



PhilanthropyRoundtable

STRENGTHENING OUR FREE SOCIETY

Fixing Child Protection

Douglas Besharov

January 1, 1998

IN THE PAST 30 YEARS, MAJOR PROGRESS HAS been made in combating child abuse. In 1963, only about 150,000 children were reported to the authorities because of suspected abuse or neglect. In 1995, over three million children were reported, a 20-fold increase.

As a result, many thousands of children have been saved from death and serious injury. The best estimate is that child abuse and neglect deaths declined from over 3,000 a year (and perhaps as many as 5,000) in the late 1960s to about 1,200 a year in the mid-1990s.

Yet, many children continue to fall through the cracks. According to a federal government study, in 1986, professionals such as physicians, teachers, and day care personnel still failed to report half of the maltreated children they saw. Nearly 50,000 sexually abused children went unreported, as did about 60,000 children with observable physical injuries severe enough to require hospitalization.

Even being reported, however, does not guarantee a child's safety. Over 40 percent of the child abuse deaths in 1995 involved children previously known to the authorities. Tens of thousands of other children suffer serious injuries short of death while under child protective agency supervision.

No matter what we do, some child abuse tragedies cannot be prevented -- because they occur behind closed doors and without warning. But in cases where an outsider, especially a child-serving professional, has an opportunity to recognize the danger the child is in, one can fairly ask: What went wrong, and can something be done about it?

Child welfare agencies could do a much better job protecting abused and neglected children -- but, to do so they need to be much clearer about the limits of government treatment services and, at the same time, much more willing to use government power to remove children from unfit parents. Private philanthropy can play a vital role in promoting such reforms, because it has no need to defend old approaches and, instead, can support new voices seeking to reshape child protection programming.

Reforming the Reporting Process

Simply generating more and more reports of suspected child abuse and neglect is not the answer to the problem of nonreporting. The emotionally charged desire to "do something" about child abuse, fanned by often sensational media coverage, has led to an understandable but counterproductive overreaction on the part of the professionals and citizens who report many cases that do not amount to child abuse.

In 1995, about 65 percent of all reports were labeled "unfounded" after being investigated. This is in sharp contrast to 1975, when the comparable figure was about 35 percent. Although rules, procedures, and even terminology vary, in essence an "unfounded" report is one that is dismissed after an investigation finds insufficient evidence upon which to proceed.

Some professionals defend the high level of unfounded reports as the necessary price for identifying endangered children. And, certainly, some amount of inappropriate reporting is to be expected. We ask hundreds of thousands of strangers to report their suspicions; we cannot ask that they be sure; and we cannot expect that they always be right.

Nevertheless, the determination that a report is unfounded can be made only after what is often a traumatic investigation and, inherently, a breach of parental and family privacy. To determine whether a particular child is in danger, child

protective workers must inquire into the most intimate personal and family matters. Often, it is necessary to question friends, relatives, and neighbors, as well as schoolteachers, day care personnel, doctors, clergymen, and others who know the family. For fear of missing even one abused child, workers often perform extensive investigations of vague and apparently unsupported reports.

Besides being unfair to the children and parents involved, inappropriate reporting places an unnecessary burden on already overwhelmed child protective agencies -- and threatens to undermine public support for their efforts. To call for more careful reporting of child abuse is not to be coldly indifferent to the plight of endangered children. Rather, it is to be realistic about the limitations and capabilities of child protective systems.

Investigating so many unfounded reports consumes scarce agency resources, leaving child protective workers with less time to respond to children in real danger. Some reports are left uninvestigated for weeks. In other cases, workers miss key evidence and cannot adequately supervise dangerous home situations -- as they rush to keep up with the new reports arriving daily on their desks. These nationwide conditions help explain why so many child abuse cases involve children previously known to the authorities.

Thus, abused and neglected children continue to suffer maltreatment, and some die, both because they are not being reported to the authorities and because the authorities are being overwhelmed by the need to investigate inappropriate reports.

Why is this happening? Although fear of getting involved remains a problem, few people fail to report because they do not care about endangered children. Instead, they may be unaware of the danger the child faces, or of the help that is available from child protective agencies. A study of nonreporting among teachers, for example, blamed their "lack of knowledge for detecting [physical and behavioral] symptoms of child abuse and neglect." Similarly, few inappropriate or unfounded reports are deliberately false statements. Most involve an honest desire to protect children coupled with confusion about the conditions that should be reported -- and those that should not.

Through strategic funding, private philanthropy can help concerned professionals and lay persons improve both reporting and investigative practices.

1 Grants to reform reporting laws. Existing laws are often vague and overly broad. They should be rewritten to provide real guidance about what conditions should and should not be reported. This can be accomplished without making a radical departure from present laws or practices. The key is to describe reportable conditions in terms of specific parental behaviors or conditions that are tied to severe and demonstrable harms (or potential harms) to children.

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

2 Grants to educate professionals about what should be reported -- and should not be reported. Better -- and more accurate -- reporting depends on informed lay persons as well as professionals. Training and educational programs must be ongoing because of staff turnover and the need to refresh and update skills. Unfortunately, far too many training programs are of short duration, haphazard in their focus, and handicapped by the absence of comprehensive resource materials.

For example, a training curriculum I developed is now being used in New York City (through the support of the William H. Donner Foundation) and soon will be used in Pennsylvania (through the support of the Scaife Family Foundation) and in Newark, New Jersey (through the support of the Prudential Foundation). The curriculum will also be the subject of nationwide "distance learning" courses via satellite downlinks (through the support of the Robert Wood Johnson Foundation).

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

problem more appropriately handled by another social service agency, a proper referral should be made.)

