

Four Commentaries: How We Can Better Protect Children from Abuse and Neglect

1 COMMENTARY

Douglas J. Besharov

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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.¹ In 1995, more than 3 million children were reported,² 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 fell from more than 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.³

Yet many children continue to fall through the cracks. According to a federal government study, in 1986, professionals such as physicians, teachers, and child 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.⁴

Even being reported, however, does not guarantee a child's safety. Fully 48% of the child abuse deaths in 1995 involved children previously known to the authorities.⁵ Tens of thousands of other children suffer serious injuries short of death while under child protective agency supervision.

No matter what is done, 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? Fundamental reforms of both the reporting process and child protective decision making are needed.

Reforming the Reporting Process

Simply generating more and more reports of suspected child abuse and neglect is not the answer. In recent years, the problem of nonreporting has been compounded by the problem of inappropriate reporting. 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 some professionals and citizens, who report many cases that do not amount to child abuse.

In 1995, about 65% of all reports were labeled “unfounded” after being investigated.⁶ This is in sharp contrast to 1975, when the comparable figure was about 35%.⁷ Although rules, procedures, and even terminology vary, in essence, an unfounded report is one that is dismissed because insufficient evidence exists 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 inquire into the most intimate personal and family matters. Often, it is necessary to question friends, relatives, and neighbors, as well as schoolteachers, child care personnel, doctors, clergy, 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. Even when a home visit prompted by an anonymous report turns up no evidence of maltreatment, workers usually conduct the same series of interviews to make sure that the child has not been abused. 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.

Investigating so many reports that turn out to be unfounded 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 are dying, both because they are not being reported to the authorities and because the authorities

are being overwhelmed by the need to investigate inappropriate reports.

What should be done? 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 symptoms of child abuse and neglect.”⁸ Similarly, few inappropriate



ate 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.

With this understanding, a relatively clear agenda for reform emerges:

■ *Clarify child abuse reporting laws.* Existing laws are often vague and overbroad. 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.⁹

■ *Provide continuing public education and professional training about child abuse reporting.* Better—and more accurate—reporting depends on informed laypersons as well as professionals who are mandated to report suspicions of child abuse. Training and educational programs must be ongoing, and should emphasize the conditions that do not justify a report, as well as those that do. Unfortunately, far too many training programs are of short duration, haphazard in their focus, and handicapped by the absence of comprehensive resource materials.

■ *Screen reports.* 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. Therefore, all states should have formal policies and procedures for determining whether to accept a call for investigation, including 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.)

■ *Modify liability laws.* Current laws provide immunity for anyone who makes a report in good faith, but they 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 immuni-

ties and penalties encourages the overreporting of questionable situations.

■ *Give feedback to persons who report.* If persons who report are not told what happened, they may conclude that the agency's response was ineffective or even harmful to the child, and the next time they suspect that a child is maltreated, they may decide not to report. In addition, reporters need information about whether their suspicions were valid to interpret subsequent events as they monitor the child's condition, and to improve the quality and accuracy of their future reports.

■ *Adopt an agency policy on reporting.* Appropriate reporting of suspected child maltreatment requires a sophisticated knowledge of many legal, administrative, and diagnostic matters. To prepare their staffs to respond properly, an increasing number of public and private agencies (such as schools and child care agencies) are adopting formal agency policies about reporting. The primary purpose of these agency protocols is to inform staff members of their obligation to report and of the procedures to be followed. Such formal policies are also an implicit commitment by agency administrators to support front-line staff members who decide to report. Moreover, the process of drafting a written document can clarify previously ambiguous or ill-conceived agency policies.

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 operations and capabilities of child protective systems.

Reforming Child Protective Decision Making

Child protective decision making also suffers because of unrealistic expectations. Although no two cases are exactly alike, one pattern repeats 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 mother. (Yes, it is mostly the child-rearing ability of the mothers that is at issue. In these chronic cases, even when a man is the actual killer, he is rarely a longtime presence in the home.)

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 in foster care. The most up-to-date data are from 1990, when about 40% 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 of

them in three or more foster homes. Fewer than 5% 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.

If abused children are to have a fair chance in life, seven basic reforms are needed. I will put these recommendations within the context of drug-addicted parents because the drug crisis is changing the face of the child welfare caseload and stretching agencies to the breaking point. Although we are now 10 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.

