
An Overdose of Concern

Child Abuse and the Overreporting Problem

Douglas J. Besharov

FOR TWENTY YEARS, children's advocates have struggled to get child abuse recognized as a serious social problem requiring a sustained governmental response. As we all know, they have succeeded beyond their wildest dreams. Every day seems to bring a new public outcry over a child who has been brutally beaten or sexually abused. Over forty child abuse bills were introduced in the New York legislature last year, and over fifty in California.

Ironically, this very success in gaining public attention has led to a wild overreaction whose effects have actually been counterproductive. Back in 1975, about 35 percent of all reports turned out to be "unfounded," that is to say, they were dismissed after investigation. Now, ten years later, about 65 percent of all reports nationwide prove to be unfounded. This flood of unfounded reports is overloading the system and endangering the children who really are being abused. And the rules and regulations prompted by federal solicitude are a major part of the problem.

The Background

The federal Child Abuse Prevention and Treatment Act of 1974 created a small program of

Douglas J. Besharov directs the Social Invention Project at AEI. He prosecuted child abuse cases in New York before becoming the first director of the U.S. National Center on Child Abuse and Neglect (1975-79). This is adapted from an article in the Harvard Journal of Law and Public Policy.

federal grants (about \$3.7 million per year) to states that met specified eligibility requirements. Only three states were able to satisfy these requirements in 1973, but in the following six years, state after state passed new child protection laws and established the comprehensive child protective systems needed to qualify for federal aid. By 1984, all but four states had done so.

What accounts for this rapid advance in state activity? Certainly it was not the amount of money involved. In the relevant years, the average federal grant to states was a mere \$80,000—far less than the cost of expanding the programs. Instead, the grants, along with the other activities of the National Center on Child Abuse and Neglect (created by the 1974 legislation), served as a catalyst for making improvements long advocated by child protective specialists.

In a well-meaning effort to identify the greatest number of endangered children, one of the eligibility criteria in the 1974 legislation was a requirement that states broaden their laws on reporting of child abuse. In particular, all forms of child maltreatment had to be reported, whether or not the child had been physically harmed. As a result, nearly all states now require the reporting not only of suspected physical abuse and sexual abuse and exploitation, but also physical and emotional neglect, and even of children who have not yet been either abused or neglected. Typical legislation requires a report in cases where the child's "en-

vironment is injurious to his welfare," where the parents are "unfit to properly care for such child," or, in a blatant tautology, where the child is suffering from "abuse or neglect." Many of these crucial terms either are never exactly defined at all or are defined using pat phrases and ambiguous indicators that do nothing to help professionals and the public decide whether to file a report. One state, for example, defines emotional abuse to include the failure to provide a child with "adequate love."

Under these state laws, medical, educational, social work, child care, and law enforcement professionals face civil and criminal penalties if they fail to report suspected cases. The laws also include provisions that encourage all and sundry—including relatives, neighbors, and friends of the family—to report suspected maltreatment. In fact, nineteen states even require perfect strangers to report suspected child abuse.

These mandatory reporting laws and associated public awareness campaigns have been strikingly effective. In 1963, about 150,000 children came to the attention of public authorities because of suspected abuse or neglect. By 1972, an estimated 610,000 children were reported each year, and in 1984 the figure was above 1.5 million. The level of federal and state expenditures for child protective programs and associated foster care services now exceeds \$3.5 billion a year.

Does this vastly increased reporting signal a rise in the incidence of child maltreatment? Some observers think so, and attribute the rise to what they see as deteriorating economic and social conditions. But there is no way to tell for sure. So many maltreated children previously went unreported that earlier reporting statistics do not provide a reliable baseline against which to make comparisons. However, one thing is clear. The great bulk of reports now received by child protective agencies would not have been made but for the passage of mandatory reporting laws and the media campaigns that accompanied them.

The media have given substantial coverage to the dramatic increase in abuse reports, contributing to the sense of a "child abuse crisis." What they rarely mention is that as the number of reports has soared, so has the so-called unfounded rate. For example, in New York state, which has one of the highest unfounded rates

in the nation, the number of reports received by the state Department of Social Services increased by about 50 percent between 1979 and 1983 (from 51,836 to 74,120). Yet the percentage of *substantiated* reports fell by almost 20 percent (from 43 percent to 36 percent). In fact, the *absolute number* of substantiated reports actually fell by almost 100. Thus nearly 23,000 additional families were investigated—while fewer children were aided.

