s ability to solve the child abuse problem.” And he continued: “We must be willing to entertain the possibility that history will show that this particular bill actually proved to be counterproductive” (Zigler, 2009, p. 152, 154). In essence, Zigler argued that this revised approach — the residual system created by CAPTA — was a wholly inadequate one for addressing the problem of child maltreatment — and ensuring child well-being, more generally — in America.

What would have happened if Nixon had not vetoed the Comprehensive Child Development Bill of 1972? What would have been different? Would its approach of comprehensive, high-quality child care have been enough? Many child advocates continue to advocate proposals to implement a national child care system for this very reason. They argue that this service could not only give children a leg up developmentally but also alleviate a great deal of stress for low-income parents, providing them with the ability to work without worrying about their children. Relying on long-term planning, it is likely that child care services alone would not be sufficient, and that a residual system for child welfare, such as ours today, would therefore still be necessary.

It is possible that even the most comprehensive, prevention-focused bill would not be enough to withstand the changes our society has seen in the last forty years: the end of industrialization, the decline in cities, and the crack cocaine epidemic of the 1980s, and the recent recession, to name just a few. It is possible that the original Child Development Bill could have been a big, expensive, and ineffective social experiment. We simply don’t know.

What do we know is that Zigler was probably right: the past thirty-eight years of our current child welfare experiment established by CAPTA have proven disappointing. Child advocates from across the political spectrum, including many in this very publication, have outlined the system’s inability to meet its three federal mandates of ensuring safety, permanency and well-being. Almost 40 years after the residual experiment began, the CAPTA effort and its subsequent reforms have not lived up to expectations.

Perhaps it is time to reconsider the preventative approach to child development and well-being again. Though a preventative system may not completely eliminate the need for some action on the part of child welfare agencies, a preventative approach could greatly reduce child welfare caseloads by lessening the burden on families and promoting positive child outcomes throughout the life cycle.

We believe at least two prevention-focused policy proposals are worthy of serious consideration:

The first is evidence-based home visiting, in which trained nurses visit the homes of at-risk pregnant mothers (typically, although not exclusively, during their first pregnancy) to work intensively around behaviors promoting a healthy pregnancy and developing strong, successful parenting skills. Evaluations of this approach are impressive. Evidence-based home visiting programs have been shown to not only reduce the risk of child abuse and neglect, but also reduce parents’ reliance on social programs, prevent future arrests, and improve children’s educational achievement, social skills and other well-being indicators, among a number of other impressive benefits lasting well into the children’s young adult years (see, for example, Coalition for Evidence-Based Policy, 2010).

A second, though different approach, would be to create mechanisms by which all families, especially low-income families, are able to build assets. These proposals are the brainchild of Michael Sherraden, who in 1991 first advocated Individual Development Accounts, or IDAs, in which low-income families could establish special savings accounts and receive a dollar-for-dollar match for their deposits — thus allowing them to build assets in addition to any income they receive and immediately use for basic needs. Sherraden’s research has shown that allowing families to build assets, whether through IDAs or other mechanisms, has many positive outcomes for low-income families, including promoting economic stability, such as paying bills and even avoiding low-wage jobs, and long-term thinking. Research also shows that assets are the key to child development — families need to be able to build assets in order to provide their children with supports to improve their development (Corporation for Enterprise Development, 2011).

Are these proposals even feasible? Today, the possibility of creating a program for all children, much less low-income children, faces two significant obstacles — the second more inidious than the first.

From a practical standpoint, our government has neither the money to create new programs nor the political will to raise taxes to do so. Yet one could make a straightforward, reasonable case for eliminating the social programs that are not working in favor of those with a proven track record such as the two outlined above.

The second major obstacle to enacting such programs is that a current prevailing political view creates a divide between “worthy” and “unworthy” people in America. Unfortunately for at-risk children, many of their parents happen to be those grouped in the “unworthy” category. Encouraging such families to build assets, in particular, is becoming more difficult, with proposals making eligibility for key social safety nets such as food stamps contingent upon families exhausting all assets — a proposal that the Pennsylvania Department of Public Welfare began pursuing in the fall, and which the U.S. House of Representatives passed in April. Though these policies do not exist in every state, their increasing popularity should be troubling for child advocates.