■ *Recognize that parental drug addiction is widespread and will continue to endanger children.* 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.

■ *Assume that parental crack addiction cannot be cured.* 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.” So should child welfare professionals.

■ *Provide intensive—and prolonged—child protective supervision.* 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.

■ **Formalize "kinship care" programs.** Members of the extended family play a key role in caring for the children of addicts. In August 1995, for example, about 40% 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 nonfamilial 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.

■ **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 a reasonable offer of treatment. Since termination should be pursued only when there is a reasonable likelihood of adoption, the focus should be on younger children, especially abandoned infants.

■ **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).

■ **Make family planning a child welfare service.** Most drug-addicted women would be better off if they had greater control over their own fertility. Child welfare agencies often take away the children of drug-addicted mothers



one by one—at birth or shortly thereafter. Although some of these mothers want to have more children, many do not. Their lifestyles (and the men in their lives), however, limit their ability to use contraceptives effectively. Family planning should be automatically offered to addicted mothers, not to coerce abstinence or contraceptive use, but, rather, to help motivate female addicts to gain control over their own lives.

Two sets of reforms are proposed here—steps to encourage more careful reporting and reduce intrusive investigations of unfounded allegations, and steps to provide a more realistic response to the devastating effects of drug

addiction on child rearing. These reforms will not guarantee that there won't be any more child abuse deaths. Without these reforms, however, no amount of finger-pointing or additional funding will solve the child welfare system's problems.

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2. National Committee to Prevent Child Abuse. *Current trends in child abuse reporting and fatalities: The results of the 1995 fifty-state survey.* Chicago: NCPA, April 1996, p. 3.
3. See note no. 2, National Committee to Prevent Child Abuse, p. 12.
4. Sedlak, A. *The supplementary analyses of data on the national incidence of child abuse and neglect.* Rockville, MD: Westat, May 1989, p. 2-2, Table 2-1.
5. See note no. 2, National Committee to Prevent Child Abuse, p. 12.
6. See note no. 2, National Committee to Prevent Child Abuse, p. 6.
7. American Humane Association. *National analysis of official child neglect and abuse reporting, 1976.* Denver, CO: AHA, 1978, p. 11.
8. Levin, P. Teachers' perceptions, attitudes, and reporting of child abuse/neglect. *Child Welfare* (January/February 1983) 62,1:14-19.
9. See note no. 1, Besharov, pp. 28-36.

2 COMMENTARY

Marcia Robinson Lowry

Editor's note: Marcia Robinson Lowry, J.D., is a lawyer and executive director of Children's Rights, Inc., a national advocacy organization that works to reform state and county child welfare systems

through class-action lawsuits. She has represented children in more than 15 class-action lawsuits seeking to reform child welfare systems across the United States, and she writes, speaks, and provides testimony regarding children's issues.

When Marisol was three and one-half years old, she was discharged from foster care and sent to live with her mother, who had placed the child in foster care at birth. Her mother had a history of drug abuse, for which she had been imprisoned. Nothing in her record indicated that she had been rehabilitated.

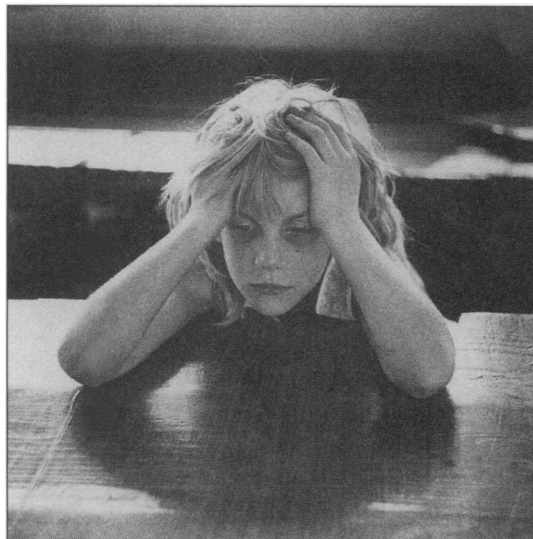
In sending the child to live with her mother, the New York City child welfare system ignored reports that Marisol had returned from visits prior to discharge unfed and frightened by violence in the home, suggesting that her mother might still be abusing drugs. Instead, authorities applied the system's current operating principle that all children should be with their biological parents—without any kind of careful evaluation to determine whether this particular parent was able to care for her child, without providing any meaningful services to address the parent's problems, and without providing necessary supervision and oversight to ensure that the child was safe.

