Child Abuse Research in the Southeast: Considerations for Reporting Statutes

by
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Introduction

Child abuse/neglect is a social phenomenon having insidious implications for problems related to and consequent of the actual abuse and/or neglect. Extensive evidence attests to the nature and severity of physical injuries and neglect suffered by the reported population of abused children. Of the unreported and/or undetected, we can only surmise. Indeed, some experts believe that abuse and neglect account for more injuries, illnesses, and even deaths among children in the United States than any other cause. Extensive, though less widely accepted, evidence stands as proof of the insidious nature of the causes of abuse and neglect and/or the family circumstances and dynamics around which they occur. On the other hand, little conceptual or empirical evidence exists regarding future consequences of the phenomenon. Is child abuse/neglect related to consequent social problems, e.g., juvenile delinquency, runaway behavior, adult criminal behavior? What are the effects of child abuse/neglect on childrens' growth and development? At any rate, a social multidimensional problem having ramifications of this suggested magnitude, i.e., negative impact on the victims, their families, and society demands concerted efforts toward prevention and treatment.

While I doubt that most of the citizenry have grasped the significance of the problem beyond the immediate effects of abuse/neglect to the victims, the need for more effective prevention and intervention has been recognized.

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In response to the public outcry in the early 1960's over publicized accounts of physical abuse to children, the Childrens' Bureau in 1963 published The Abused Child--Principles and Suggested Language for Legislation on Reporting of the Physically Abused Child as a basis on which states could model their reporting laws.[1]

Since the passage of the first reporting laws which were based on the above model, many states have amended their laws while others have repealed them. While all of the modifications undoubtedly reflect the states' perceived needs as they attempt to move toward more effective laws, some changes may well work to the detriment of the laws and their implementation. There is a paucity of accumulated conceptual and empirical base for instituting change.

It has been said often recently, and rightly so, that reporting laws are not panaceas; legislation is simply a first step in the right direction. But indeed, legislation is a necessary step inasmuch as the laws are states' expression of the parameters of the problem and of the mechanisms for dealing with the problems.

In this context, we undertook a regional study to: (1) determine what the states' legislations were; (2) compare the statutes with the model; (3) seek some conceptual order of the child protective services programs in the domain; and (4) utilize the findings from the study, in conjunction with existing knowledge, to present considerations for future modifications in child abuse reporting statutes.

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[1]Throughout the remainder of this paper we will refer to this source as Principles or the model.

Since our survey of child abuse reporting statutes and programs in Region IV,[2] three major developments, having significance for the model considerations evolving from our survey, have transpired: (1) the Child Abuse Prevention and Treatment Act;[3] (2) Model Child Abuse and Neglect Reporting Law;[4] and (3) two research efforts undertaken by the Regional Institute, one being the second phase of our regional study of child abuse, the other a comparative evaluation of two community protective services delivery systems.[5]

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[2]Results published in Child Abuse: State Legislation and Programs in the Southeast. Monograph, Regional Institute of Social Welfare Research, University of Georgia, August, 1973. As states have put forth efforts to comply with the Child Abuse Prevention and Treatment Act, more recent changes in the laws have not been included in the ensuing discussions.

[3]The Child Abuse Prevention and Treatment Act--Public Law 93-247, 93rd Congress, S.1191 (Jan. 31, 1974)--An Act to provide financial assistance for a demonstration program for the prevention, identification, and treatment of child abuse and neglect, to establish a National Center on Child Abuse and Neglect, and for other purposes. Included in the law are ten qualifications states must meet in order to receive grants appropriate under the Act. For purposes of discussion major references will be made to the proposed rules for the Act which will be referred to as Child Abuse Act or Act in the remainder of the paper.

[4]The Model Act for Reporting Child Abuse and Neglect was developed by the Child Abuse Reporting Law Project of the Institute of Judicial Administration. The final draft of the Model law, funded by the Office of Child Development, U.S. Department of Health, Education, and Welfare, has been submitted to H.E.W. (Project Director: Alan Sussman). Throughout the remainder of this paper we will refer to this source as Model Law.

[5]The first of the two mentioned Regional Institute's research efforts was the second phase of our regional study of child abuse. The results appear in Child Abuse in the Southeast: Analysis of 1172 Reported Cases. Research Monograph, Regional Institute of Social Welfare Research, University of Georgia, Fall 1974. The second mentioned research effort, a project conceptualized in two levels, was conducted in two comparable sized counties, one being Nashville, Davidson County, Tennessee, and the other Savannah, Chatham County, Georgia. The primary goal of Level I was the delineation of the systems' mechanisms for the idenification and the handling of child abuse and neglect cases, i.e., program structure and organization. The major goal of Level II was to determine, from case records, the nature and the effectiveness of systems' intervention. Any discussion based on preliminary findings from this study will be tempered with moderation. Data from this study have not been completely analyzed.