Though the child welfare system has shown notable improvements over the past decade, it still has a long way to go before it comes close to living up to the hopes for keeping children safe and healthy embodied in CAPTA. In Zigler’s comments on CAPTA, he concluded: “...We do not legislate away major social problems like child abuse with a single bill. Social change is produced not by the stroke of a pen, but by intensive and persistent efforts to change the human ecology within which the social target is embedded.”

It is important for child advocates to consider whether this 38-year social experiment is doing what it should to improve the lives of at-risk and maltreated children. Although there certainly may still be room for improvement in the current child welfare system, other, more comprehensive, evidence-based solutions should also be explored. And while it may not be possible to revive the approach of the Comprehensive Child Development Bill, modern-day, prevention-focused alternatives such as evidence based home visiting and asset-building programs represent noteworthy proposals worthy of public investment.

REFERENCES


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In 1974, when the Child Abuse Prevention and Treatment Act was signed into law, the highest estimate of the extent of child maltreatment was 150,000 children. At the time, the primary focus of child maltreatment was on physical injury. No one who testified at the hearings or drafted the legislation could have imagined that by 2012 there would be 3,000,000 reports of suspected child abuse and neglect. The most current data on child abuse and neglect reporting are for 2009. That year state agencies received 3.3 million reports of suspected child abuse and neglect. The reports involved some 5 million children. State agencies investigated 2 million of the 3 million reports. About a million reports were not investigated primarily because the report failed to include sufficient information needed to initiate an investigation (e.g., name of victim or offender, address of victim or offender), or because the allegation did not meet the state definition of child abuse and neglect.

Of the 2 million investigations, 442,005 children were deemed to be abused or neglected. The remaining 1.6 million reports were not false reports, but rather the investigators were unable to uncover sufficient evidence that abuse had actually occurred. So in the end, slightly more than 1 out of 5 reports of suspected child abuse and neglect is confirmed to be abuse after an investigation. This percentage, which is referred to as the “substantiation rate,” has not changed much in the last 30 years.

Figure 1 demonstrates that narrowing of the population of child abuse and neglect cases after initial reports. After 443,005 children have been substantiated as victims of abuse or neglect, about half of the cases are closed and the families are offered voluntary services. Of the remaining 200,000 or so children, half of their families receive services while the children remain in the home. The remaining 123,000 children are removed and placed in foster care.

With the exception of a small amount of federal funds provided through the Child Abuse Prevention and Treatment Act, states and local communities bear the entire cost of screening, investigating, and processing suspected cases of child abuse and neglect.

Are Children Protected?

Mandatory reporting has been a 40 year experiment in the United States. Only Canada and Australia (with the exception of Western Australia) have emulated US mandatory reporting. And while there are certainly pros and cons regarding mandatory reporting laws, there are not as yet any definitive data that such laws serve their initial goal—to better protect children and assure their safety and well-being.

Drinking From a Fire Hose

There are serious doubts about whether enacting mandatory reporting laws actually improved the safety and well-being of children and/or increased the quality and effectiveness of services offered to families. What the influx of reports did, however, was force state and local child protective service agencies to drink through a fire hose.
committed by someone who falls within the statutory definition of perpetrator. This narrow definition can also prevent reports from being accepted for investigation. The very case that brought us here is a good example. One of the Field Center’s law fellows analyzed the statute. It appears that Jerry Sandusky likely failed to meet Pennsylvania’s definition of a perpetrator and therefore, his alleged victims would not have fallen within the purview of the child welfare system. Just the fact that this is open to debate demonstrates the problem with the problem-focused laws, a determination is made much in the way a medical diagnosis is reached. If a child has chicken pox, it doesn’t matter if he or she caught it from a sibling, friend or classmate; the child still has chicken pox. If a child has been determined to have been abused, then the report should be substantiated. Identification of the perpetrator should fall under the purview of the criminal justice system. We recommend that the law be amended to no longer require a specific perpetrator in order to investigate or reach a determination of child abuse.