Reforming Child Protective Decision Making

Child protective decision making suffers because of unrealistic expectations about the ability of treatment services to reverse deep-seated patterns of parental dysfunction. Although no two cases are exactly alike, one pattern does repeat itself with disturbing frequency: The agency knew that a particular mother was dreadfully inadequate -- often from multiple reports made month after month, and sometimes year after year -- yet did not remove the children from the danger. Or, the deceased child had been placed in foster care, but was later returned to the parent.

The conventional wisdom blames most of these deaths on inadequate funding and on poorly trained and overworked caseworkers. On the basis of my experience, however, I do not think that more money will help matters very much. Decision-making problems plague agencies even when they have low per-worker caseloads. Even though most agencies can certainly use more (and better) staff and treatment resources, the real culprit is wishful thinking about parents and the efficacy of treatment.

Each year, about 250,000 children are placed into protective foster care, according to the American Public Welfare Association. Although many children are returned in a matter of days, many others languish for years in foster care. The most up-to-date data are from 1990, when about 40 percent of the 400,000 children in foster care had been away from home for at least two years. About half of these children had been in at least two foster homes, and a quarter in three or more foster homes.

Fewer than 5 percent of these hundreds of thousands of children, however, are freed for adoption each year. Too many children are returned home, where they are frequently abused again and once more placed in foster care. In extreme cases, the pattern is repeated many times over. If abused children are to have a fair chance in life, some basic reforms are needed, many of which can be advanced by private philanthropy. I will put these recommendations within the context of drug addicted parents because, although we are now more than ten years into the crack epidemic, most states have yet to develop laws and programs that accurately reflect how crack devastates parental functioning -- and that recognize our limited ability to cure addiction.

4 Grants to help child protective workers understand the realities of parental dysfunction (especially drug addiction) and its implications for case decision making. Although the number of new drug addicts seems to have declined in recent years, hundreds of thousands of parents remain addicted. On their own, most true drug addicts simply cannot adequately care for their children. Without societal intervention, their children are condemned to lives of severe deprivation and, often, violent assault. In 1994, for example, drug addiction was present in almost three quarters of New York City's child abuse fatalities; almost 30 percent of the fatalities were "positive-tox" babies, that is, they tested positive for drugs at birth.

Although there has been some success in treating heroin addiction and alcoholism, even the best treatment programs report that, in most cases, they can break patterns of crack usage only temporarily -- because of the addictive qualities of the drug and the social factors that encourage addiction. That is why drug treatment professionals consider crack addiction to be a "chronic, relapsing syndrome." A combination of research, policy analysis, and training would help child welfare professionals understand this unhappy reality.

5 Grants to reform two key child protective services: long-term supervision and kinship care. First, many children of addicts remain at home in their parents' custody. Child protective agencies provide only short-term services to these families, on the assumption that a referral to a drug treatment program will cure the parents' addiction. Since drug addiction (even if treated) is usually a long-term affliction, this short-term orientation is a grave mistake. Case planning should be based on the understanding that the family will likely require many years of supervisory home visits -- to monitor whether the child is being abused again and to provide counseling to the parents.

Second, for those children who cannot remain with their parents, the rules surrounding "kinship care" should be formalized. Members of the extended family play a key role in caring for the children of addicts. In August of 1995, for example, about 40 percent of New York City's 42,000 foster children lived in these kinship placements. But too many of these children are placed with relatives who are burdened with many of the same problems as the parents and thus cannot provide an adequate home environment.

Although it would be a mistake to apply all the formalities of non-familial foster care to these relative placements, a set of minimum standards for licensing, monitoring, and supporting these placements should be developed. In addition, in many states, foster care payments to kin are much higher than welfare payments the mother might receive, creating an incentive to leave children in these temporary situations. This disparity in levels of support should be erased.

6 Grants to increase adoptions, especially of abandoned infants. Child welfare agencies do a poor job of identifying the children who should be freed for adoption (because of a general reluctance to terminate parental rights, administrative and decision-making breakdowns, and, to a lesser extent, current statutory provisions). Laws and procedures should be reformed to encourage adoption when the parents' demonstrable inability to care for a child is coupled with an unwillingness to accept or respond to a reasonable offer of treatment. Since termination should only be pursued when there is a reasonable likelihood of adoption, the focus should be on younger children, especially abandoned infants.

In 1997, the Congress passed the Adoption and Safe Families Act of 1997 [see box]. Reforms along the lines I have described should be energized by the law's provisions de-emphasizing family preservation services and encouraging changes in state adoption policies. Still, state agencies will need all the help they can get outside the confines of the traditional child welfare system.

7 Grants to help create alternate living arrangements that are stable and nurturing. Children who are not appropriate candidates for adoption (because they are older or have behavioral problems) and who cannot be placed with relatives are likely to spend many years in substitute care. These children are in desperate need of the consistency and support that only long-term residential environments can provide. Among the possibilities are explicitly designated family foster care homes, group homes, and residential care facilities (yes, what we used to call orphanages).

Fully funding such programs, of course, is beyond the resources of all but the largest foundations. However, planning grants and grants to establish a programmatic infrastructure can leverage sufficient public foster care funds to support the program's residential services. Philanthropic support for such projects will not eliminate child abuse deaths, but without such reforms no amount of finger pointing or additional funding will solve the child welfare system's underlying problems.

Douglas J. Besharov, J.D., LL.M., is a resident scholar at the American Enterprise Institute for Public Policy Research and a professor at the University of Maryland's School of Public Affairs. He was the first director of the U.S. National Center on Child Abuse and Neglect, and is the author of *Recognizing Child Abuse: A Guide for the Concerned*.