This paper presents considerations for a model reporting law based upon findings from our survey of child abuse legialation, services, and programs in Region IV, pointing out, where applicable, modifications in and/or additional discussion to these original considerations based on the major developments to which I alluded earlier. While the discussions in some areas may take on a critical tone, it has not been my intent to undertake a critical analysis of the Child Abuse Act or the Model Law. A critical analysis especially of some aspects of the Model Law, in my opinion, would warrant efforts singularly directed.

The Study

Data on which ideas for this paper are based were collected in a short term study which began in January, 1973, with the general purpose of collecting baseline data in Region IV on states' child abuse/neglect reporting laws, protective services programs, and summarized data on the states' child abuse caseloads. The study was conceptualized in two phases--Phase I, on which the basic content of this paper rests, and Phase II which focused on the incidence and nature of child abuse in the Region.

Data Collection--Data for Phase I were collected from two major sources--two mailed out schedules and personal interviews. Schedule A focused on the provisions of child abuse legislation and reporting systems. Schedule B was geared to an assessment of the states' staff, programs, and service availability and content. The data from Schedule A were used in conjunction with a copy of each state's most current child abuse reporting law. To supplement data incorporated in Schedule B, personal interviews with child protective services personnel were

conducted in on-site visits to the states' department of public welfare.[6]

Data for Phase II--1172 usable cases, collected on Schedule C--were taken from the reporting forms of individual cases of child abuse reported to the central registry in seven of the eight states in Region IV (Florida excluded). Schedule C incorporated data which were basically divided into five areas: (1) background data on the injured children, (2) data concerning the incident, (3) data which described the nature and extent of injuries, (4) background data on the parent(s) or parent substitute(s), and (5) data on the alleged perpetrator(s).

The initial sampling design of Phase II of the Regional study included the collection of data on the total population of reported cases in the Region for the period January 1, 1968 through December 31, 1972. Due to the unanticipated scope of the study which was not accurately predicted from our estimates, limited time and manpower, and an SRS policy prohibiting the collection of data on any states' total caseload where project personnel were requested to assist in the data collection process, we revised our sampling design to include the total population of cases only in those states which requested no assistance from project personnel. In those states having the largest number of reported cases and requiring assistance in transferring record information to Schedule C, a thirty percent random sample was drawn.[7]

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[6]On-site visits were not made to the Sate Office in South Carolina. Central registries are maintained at the county level by State law.

[7]The total number of cases reported within the time period was obtained from Georgia, Mississippi, and South Carolina. All sample cases from North Carolina were from 1972. Sample cases from Tennessee were drawn from confirmed abuse cases only. Minimal data were recorded for cases reported but not confirmed. The final sample was comprised of 1,172 cases. A case qualified for inclusion in the study if it were a case which was reported to the central registry and could not be deleted for any of the following reasons:(1) unquestionable evidence pointed to accidental causes;(2)sexual abuse was unaccompanied by other physical injury;(3)unintentional neglect;and(4)false(including matters of custody)reports. Deletions were made after the sample were drawn. Cases were not limited to those in which injuries were inflicted by parents or caretakers, nor to those in which abuse was confirmed.

Considerations for a Model Reporting Law

The purpose of this section of the paper is two-fold in nature: (1) to summarize and compare the elements of reporting statutes in Region IV; and (2) to present considerations for a model reporting law pointing out, where applicable, modifications in and/or additional discussion to these original considerations based on the perceived significance of the major developments discussed in the Introduction and which have transpired since the completion and presentation of the considerations.

Defining and Restraining Elements of the Reporting Statutes

1. Purpose Clause

Summary and Comparison:

> ...To provide for the protection of children...causing the protective services of the State to be brought to bear in an effort to protect the health and welfare of these children and to prevent further abuses. (Principles)

Five states in Region IV included a purpose clause in their statutes. Two of these states provide for both the identification and the protection of children. Three states include, as a part of the purpose, the preservation of family life, wherever possible. Only one state provided for the identification and protection of children who may be at risk of abuse/ neglect.

> Legislative intent and purpose--The General Assembly recognizes the growing problem of child abuse and neglect and that children do not always receive appropriate care and protection from their parents or other caretakers acting in loco parentis. The primary purpose of requiring reports of child abuse and neglect as provided by this Article is to identify any children suspected to be neglected or abused and to assure that protective services will be made available to such children and their families as quickly as possible to the end that such children will be protected, that further abuse or neglect will be prevented, and to preserve the family life of the parties involved where possible by enhancing parental capacity for good child care. (North Carolina)

Model considerations: In contrast to the suggested language of the model, the above statement (1) provides for the identification as well as the protection of children; (2) provides for possible primary prevention by making provisions for the identification of children suspected to be neglected or abused, i.e., not restricted to "...children who have had physical injury inflicted upon them..."as in the phrasing of Principles;* (3) extends the involvement of the State's protective service unit(s) beyond that of providing services necessary for the protection of children to the offering of services to the children's families toward the end of reducing the risk of further abuse/neglect; and (4) recognizes the need for the preservation of family life, wherever possible, by enhancing parental capacity for good child care, as a goal.