Reports that Marisol was being abused by her mother went uninvestigated, and those concerned were given bland assurances that the child was thriving. But child welfare officials had no idea how she was doing. Fifteen months later, a housing inspector happened upon Marisol, locked in a closet in her mother's apartment, near death. She had been repeatedly abused over an extended period of time, eating black plastic garbage bags and her own feces to survive.

After leaving the hospital, Marisol reentered foster care. Her permanency goal: return to mother. The service to be provided to enable her mother to resume custody: parenting classes.

Marisol is the named plaintiff in a lawsuit brought by Children's Rights, Inc., a national advocacy organization, and a New York organi-

zation called Lawyers for Children, which represents children in family court. The lawsuit is directed at reforming the huge, expensive, and dysfunctional New York City child welfare system. That system was described by its current commissioner as being marked by "decades of ineffective management, internally created and externally imposed impediments to quality care, and a disjointed organizational structure."¹ This lawsuit joins the growing list of court-based reform efforts around the country that are directed at forcing child welfare bureaucracies to implement fundamental and lasting reforms that will address the real problems within these systems.



The history of botched child abuse investigations and failed attempts to protect children in their own homes is long. Yet the press is filled with heartrending stories of children about whom the alarm had already been sounded, but who nevertheless were subjected to torture and, often, death that might have been prevented. No one could disagree with the need to prevent this kind of harm. Yet it continues. Data from records reviewed in three cities show that in Milwaukee, 48% of families investigated for abuse had prior involvement with the child welfare system;² in Washington, D.C., 32% of such families had been previously reported to protective services;³ and in New York City, in 43% of families that had been the subject of an abuse/maltreatment complaint, children were abused

or maltreated again while under city supervision.⁴

Why is meaningful change in child welfare, on even this most basic of issues, so elusive? Why do so many troubled government child welfare systems resist reform without the continuous external scrutiny that is usually supplied by litigation? There are a number of reasons: bureaucratic inertia; the difficult, time-consuming process of changing long-established practices; the cost of reform; the lack of administrative continuity; and the absence of political will to spend money on a constituency of children who are often exploited to win votes but who cannot vote themselves.

A crucial problem is the fact that child welfare systems have for decades operated under a changing series of single operating principles. Because these systems lack the capacity to do what is, after all, a difficult job that calls for subtle, sophisticated judgments, they have redefined that job into a far simpler one in which staff apply only the single operating principle current at the time. Every so often, in response to either changing fashion or public reaction, the tide turns and the operating principle changes.

But never have these systems acknowledged the fundamental principle that the circumstances of individual children and families vary, as should responses to those circumstances. As the writer Leo Tolstoy wisely observed, "Happy families are all alike, every unhappy family is unhappy in its own way." Any system that purports to fulfill its public mission to protect this country's most vulnerable children must have the capacity for professional, individual decision making applied to each family, and the resources to support and implement that professional judgment. But too many systems upon which this country's most vulnerable children are dependent have neither.

Beyond a Single Operating Principle

For instance, three-and-one-half-year-old Marisol was returned to a mother who had already exhibited serious problems. Her care was left unmonitored because the system

responsible for her safety and well-being was operating under a “family preservation” principle. However, rather than reflecting the experience of carefully designed family preservation programs that have really made meaningful efforts to preserve families—by recognizing that parents with problems need support and services to provide safe, nurturing homes for their children—the implementation of family preservation has all too often meant nothing more than leaving children with parents, regardless of the problems in the home and without providing sorely needed services to support those families that are salvageable.

Claiming that a system is committed to family preservation has been a convenient and inexpensive operating principle. The concept of family preservation, itself a reaction to the widespread disregard for the need for the preservation and support of families, has been incorrectly used as justification for doing nothing until families disintegrate and cause devastating harm to children.

Now, in the wake of a series of horrible child abuse cases that have finally captured the attention of the public and hence the politicians, many public agencies, including the one from whose protection Marisol barely escaped with her life, have announced, “Enough! From now on, we are going to protect children.”