Sometimes, of course, child protective workers wrongly determine that a report is unfounded, and sometimes they declare a report unfounded as a means of caseload control. However, the great bulk of today's reports involve situations that do not amount to child maltreatment or that cannot be substantiated by "credible evidence," the legal test for determining the validity of a report. Few of these reports are made maliciously; most involve an honest desire to protect children coupled with confusion about when reports should be made. A child has a minor bruise and, whether or not there is evidence of parental assault, he is reported as abused. A child is living in a dirty household and, whether or not his basic needs are being met, he is reported as neglected.

Some child protective specialists defend the current high rates of unfounded reports on the ground that a degree of overreporting is necessary to identify children in danger. To an extent, of course, they are correct. That is why the law mandates the reporting of "suspected" child abuse. But unfounded rates of the current magnitude go beyond anything reasonably needed. Other specialists seek to minimize the problem by claiming that overreporting is not so bad because, if child protective agencies had more investigative staff, they would find that more reports now labeled unfounded are, in fact, valid. But they do not have more staff, and the fact remains that these cases are accepted, investigated, and then closed.

Multiplied by the thousands, these unfounded reports have created a flood that threatens to inundate the limited resources of child protective agencies. Forced to allocate a substantial portion of their limited resources to unfounded reports, these agencies are increasingly unable to respond promptly and effectively when children are in serious danger. As a result, children in real danger are getting lost in the press of inappropriate cases.

Callers attempting to report suspected child abuse to New York's statewide hotline, for example, are often placed on hold for ten or fifteen minutes; about half hang up before a hotline worker answers the phone. Across the country, staff shortages delay the initiation of investigations, and it is not unusual to see reports left uninvestigated for one and even two weeks after they are received. The scope of investigations is also limited, so that key facts often go undiscovered in the caseworker's rush to clear the case. Dangerous home situations likewise receive inadequate supervision, as workers let pending cases slide as they investigate the new reports that daily arrive on their desks. Again, statistics from New York show the extent of the problem. Forty days after the oral report, New York City workers still have not visited the child's home in 11 percent of all cases; they have not yet seen 22 percent of reported children; and they have not yet interviewed 17 percent of alleged perpetrators.

Decision making also suffers. Staggering caseloads breed errors in judgment. After dealing with so many cases where there is no real danger to children, caseworkers are desensitized to the real warning signals of imminent and serious danger. Thus many children are left in the custody of parents who have repeatedly abused them, even when their siblings have previously died of abuse. Nationwide, from 35 to 55 percent of all child abuse fatalities and tens of thousands of injuries involve children previously known to the authorities.

Child protective proceedings are confidential, so few of these tragedies come to public attention. But enough do so that every community has had its news story about a child who has been "allowed" to die. What follows is a spate of editorials calling for action to protect children, more TV and radio spots calling on people to report suspected abuse, another brochure or conference for professionals describing their legal responsibility to report, and, perhaps, a small increase in agency staffing. The main result of these periodic flurries of activity is to increase the number of unfounded reports.

Unfortunately, the determination that a report is unfounded can be made only 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, clergymen, and others who know the family.

Laws against child abuse are an implicit recognition that family privacy rights are not absolute. But as Supreme Court Justice Brandeis warned in a different context, "experience should teach us to be most on guard to protect liberty when the government's purposes are beneficent." It is all too easy for courts and social agencies, in seeking to protect children, to trample on the legitimate rights of parents.

Each year, over 500,000 families are put through investigations of unfounded reports.

Each year, over 500,000 families are put through investigations of unfounded reports. This amounts to a massive and unjustified violation of parental rights.

This amounts to a massive and unjustified violation of parental rights. As more people realize that hundreds of thousands of innocent people are having their reputations tarnished and their privacy invaded while tens of thousands of endangered children are going unprotected, a backlash is sure to develop that will erode continued support for child protective efforts at federal and state levels.