2. Reportable Age Limits

Summary and Comparison: It is recommended in Principles that the upper age limit to be covered by states' child abuse reporting laws be the maximum age of juvenile court jurisdiction. Two states in Region IV set the age limit at under sixteen, two under seventeen, and four under eighteen. In none of these states does the reportable age limit coincide with that of the juvenile court jurisdiction in dependency and neglect cases.

Model Considerations: In order to be able to invoke the powers of the court on behalf of an abused child or a child at risk of abuse, it is recommended that states raise the reportable age limit to the maximum age of juvenile court jurisdiction in their respective states.

Discussion: Under eighteen is the maximum reportable age mandated by the Child Abuse Act and suggested in the Model Law. However, in the commentary on Section 2 Definitions (p.5), it is suggested in the Model Law "...that different states may wish to substitute their own Juvenile or Family Court age

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*Emphasis added

limit, in order to avoid causing unnecessary confusion between reportable and jurisdictional definitions."

We hold the position that the reportable age limit should correspond to the maximum age of Juvenile Court control in each state. This position has been influenced further by a mandate in the Child Abuse Act and limited knowledge of residential institutions' population and juvenile court jurisdiction. According to the Child Abuse Act " A person responsible for a child's health or welfare includes the child's parent, guardian... or a residential institution."(1340.1-2 (b)(3)). Two relevant issues are common knowledge regarding institutional settings: (1) adjudicated children, entering at an age under eighteen, may well remain under court custody and institutionalized until perhaps age 21; (2) both mental and physical abuse occur in some institutions. By stipulating a maximum age of under eighteen, it would appear that for at least this population, however small it may be--the adjudicated over eighteen, the law provides little protection. It is probably fairly safe to assume that reporting and response to reports are both influenced by the definition of the phenomenon, i.e., if the eighteen and older are not covered under a state's reporting law, abuse involving the states' "institutionalized" older population would probably go undetected and/or unreported.

3. Nature and Cause of Abuse

Summary and Comparison: According to the model, abuse is defined as serious physical injury or injuries inflicted other than by accidental means. Two states in Region IV restrict abuse to physical injury,* while six states have broadened their definition to include general health and

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*While defining abuse in terms of physical injury, one state does provide for the protection of the neglected child in its reporting law.

welfare factors. The statements of cause range from the general..other than accidental means...to more explicit ones"...caused by physical abuse, child brutality, child abuse, or neglect..."(Alabama)

Model Considerations: There are undoubtedly many forms of abuse--physical, resulting from acts of omission as well as from acts of commission; emotional; sexual; and verbal. We do not know all of the consequences of persistent neglect as we do not know the psychological effects on a child who is subjected to emotional and/or verbal abuse even if there are no physical injuries. It may very well be that the effects of non-physical abuse are more detrimental to the child's normal development than those of physical abuse. The intent herein, however, is not to argue the point that one form of abuse is or is not more detrimental to the child. That would be an exercise in futility. What we wish to emphasize is that perhaps child abuse reporting laws would mean more protection for children if all forms of child abuse are considered.

Discussion: There are two elements considered for further discussion: (1) the stipulation of serious injuries/neglect, and (2) the nature of abuse.

The Child Abuse Act does not stipulate that reportable injuries be serious. This was one qualification that many states did not meet; three states in Region IV, for example, defined reportable abuse in terms of seriousness (Johnson: 1973, Table 2-2). The Model Law, while presenting a logical rationale for limiting reporting to serious physical injuries and neglect having serious consequences, presents an alternate proposal which indicates that reportable neglect and abuse need not be serious.

We suggest that seriousness should not be a criterion for reportable abuse and/or neglect. Preliminary findings on serial abuse cases from Level I I of our study of protective services delivery systems indicate

that in not a small number of cases, serious incidents were predated by reports involving non-serious injuries. In view of the tendency toward severity over time that these findings seem to suggest, it would appear to be a negation of the purposes of prevention and treatment to require that reportable injuries be serious in nature.

Both the Child Abuse Act and the Model Law define abuse in terms of a wide range of conditions, e.g., physical injuries, sexual abuse, neglect, mental abuse, etc. The point on which the two documents differ is the issue of manifest versus "at risk of harm." The Child Abuse Act (1340.1-2(b)) defines child abuse and neglect as "...harm or threatened harm to a child's health or welfare..." On the other hand the Model Law, for purposes of reporting, refers to abuse or neglect as "...manifest harm to the child...Implied in this definition is that situations involving the possible future abuse or neglect or the risk of child maltreatment do not by themselves constitute reportable conditions." (p. 5) "Serious Threatened" harm, however, is considered in an alternate proposal (p. 8).

We submit that certain types of "abuse", e.g., temporary abandonment and/or the lack of supervision, while not constituting actual present harm, are so ridden with the potential for harm, that to limit reporting to "actual harm" is tantamount to the ostrich hiding its head in the sand.