Now, inadequate systems that failed to implement their principle of family preservation are adopting a new principle that emphasizes child protection and removal. That is likely to mean abuses in another direction, in which children are removed from many shaky but salvageable families to endure the questionable benefits of foster care systems, which are becoming all too much like lifelong—or childhood-long—sentences without any meaningful possibility of parole.

Any system that truly intends to protect children must acknowledge that embracing the principle of child protection cannot simply translate into the rampant removal of all children about whom abuse complaints have been received, any more than the embracing

of the principle of family preservation should have been translated into widespread disregard of serious problems within families reported for abuse or neglect. Now the discussion around the problems in child welfare systems is being formulated as a choice between family preservation and child protection—when that is not the choice at all.

The real question is not whether family preservation or child protection works best, but whether child welfare systems will ever have the capacity to make individualized decisions that are not dictated by a simple, and simpleminded, operating principle—“preserve all families,” meaning, leave almost all



children with parents, or “protect all children,” meaning, “when in doubt, take them out.” The real question is whether these systems can provide for the needs of the children who are dependent upon them, develop the capacity to determine what those needs are, and provide the services that are appropriate to address those needs. Can they be made to do so, and if so, how?

Legal Action to Promote System Change

As the problems of children increase and the government continues to demonstrate its inability to respond to their problems, those who seek to give these children a voice have had no choice but to turn to the courts, the

last refuge for the powerless in our society. And who could be more powerless than the poor, disproportionately minority children who make up so many of those dependent upon this country’s child welfare systems? Class-action lawsuits on their behalf provide the surest device to obtain the extra leverage needed to get the attention of and move the multiple bureaucracies and local legislatures that control these children’s lives. The presence of a lawsuit can elevate the visibility of children’s issues, provide sustained pressure for change and more public funding, and produce publicly available information that in itself creates its own pressure for reform.

There are few signs that child welfare systems will make the necessary changes on their own. Even when administrators wish to reform their systems, they often lack the political power or longevity to do so. Under these circumstances, it seems both inevitable and necessary that class-action lawsuits will remain a major device used to alter the current procedures, to move some of these systems away from their seriously damaging approaches.

Lawsuits can, for example, require a system to develop training and provide the supervision necessary to support professional decision making, and the services necessary to support families in appropriate circumstances. They can also result in court orders that mandate adequate, timely child abuse investigations and services for children who must enter child welfare custody. This is not to suggest that getting such court orders implemented is an easy matter, but it is doable, particularly when these court orders support administrators who understand the need for them and view them as additional ammunition in their own reform arsenals.

The filing of a lawsuit on behalf of children in a child welfare system sets in motion a process that exposes the inner workings of closed systems to public scrutiny. A lawsuit is able to move behind stated principles and rhetoric to determine exactly what is happening. To substantiate the charges it sets forth, the litigation sets in motion extensive research and fact gathering. Often, it is necessary to use

the courts to get this information, because many government agencies argue that confidentiality rules prevent them from opening their records, or because these agencies simply do not compile relevant information. The information collected from records becomes the first comprehensive history of children's actual experiences, both at the front end of the system when a first report of abuse or neglect is made, and later on if they enter the system and continue in placement. The evidence is collected and statistically analyzed in such a way that it can be used to paint a comprehensive picture of the system: showing how children have been harmed; describing what is wrong with practices and procedure; and indicating what specific changes must be made to correct the problems.

By contrast, politicians who undertake reform are likely to draw only on the most expedient approaches to quieting public outrage, for instance, by renaming and restaffing a bureaucracy without taking the time to fully examine why the system is not working. At its best, well-planned strategic litigation is not motivated by a political agenda but by a thoughtful process that relies on national and local experts in child welfare to find the root of the problems, and to propose a variety of approaches to reform.

Litigation can also organize community resources in a reform effort by persuading key individuals in a child welfare system to recognize their common goals and work together in a nonadversarial fashion. With the possibility of litigation squarely on the table, child welfare administrators, litigators, and other players in the community are forced to ask themselves whether they want the same goals for children. They must also ask themselves whether they want to fight about these goals or sit down and work together to achieve them as quickly as possible. Experience shows that the parties often will choose to work together toward the goals they seek—at least once it is clear that in the absence of voluntary cooperation the court will intervene.