The denial of serious physical injury in the statute creates a bar so high that it often prevents the substantiation of serious physical abuse. The statute requires the child to experience “severe pain,” which is a subjective and medically and developmentally inappropriate measurement. As a result, it is very difficult to substantiate physical abuse cases in Pennsylvania in comparison to other states. There is something wrong when a hospital makes a definitive diagnosis of child abuse yet the child welfare system cannot substantiate the report. A caseworker in one county told me that she was unable to substantiate a case according to the current law yet the criminal justice system was able to arrest the perpetrator nonetheless. We recommend a modification in the definition eliminating “severe pain” as criteria and instead focusing on serious physical injury and imminent threat of serious harm to define physical abuse.

In order to substantiate abuse, the child’s injuries must be the result of non-accidental conduct by the perpetrator. “Nonaccidental” as defined in the statute appears to intend to impose something akin to a criminal negligence standard on the perpetrator. However, the word “intentional” in the definition is often misinterpreted; it was meant to mean that the perpetrator’s acts were not involuntary, but it is often interpreted to require that the perpetrator intended to harm the child. We recommend clarifying this definition so it, too, is left up to interpretation and practice reflects the statute’s intent.

Pennsylvania’s statute currently requires a professional who works in an institution to report suspected abuse to his or her superiors; it is then only the duty of the institution, not the professional, to report to ChildLine. We are concerned that this not only prevents the most accurate information from being conveyed, but that it also dilutes responsibility. We believe that both the individual with direct knowledge of the abuse and the institution in which he or she operates must be required to report. The rationale for this is straightforward: the person with direct knowledge is the most reliable source of information, and their account must be reported. Meanwhile, the institution must demonstrate that it is aware of the incident and produce its own report. When those with direct knowledge report to others who are then charged with reporting, the allegations can take a different form and (1) not accurately portray the incident or (2) become so dilute that they change from reportable to non-reportable conditions, such as in the Penn State case. Here, alleged sexual contact in the shower became “horsing around” when the incident was reported up internally. “Horsing around” is not a reportable condition. We recommend the following modifications to this provision of the law:

- Institutions must be required to develop procedures for reporting child abuse both internally and externally, including designating an individual within the institution to receive such reports;
- The individual with direct knowledge must report up the chain in his or her institution to a designated individual according to the institution’s new statutorily-required policy;
- The institution must report to ChildLine;
- Those individuals with direct knowledge must also report; however, these individuals have the option of either reporting individually or reporting in conjunction with others who also have the same direct knowledge. This will prevent duplicative reports with the same information from mandated reporters who all work within the same institution and are reporting the same information, such as shift nurses in a hospital. Hospital trauma teams are good models of such policies.

Pennsylvania currently has a bifurcated reporting procedure, with one set of rules applying to schools and another set applying to everyone else, unlike other states. Reports stemming from schools can only result in GPS action, not CPS, which is a decision that we neither understand nor endorse. We see no reason for this distinction and division, and it may be counterproductive: in 2010, there were only 16 cases of substantiated school abuse across Pennsylvania. We recommend that the school reporting system be eliminated entirely and that schools and school employees be required to follow the same reporting procedures as everyone else.

For several years, the Field Center has been studying jurisdictional barriers to accepting reports for investigation when the victim, perpetrator, and incident involve more than one state. Often, these cases fall through the cracks, with states refusing to accept referrals that cross state lines, resulting in no one investigating these allegations. We are recommending that the reporting law be amended to provide jurisdiction to investigate reports of child abuse when the victim, perpetrator, or incident are in Pennsylvania.

The Field Center does not recommend extending the mandate to all adults for reporting child abuse. Research shows that reports by professionals are substantiated at a significantly higher rate than those of the general public. ChildLine is unable to process the calls it currently receives. We need to improve both training and confidence in the child welfare system for current mandated reporters before there is any consideration to further open the gates. Many of our county agencies are at capacity; any increase in reports must be accompanied by an increased capacity to investigate these reports and provide services for those families who are determined to need further intervention. Adding additional reports without additional resources at the county level is creating an unfunded mandate, a recipe for disaster in the current economic climate. This could easily create a situation in which more serious cases fall through the cracks while already stretched agencies try to meet the increased demand. However, any individual always has the option of reporting suspected child abuse voluntarily. In light of the Sandusky case, we would recommend adding additional classes of mandated reporters, such as sports coaches. In addition, we do not believe that increasing the penalty for failing to report will have the desired result, making a substantive difference in responsible reporting of suspected child abuse.