4. Provisions and Conditions of Immunity

Summary and Comparison: As suggested in Principles, all of the states in Region IV included an immunity clause in their child abuse statutes. With the exception of Tennessee (explicating immunity with respect to reporting only), the states guarantee immunity from civil and criminal liability with respect to reporting and judicial proceeding resulting from such report.

Seven states included a conditional phrase in the immunity clause. Some examples of conditional phrases follow:

...in good faith (Principles).

...resulting therefrom prima facie shall be presumed to be acting in good faith (Florida).

Model Considerations: An immunity clause is included for the protection of reporters from legal repercussions which could emanate from their action. Beyond this, however, it may be necessary to include a conditional phrase in the clause for the purpose of reducing the incidence of reports which are not made in the best interest of children's welfare but are intended to bring insult or harm to the parents, caretaker, or other reported person. As a consequence of reducing the incidence of such reports, more time and manpower should be available for the investigation of valid cases.

The phrasing of the conditional statement warrants careful consideration. In the phrase of Florida's law the presumption of good faith is open to rebuttal since presumption is contingent upon prima facie which means presumption or sufficient unless disproved.

Discussion: According to the Child Abuse Act, states "...must have in effect a child abuse and neglect law which includes provisions for immunity for all persons reporting..." (1340. 3-3 (d) (1)). No conditions of immunity are specified. The Model Law, in agreement with our model considerations, includes a conditional phrase "...participating in good faith." (p. 25)

We maintain the position of the inclusion of a conditional phrase. Further, we suggest that any public awareness campaign pursuant to the purpose of a state's child abuse reporting law adequately publicize this aspect. Reportedly, one of the weaknesses in Florida's public awareness campaign was the failure to publicize the conditional phrase of the

immunity provisions. Not only should potential reporters be made aware of their immunity from liability but the conditions under which immunity will be granted. I would hypothesize that this kind of knowledge would result in a decrease in malicious and unwarranted reports.

5. Abrogation of Evidentiary Privileges

Summary and Comparison: Each of the states in Region IV, with exception of Georgia which establishes no waivers, specifies the relationships which are not subject to evidentiary privileges in matters concerning a child's injuries or the cause thereof. The relationships specified in Principles are the physician--patient and the husband-wife. Two states in the Region basically followed the model in setting forth evidence not privileged, while five states deviate in phraseology and intent.

> The physician-patient privilege, husband-wife privilege, or any privilege except the attorney-client privilege...shall not pertain in any civil or criminal litigation in which a child's neglect, dependency, abuse or abandonment is in issue nor in any judicial proceedings resulting from a report...(Florida)

Model Considerations: There are two primary points to be considered in the question of privileged communication in an issue of child abuse: (1) the protection of the abused child, and (2) the rights of the abuser. It is felt that no evidence pertinent to determining the cause, the nature, and the necessary services to be rendered in a given abusive situation should be excluded. On the other hand, should the need arise, the suspected abuser must be guaranteed his constitutional right to counsel with all the privileges thereto. Therefore, it is recommended that the reporting law provides for no grounds for exclusion except that of the attorney-client.

6. Penalty for Abusing

Summary and Comparison: The model establishes no penalty for abusing.

Four states in Region IV included a penalty clause in their statutes, with abuse being explicitly defined as a felony in one state.

Model Considerations: The major question here, it seems, is how shall abusing be defined? As a criminal act? As a psychological illness? As an inappropriate response to life's stresses and frustrations? It is possible that all of the above, as well as others, are appropriate definitions, i.e., there may be various forms of abuse with different causes and consequently different solutions. Thus, it would seem that an unqualified penalty clause should not be included in the reporting laws. However, in lieu of a penalty clause, the states' criminal statutes should be brought to bear in instances which have been so defined by evidence.

Implementing Reports Under the Law

1. Mandated Reporters

Summary and Comparison: According to the suggested language in Principles only persons in the medical profession are mandated to report. Only one state in Region IV followed the model in limiting designated reporters to members of the medical and health professions. Five states mandate physicians in conjunction with other professions as the target groups for reporting. One state indicates simply that any person is required to report, while another designates any professional person and any person. The logic behind this distinction will be presented in the discussion on conditions initiating reporting.

Model Considerations: There are strong and valid arguments for extending the mandate in reporting laws to other professional groups as well as physicians and possibly any person. Caseworkers, for example, are often faced with neglected and abused children among their active caseloads, who would otherwise go unnoticed, unreported, and possibly untreated. The same is probably true for teachers and other school personnel. Many cases,

however, do not come to the attention of professionals. Family members, neighbors, and/or concerned citizens may be aware of such incidents which warrant social investigation. Thus, we recommend extending the target group to include any person. This provision would probably increase reported cases which are not of an abuse nature. On the other hand, this prescription would provide for the inclusion of more valid cases of abuse. Broadening detection in this manner would seem preferable despite the risks.