Conclusion

Left to their own devices, in the absence of focused and sustained pressure, too many gov-

ernment child welfare systems have responded to the crisis of the day—or the decade—with the eager acceptance of single, simple operating principles as a substitute for what any system truly needs: adequate management, a competent workforce, sufficient resources, and the capacity for professional decision making.

The operating principles discussed here, family preservation and child protection, are not the only ones that will affect what happens to children. Other apparently appealing solutions, like privatization and neighborhood-based services, now also loom large on the



agenda. The degree to which these will be used as single-principle solutions remains to be seen, but past practice suggests serious future problems if they are promoted as the cure to all that ails child welfare systems, or if they are used to ease pressure on politicians without regard to rigorous monitoring of the quality of services, supervision, and protection that are actually provided to children.

Often lost in the midst of all of these competing principles, of course, are the interests of Marisol and hundreds of thousands of children like her. And in the absence of their own trade associations or lobbying groups, and in the face of the devastating consequences these

failing child welfare systems inflict on our most vulnerable, helpless citizens, these children probably need their lawyers.

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3 COMMENTARY

Leroy H. Pelton

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The fundamental structure of the public child welfare system is that of a coercive apparatus wrapped in a helping orientation. Agencies ostensibly having the mission to help are mandated to ask whether parents can be blamed for their child welfare problems, and

these agencies have the power to remove children from their homes. Thus, the public child welfare agency has a dual-role structure: On one hand, the agency attempts to engage in prevention and support, and to promote family preservation; on the other hand, it also has the task of investigating complaints against parents and removing children from them. This fact has had enormous consequences for the fate of child protection.

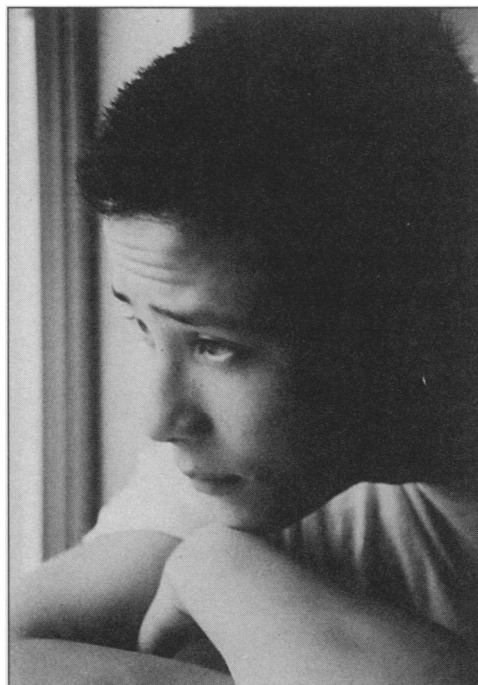
Late in the nineteenth century, the Societies for the Prevention of Cruelty to Children (SPCCs) initially focused on rescuing children from "bad" parents; and only gradually, during the 1910s and 1920s, did they also embrace the rhetoric of family preservation. It is fascinating, in the context of present-day child welfare reform rhetoric, that the Massachusetts SPCC, a leader in this dual approach, established community-based social service centers throughout the state, thereby gaining political support for "child protection" from liberals as well as conservatives.¹ Yet there is reason to believe that the agency continued to remove children from their homes as much as before, and perhaps no less than its more single-minded and enthusiastic child rescue counterparts in New York City and elsewhere.² One can imagine that, in finding more and more people in need of help, the Massachusetts SPCC workers also found more and more who seemed in need of judgment. When workers were disposed both to help and to judge, business for both supportive family preservation and coercive child rescue efforts thrived. Unsuccessful attempts to change the parents further justified actions to rescue the children by taking them from the parents.

Parent/Professional Relationships

The current child welfare agency's structure assumes a position of both helper and judgmental coercive agent, much as it did in earlier days, and it repels parents in need of help from seeking it. Parents fear that the problems they perceive they have will be reinterpreted by the agency as child neglect, with intervention consequences that they neither sought nor desired. The public child welfare agency is

regarded by many parents with child-rearing problems more as an enemy than a friend, as something to be feared and avoided, and certainly not as a place to come voluntarily for help. Thus, relationships with child welfare agencies are far more often initiated by complaints filed by others than by self-referrals on the part of parents.