Already, a national group of parents and professionals has been formed to represent those falsely accused of abusing their children. Calling itself VOCAL, for Victims of Child Abuse Laws, the group publishes a national newsletter and has about 3,000 members in nearly a hundred chapters formed or being formed, including ten in California alone. In Minnesota, VOCAL members collected 2,000 signatures on a petition asking the governor to remove Scott County prosecutor Kathleen Morris from office because of her alleged misconduct in bringing charges, subsequently dismissed, against twenty-four adults in the town of Jordan. In Arizona, VOCAL members were temporarily able to sidetrack a \$5.4 million budget supplement that would have added seventy-seven investigators to local child protective agencies.

What Must Be Done

So far, most child welfare officials in federal, state, and local agencies have lacked the courage to speak up publicly about the inflation of abuse statistics by unfounded reports, fearing that such honesty will discredit their efforts and lead to budget cuts. But unless things change, the potentially valuable force of public concern will serve only to increase the number—and proportion—of reports ineffectually and harmfully processed through the system.

First, we need a more realistic definition of child abuse. We regularly hear that there are upwards of a million maltreated children (including those that are not reported). This is a reasonably accurate estimate. But the word “maltreatment” encompasses much more than the brutally battered, sexually abused, or starved and sickly children that come to mind when we think of child abuse. A federal study found that only 3 percent of these “maltreated” children are physically abused to the extent that they require professional care. And only about 7 percent are sexually abused. The remainder are either victims of unreasonable corporal punishment, emotionally abused (mainly “habitual scapegoating, belittling and rejecting behavior”), or neglected (mainly educational neglect and emotional neglect, such as “inadequate nurturance” and “permitted maladaptive behavior”). Recognizing that these other serious but in no way life-threatening problems are lumped under the term “child abuse” would go a long way toward reducing current hysteria.

In addition, state reporting laws and associated educational materials and programs must be improved to provide practical guidance about what should and should not be reported. The current approach in training sessions is to tell potential reporters to “take no chances” and to report any child for whom they have the slightest concern. This ensures that child abuse hotlines will be inundated with inappropriate and unfounded reports. Laws and educational materials should be modified to require reporting only when there is credible evidence that the parents have already engaged in seriously harmful behavior toward their children or that, because of severe mental disability or drug or alcohol addiction, they are incapable of providing adequate care.

Child abuse hotlines, another key link in the system, are currently in the position of a 911 service that cannot distinguish between life-threatening crimes and littering. Afraid that a case they reject will later turn into a child fatality, most hotlines shirk their central responsibility to screen reports and decide which to accept and assign for investigation. According to the American Humane Association, only a little more than half the states even allow their hotline workers to reject reports, and those that do usually limit screening to cases that are “clearly” inappropriate. Many hotlines will accept reports even when the caller can give no reason for suspecting that the child’s condition is due to the parent’s behavior. This writer observed one hotline accept a report that a seventeen-year-old boy was found in a drunken stupor. That the boy, and perhaps his family, might benefit from counseling in such a case is indisputable. But that is hardly a reason to start an involuntary child abuse investigation.

Finally, the federal government must rethink its own policies. Since the passage of the Child Abuse Prevention and Treatment Act in 1974, it has mandated state programs that seek the reporting of ever-greater numbers of abused children—without regard to the validity or appropriateness of reports. While this one-dimensional approach may have been justified ten years ago when few reports were made, the requirements have remained essentially unchanged in the face of ever-increasing numbers of unfounded reports.

The Reagan administration has voiced its strong commitment to family rights, but bureaucratic unresponsiveness and fear of being labeled as “for” child abuse (or at least insensitive to it) have apparently prevented it from taking action on this problem. (Instead, it has funded three small research projects to explore why so many unfounded reports are being made.) While further research may shed additional light on the problem, the plain fact is that we already know enough about the problem, and its tragic consequences, to take action now. Amending the federal child abuse regulations in the way described above would establish a combination of incentives and penalties that would encourage states to be more careful about the reports they receive. The alternative is a growing burden of unfounded reports that harms the very families we are trying to help. ■