Discussion: The proposed rules of the Child Abuse Act (1340. 3-3 (d)(2)(i) like the Model Law (p. 9) stipulate that reporting be mandated for certain categories of people and allowed by others. The Act allows freedom to the states in making these kinds of decisions, i.e., the requirement that states make provision for the reporting of incidents "...shall be deemed satisfied if a State requires specified persons by law, and has a law or administrative procedure which requires, allows, or encourages all other citizens, to report..." The Model Law, on the other hand, designates specific persons in the health, religious, educational, and law enforcement areas as mandated reporters of abuse when there is "...reasonable cause to suspect a child coming before him in his official or professional capacity is abused..." It is further stipulated that the mandated reporter of abuse, as private citizen and any other persons with "...reasonable cause to suspect...", may report abuse or neglect.

One would have to read to appreciate the rationale presented in the Model Law for requiring certain categories of people in their "official or professional capacity" rather than everyone to report. The commentary to the section on reporters (pp. 9-12) suggests that this avenue was taken in spite of the logical significance of requiring everyone to report because "...it is probable that obligating everyone to report would serve

to diminish the impact a mandatory reporting law would have on specifically named professionals. In addition, it would be virtually impossible to enforce a penalty for the knowing failure to report if everyone is subject to it."

Empirical results attest to the fact that most cases of child abuse and neglect are brought into the formal protective services system by persons other than professionals working in their official or professional capacity. Gil (p. 20) found that help was initiated by members, excluding perpetrators, of the childrens' household in over 36.0 percent of the cases and by relatives, neighbors or concerned citizens in 29.9 percent of the cases. Initial assistance (Johnson: 1974, pp. 49-51) came from a variety of sources.[8] Members, excluding perpetrators, of the childrens' household initiated help in 16.6 percent of the cases and in 36.5 percent of the cases help was initiated by relatives, neighbors, etc.

The requirement that abuse be reported by the specified persons who see "...a child coming before him in his official or professional capacity..." not only limits who is required to report but also the conditions under which reporting is required. The above requirement frees the reporter from any responsibility to act except under the specified condition, i.e., official or professional capacity. This may be legally sound but very impractical.

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[8]Assistance, as reported by states in Region IV, was recorded in terms of the person(s) seeking initial assistance, the person(s) or agency which was contacted, or the official reporter. There was no consistent way to differentiate between assistance, referral, and reporting. The import of these data, however, is in the fact that in well over 50.0 percent of cases reported the impetus for child protection comes from sources other than professional ones. This being the case, it seems unlikely that the reporting status of professionals would be negatively influenced, rather enhanced.

The language of a statute sends messages to the potential reporter as well as to the recipient of reports. The point in requiring reporting is not merely to serve as a device for the enforcement of the law but to serve as a stimulus for reporting. 'May report' connotes no personal obligation; it allows one to easily ignore signs of the problem and thereby avoid involvement. I submit that the mandatory requirement to report placed on anyone suspecting child abuse has not, at this point in time, become a question of legal concern.[9]

A further point of contention with the Model Law is the stipulation that the reporting of neglect be permissive. Here again, the rationale given (p. 10) can be appreciated though not entirely agreed with. Briefly, the rationale is four-fold: (1) it is more difficult to define neglect than abuse; (2) vague definitions of neglect may lead to bias in the over-reporting of certain groups due to the cultural, racial, and economic differences between reporters and the reported: (3) the mandatory reporting of neglect would significantly increase agencies' caseload; and (4) neglect situations can be dealt with in more efficient and beneficial ways than through mandatory formal reports to the state agency.

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[9]Presently, all 50 states, Washington, D.C., and the Virgin Islands have mandatory reporting statutes. At least fifteen states require reporting by any person having reasonable cause to suspect (Alabama, Colorado, Delaware, Idaho, Indiana, Kentucky, Maryland, Montana, Nebraska, New Hampshire, New Jersey, Oklahoma, North Carolina, South Carolina, Tennessee).

In defense of the position for mandatory reporting of neglect, a brief point by point discussion of the rationale for permissive reporting is warranted. Seemingly, an operational definition of neglect is more easily handled than one of abuse. Neglect can virtually always be identified in terms of the lack of "needs" or the omission on the part of a "responsible" party to provide "needs". While the cause of neglectful conditions has significant implications for agencies' response and case handling, the cause should not alter the definition. On the other hand, it cannot be assumed that injuries always result from acts of commission. The cause of physical injuries has significant implications for agencies' response, case handling, as well as the definition or label to be placed on the injuries.[10]

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[10] Defining injuries as abuse is especially difficult in very young children. From our study of 1172 cases in Region IV, the following findings were apparent. Approximately thirty-six percent of the children were under three years of age. A high percent of these children were seriously injured---190 or 46.2 percent (excluding 15 fatality cases). Of the 190 children under three years of age who were seriously injured, injuries were confirmed as abuse in only 113 cases or 68.9 percent. Uncertainty was the disposition in 25.3 percent of the cases. There were 357 children between three and eight years of age for which we had relevant data. Only 21.6 percent of these children were seriously injured; in 59 cases or 76.6 percent injuries were confirmed as abuse; in 16.9 percent of the cases uncertainty was the disposition. In the eight but less than twelve age group (N=171), only 18 or 10.5 percent were seriously injured. Of those seriously injured, 88.8 percent represented confirmed abuse and in only 11.2 percent was uncertainty designated (Johnson: 1974, pp. 75-77). Thus while the "battered child syndrome" may be a medically defined entity, physical abuse per se is less easily defined.