Pennsylvania has a differential reporting system, not a differential response system. Currently, cases that fall outside of the narrow definition of child abuse and neglect are classified as General Protective Services, or GPS. GPS cases are not tracked and do not count in the data as child abuse reports, rendering those who are interested unable to compare Pennsylvania’s data with that of other states. Of greater concern is that GPS reports are not maintained in the state’s central registry and therefore may not be available if and when a subsequent report is made on the same child or family. The Philadelphia Department of Human Services conducted an analysis of subsequent reports for SFY2006 and SFY2009 for both CPS and GPS cases. In both years, GPS reports were substantially more likely than CPS reports to have a repeat incident within 18 months. The data using a DHS internally designed severity rating scale suggest that a substantial number of the subsequent reports were as serious or more serious than the initial reports received on cases.

GPS represents a catchall for cases that fail to meet the high bar for CPS. For example, reports of alleged sexual abuse that fail to meet the current strict criteria end up being classified as GPS cases. Ironically, many of these cases are serious enough to warrant a forensic interview at county Child Advocacy Centers.

Although GPS cases are often referred to as “just neglect,” they often represent some of the highest risk child welfare cases. The death of Philadelphia’s Danieal Kelly is a case in point. With a history of no less than seven different reports of neglect, at age 14, Danieal died, weighing only 46 pounds at the time of her death. She was profoundly and fatally neglected. Child neglect constitutes close to 80% of reports nationally, yet these cases are virtually ignored by Pennsylvania’s child protection system.

Based on published research and program evaluation, significant challenges with the current CPS/GPS structure, and the need to focus resources on the highest risk cases, we recommend that Pennsylvania adopt a differential response system in lieu of the current CPS/GPS system to better address the needs of our at risk children.
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Who Should Report?

The state reporting statutes regarding mandated reporters vary from requiring all adults to report suspected child maltreatment to states that specify professional groups that are mandated reporters. Overall, in 2008 professionals were the most frequent source of reports of suspected maltreatment (See Figure 2): Educators reported 16.9% of all reports in the United States followed by Legal and Law Enforcement sources (U.S. Department of Health and Human Services, 2008). Not only are professionals the most likely source of reports, but professional reports are the most likely to be substantiated. In 2008, 70.7 percent of reports substantiated were made by professionals (U.S. Department of Health and Human Services, 2008).

Data on substantiation rates for the Commonwealth of Pennsylvania display a similar picture. In 2010 there were 24,516 reports of child abuse. Overall, 14.9 percent of the reports were substantiated after an investigation. School personnel submitted the most reports, 6,921, but only 5.5 percent of those reports were substantiated. Anonymous reports, of which there were 1048 in 2010, had a substantiation rate similar to that of educational personnel—5.1 percent. Not including reports made by perpetrators or the three reports submitted by coroners, reports submitted by law enforcement and dentists had the highest rates of substantiation in Pennsylvania.

Towards Protecting Children

If our goal is to protect children who are in harm’s way, we will be unlikely to achieve that goal by expanding the list of groups and individuals required to make reports. Whatever the advantage of mandatory reporting laws, mandating reporting does not increase services to families or protection to children. Similarly, creating punishments and sanctions for failing to report suspected child abuse is also not going to increase services or offer greater protection. Following my metaphor from above, increasing the flow and pressure of the fire hose will not enhance the quality of the work carried out by front-line child protective service workers.

REFERENCES


NEWS FROM THE FIELD
June 2012

Newsletter Highlights...

- Field Center experts testify before the Pennsylvania Task Force on Child Protection
- Reviving a Comprehensive Approach to Child Maltreatment
- Announcing the 2012 Field of Dreams Luncheon!