In terms of point number two, biased reporting of certain groups of children, it appears that if the consequence of the Child Abuse Act has national impact the reported would reflect characteristics of people by geographical areas rather than real bias, i.e., poor whites in Appalachia, poor blacks in the rural south and ghetto areas, poor Indians in the mid-west, etc. Beyond this, neglect need not always be equated with poverty. While emotional neglect is even more difficult to define than general physical neglect and abuse, the "failure to thrive" syndrome, which may or may not be related to organic causes resulting from neglect in the usual sense, is fairly well identifiable and found in families from different racial, cultural, and economic backgrounds.*

Undoubtedly, most agencies which are already suffering from a lack of manpower and financial appropriations to meet the demands of their programs, fear, and rightly so, increased caseloads. However, there may be no alternative except to control caseloads perhaps through a coordinated system defining response, referral, and service delivery from all constituents. From our indepth analysis of reported cases in Region IV we have observed several different types of neglect some of which we are convinced demand mandatory reporting, e.g., temporary abandonment, lack of supervision for long periods of time, willful neglect, failure to thrive, etc. Undoubtedly some neglect situations can be served by other constituents of the total system; however, I would think

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*Dexter M. Bullard, Helen H. Galser, Margaret C. Heagarty, and Elizabeth C. Pivchik, "Failure to Thrive in the 'Neglected' Child," American Journal of Orthophychiatry, Vol. 37 (July, 1967), pp. 685-687. M.F. Leonard, J.P. Rymes, and A.J. Solnit, "Failure to Thrive in Infants," American Journal of Diseases of Children, Vol. 3(1966), pp. 600-612.

that considerable thought needs to be devoted to criteria for intake, response, referral, etc.

2. Conditions Initiating Reporting

Summary and Comparison: The phrasing in the model ". . .reasonable cause to suspect. . ." and that of Alabama's law ". . .appears to be suffering. . ." stipulate a minimum of knowlege as a basis for reporting. Florida's and Georgia's laws follow in degree of restriction before reporting becomes mandatory: the reporter must have reason to believe or cause to believe, respectively. South Carolina employs essentially the same phrasing, qualified by reasonable cause. According to North Carolina's statutes, the professional person must have reasonable cause and any other person reporting must have knowlege. In Tennessee's law, the reporter must have knowledge or have been approached to render aid.

Model Considerations: Since one goal of protective services is primary prevention as well as the prevention of subsequent abuse after the fact, we recommend that states follow the suggestion in the model in stipulating a minimum of knowledge to initiate reports. We do not feel that the non-professional person reporting should be inhibited by the need to have complete knowledge before taking action felt to be necessary.

3. Recipients of Child Abuse Reports

Summary and Comparison: Three states in the Region designate the department of public welfare as the single agency to receive child abuse reports. In this prescription, these states deviated from Principles which suggests that reports be made to appropriate police authority. In one state the law indicates an appropriate police authority if there is no child

welfare agency. Two states give the reporter a choice between the department of public welfare, the sheriff's office, or the police department. In one state, reports are made to a person designated by the juvenile court or family court judge and to the department of public welfare. And in one state, reports are to be made to the juvenile court judge or the department of public welfare or to the sheriff or the chief law enforcement official.

Model Considerations: We take the position that perhaps the most practical channel would be to mandate a single agency to receive reports. Where there are several recipients of reports, with one agency usually having investigative powers, the investigation process would conceivable be slowed down considerably. Additionally, it would seem that reporters would have a better sense of direction if there are not too many recipients of reports. The single agency we recommend is the department of public welfare for their expertise in social investigations and in rendering protective services.

Discussion: To satisfy the requirement of the Child Abuse Act, states need only provide for the reporting of known or suspected incidents of abuse and neglect to a "properly constituted authority with the power and responsibility to perform an investigation," (1340. 3-3 (d) (2) (i). The Model Law proposes that reports be made to the State Department of Social Services. An alternate proposal provides that reports be made ". . .to wholly independent local child protective agencies, specially created to receive reports of child abuse and neglect, to coordinate or direct the investigation of reports, and to coordinate or provide services to the child and his family"(p. 14).

Findings from our analysis of data on 1172 cases reported in Region IV (Johnson: 1974, pp. 54-57) have caused considerable reflection on the orginal recommendation that the department of public welfare become the

single agency to receive child abuse/neglect reports. Data on the resources first contacted for official assistance show that while public social welfare agencies were contacted first in 819 or 71.3 percent of the cases (N=1148), the percentage of these cases in which abuse was confirmed was relatively low (65.1 percent) in comparison to the percentages confirmed when the initial official contacts were made to the court(94.0 percent of all contacts made to this source) and to the police department (77.4 percent). Similarly,in fewer cases abuse was ruled out when initial contacts were made to police departments and the courts as opposed to cases reported to other sources. These findings may reflect a number of things: cases reported to different sources differ in nature and severity, social work personnel may be more reluctant to label cases as "abuse", more sanctioned authority may be vested in law enforcers, etc. We don't have the answers but the fact remains that the differences in case disposition by source of initial contact exist. The question may be raised as to why this matters. It matters because case definition has implications for case management, i.e., a decision other than abuse nullifies all "legal" avenues to services to families if, indeed, they are not desired.*

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*We have not posed this discussion for the purpose of arguing for the designation of all reported cases of injuries as valid cases of abuse. For indeed, we recognize that accidents still occur. We are suggesting, however, that to the extent presently possible, valid cases of abuse/neglect be so designated and surely this can be accomplished without stimatizing the "perpetrator."

Perhaps a workable system of case management can be found in a model in which coordinated efforts exist between the protective services unit of the department of public welfare and a unit of the juvenile court or the police department. Initial observations of such a system (Nashville, Davidson County, Tennessee) indicate that such a model may hold promise in this area.

In terms of a "wholly independent local child protective agency" for case handling, we suggest that considerable thought would have to be given to extensive planning and cost efficiency.

4. Type Report

Summary and Comparison: All of the States in the Region followed the model in making reporting mandatory, essentially employing the same language ". . . shall report or cause reports to be made. . ." Only three of the states followed the suggestion in Principles in making the report accusatory in nature.

Model Considerations: We recommend that reporting be mandatory and that the report be non-accusatory in nature.

5. How reports are Made

Summary and Comparison: Six of the states in Region IV followed the suggestion of the model in requiring that a written report follows the oral. In one state, the report can be made by telephone or otherwise. One state indicates that reports may be oral or by telephone or written.

Model Considerations : In the states' statutes the process of reporting has not been placed in its proper perspective in relation to who is mandated to report. A written report (Principles) as a requirement for physicians is a logical prescription. On the other hand, where the mandate to report is applicable to any person, the requirement places an unwarranted burden on the reporter.

The major purpose behind initiating a report is to set in motion the machinery of the protective service unit on behalf of the child. The responsibility for the social investigation lies primarily with the mandated agency and not with the reporter. Beyond this, however, the social investigation should include any medical findings and professional opinions, where applicable, of the reporter. Medical findings and opinions are crucial to the determination of case status, and as such, they need to be maintained on record. With the above points in mind, it is our position that the law should: (1) outline a clear and uniform reporting procedure which takes under consideration the responsibility of the reporter; (2) specify that non-professionals be required to report orally only; and (3) require professionals, especially physicians, to make a written report which will serve as part of the written report of the case.

Discussion: The Model Law proposes that all reports be made orally by telephone to the State Department of Social Services (p. 17), and strongly recommends only one such statewide telephone service, with a single number available on a 24 hour basis to all potential reporters at no charge. I would suggest that such a system might present some problems. Observation of the Florida's system revealed that even though many calls were made directly to the local department of social and rehabilitative services, the volumn of calls received in the State Office necessitated that the response to calls, i.e., relaying of report to the appropriate county, be less than with deliberate speed. Another observation was that many callers trying to get through the WATS line often hang up by the time a response can be made. It would appear then that for a state's telephone system to be

effective the caller must have the option of reporting directly to the local office or to the State Office, and the states' WATS line must be adequately manned. Certainly, a thorough analysis of the state-wide telephone system is needed. Are calls received at the county level handled more quickly? Do the nature of calls differ?

6. Legislative Directions

Summary and Comparison: There are no legislative directions in the model. Seven states in Region IV have included explicit directions, while one state has implied directions. Six of the seven states incorporating explicit directions invested investigative powers in the public welfare agency. One of these six states also empowers the sheriff's office or chief county law enforcement officer to investigate. In another state, the preliminary inquiry which is made by the youth court and at the court's discretion, determines whether further action is required. During the pendency of such inquiry, the Judge may request the county department of public welfare or any successor agency or any suitable public employee to make a social investigation.

Model Considerations: The degree to which the purpose of the reporting law is realized depends, in large measure, upon the actions that are taken subsequent to a report. And likewise, the degree to which appropriate actions are taken depends among other factors, upon the prescriptions in the law which give explicit directions to the total process--from the receipt of a report through case disposition. It is our position that there should be no grounds for ambiguity and/or the need for the assumption of responsibility by any agency.

Beyond the prescriptions relative to directions, the law should clearly define the degree of authority to be invested in the investigating agency

toward the end of protecting abused children. In sum, the various courses of action should be clarified.

Additionally, perhaps the statutes should make explicit provisions for the coordinative and collaborative effort of the various community service agencies when such is required by the investigative agency. Beyond the social and rehabilitative orientation of the department of public welfare, many cases, for example, require the immediate services of the police department.

Discussion: The Child Abuse Act requires that investigations of reports be initiated promptly (1340.3-3 (d)(3)(i), and that appropriate actions be taken (1340.3-3 (d)(3)(ii). The Model Law proposes prompt investigations and procedures for emergency temporary protective custody (p. 20) and duties of the public social services department(p. 30). The discussion herein will be limited to the immediacy of investigations. Inasmuch as the definition of child abuse depends, to an undetermined degree, upon visible signs of injuries or signs of omission, we suggest strongly that official assistance after the report, become a more expedient operation. From our analysis of data (N=830) in the regional study, we found that official response was made within 24 hours in only 25.6 percent of the cases. In 16.8 percent of the cases, up to one week passed before a response to reports was made. In 3.4 percent of the cases official assistance was received after a duration of a month or more. The time lapse was unknown in 31.1 percent of the cases. The association between time lapse and case disposition was significant under the .05 level (Johnson: 1974, p. 57). In general, the less time between contact and assistance the more likely injuries were confirmed as abuse.

7. Penalty for Failure to Report

Summary and Comparison: "Anyone knowingly and willfully violating vision of this Act shall be guilty of a misdemeanor." This is the penalty clause set forth in Principles. Five states in the Region included a penalty for failure to report in their laws, with penalties ranging from not less than ten nor more than one hundred dollars to not more than five hundred dollars, or both imprisonment and fine.

Model Considerations: The purpose of including the penalty clause in the law is to provide a device for the enforcement of that law. However, given the problems inherent in defining what constitutes abuse and determining the accidental--nonaccidental status of an incident, as well as establishing the existence of knowledge and willful negligence to report, gaining a conviction for the failure to report would be a difficult task. On the other hand, the existence of the clause, making conviction possible, may serve to stimulate reporting.

Discussion: The model considerations would be modified to include the failure to report neglect under the provisions of a penalty clause. Here, as in the matter of required reporting, the existence of the clause may encourage reporting even though it may not provide the most effective device for the enforcement of the law. The Model Law provides for a penalty in terms of suggested mandated reporters and reportable conditions.

8. Religious Provisions in the Reporting Laws

Summary and Comparison: Beyond the major defining elements in the child abuse statutes, two states in Region IV include spiritual healing as a basis for exclusion from reporting. The inclusion of such an element was not recommended in Principles.

Model Considerations: There can be little doubt that this kind of provision in the statutes precludes protection to certain children. On the other hand, if the law does not include the provision giving parent or other responsible adult the right to refuse medical treatment on religious grounds, the powers of the court can be invoked on behalf of the child.

Discussion: The Child Abuse Act provides "...that a parent or guardian legitimately practicing his religious beliefs who thereby does not provide specified medical treatment for a child, for that reason alone shall not be considered a negligent parent." (1340.1-2 (b)(1)). From our indepth analysis of well over 3,000 cases, we can safely say that cases of this nature are probably in the minority. However, the needs of children in the few cases we have encountered would prompt us to maintain our position of excluding the provision from the statute, thus making it possible to invoke the powers of the court on behalf of the child should the need arises.

Concluding Remarks

Considerations discussed in this paper are not exhaustive in terms of elements which may or can be included in child abuse reporting statutes. Elements included in the Child Abuse Act and/or the Model Law, e.g., central registry, confidentiality of reports, legal representation, etc., which were not presented in our original model considerations have not been discussed. Such factors were not originally excluded because of perceived insginificance; rather, these elements in Region IV were explicated in manuals of administrative procedures if, indeed, they were addressed at all.

In terms of the considerations discussed, none of the states in Region IV approximated the original model (Principles) in all of its elements, and some of the states deviated substantially from the model on

specific parts. While some of the deviations may have a dampening effect on the efficacy of the reporting statutes, e.g., the inclusion of the penalty for abusing and the religious healing clauses; some of the deviations from the model undoubtedly resulted in more effective laws, e.g., broadening the definition of abuse, extending the target reporting group, and including legislative directions. Similarly, some elements that were modeled after Principles may be goal defeating, e.g., the requirement of an oral and a written report.

At this writing, none of the child abuse statutes in Region IV met all the requirements explicated in the Child Abuse Act or all the proposed elements in the Model Law. More importantly, we feel, the statutes in Region IV cannot be defined as a "model" law based on all of the considerations and discussions we have proposed. And we are not herein asserting that the model considerations are the final answers to effective child abuse laws and reporting systems. Needless to say, some of the original considerations have been modified based on implications of our research undertaken in this region. And undoubtedly, these guides, as well as others, will be further modified as a result of trial and error efforts and continued research.

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