These relationships are fundamentally distorted by the agency's coercive dual-role structure. Since the relationships are authoritarian and coercive, the agency has no incentive to respond to the needs perceived by its



clients. Even if the agency's caseworkers are sympathetic, understanding, and inclined to be responsive to parents' perceptions of their needs, the agencies themselves are not, in that they do not develop the resources wanted by the parents. Thus, it is quite common that the supports and services parents want are not the ones that are offered by the agency.^{3,4} However, the parents are not free to vote with their feet, for they will then be judged as uncooperative, often with dire consequences.

On the surface, at least, the child welfare agency-client relationship has the appearance of a traditional professional relationship. The

professional prescribes the treatment for the client. But the relationship, say, between a physician and a patient is authoritative, not authoritarian. The patient does not anticipate that the physician will judge her or him as a person and take coercive action.

Moreover, physicians may be able to prove that their remedies have been successful in the past. They thereby win or earn the trust of their potential patients. Indeed, their past success in general has inspired patients' confidence in them. This is not the case with protective child welfare. Instead, the fact of growing foster care placements, together with child welfare professionals' own assertions of rising tides of child abuse and neglect, attest to their lack of success.

In lieu of success, an authoritarian relationship between professional and client is needed to maintain the authority and dominance of professional specialties. In turn, the professionals come to have a vested interest in maintaining the status quo, and even expanding their industry by broadening their claims. The less success they can show, the more hysterical become their cries of a "growing" problem. Embarrassed by the fact that the vast majority of their coerced clients are poor people, they have always been quick to defensively assert that "not all poor people abuse and neglect their children," and that "many abusing and neglecting parents are middle class." Yet the increasing numbers of impoverished children they claim to be abused and neglected implicate a very substantial proportion of all poor families.

The Politics of Child Welfare

Child welfare advocates, including many who consider themselves liberal, have helped to demonize the poor through the great child abuse crusade that began in the 1960s and that continues unrelenting at the present time. Unwittingly or not, child welfare advocates contributed to the negative stereotypes of impoverished parents and the political atmosphere that paved the way for punitive AFDC⁵ "reform" to become the law of the land in 1996. Indeed, an alliance between liberals and conservatives maintains and sup-

ports the child protection system as currently structured.

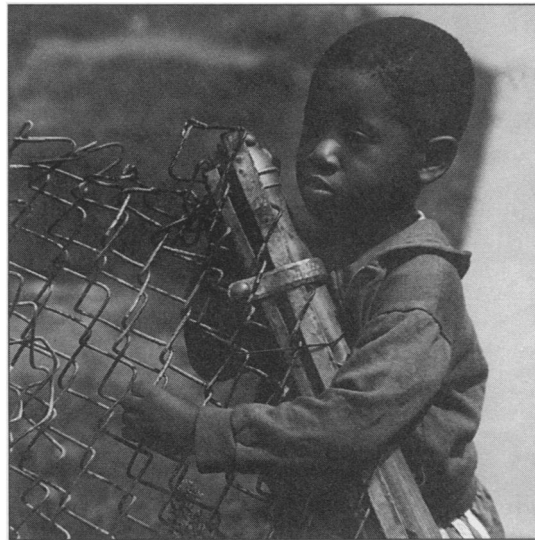
Our definitions of key child welfare concepts are based upon simplistic assumptions that parents alone are to blame for injuries to their children. The term "child protection," in current usage, refers to protection from "child abuse and neglect," which in turn denotes the culpability of parents in harm or danger to their children. These definitions thereby promote the erroneous notion that the most widespread threats to the safety and well-being of children stem from the misbehaviors of their parents. It is almost a given in the field today that, short of removing the children, the only alternative is to change the parents.

Our definitions therefore hold out the promise that if accused parents will only understand our benevolent intentions and cooperate with us, we can help. Public child welfare agencies, with their dual-role structure combining help and coercion, thus proved to be the perfect host vehicles for the child abuse crusade launched in the 1960s. The child rescue efforts of these agencies (providing foster care and promoting adoption) could be accelerated, facilitated by the appearance of benevolent treatment for parents, and by increased funding that was backed by both liberals and conservatives. The dual-role structure of the agencies has made it possible even for monies specifically designated for social services and family preservation to be channeled into increased child rescue efforts and foster care.⁶ Thus, in the name of child protection, liberals have supported an increasingly coercive orientation toward impoverished parents.

In the name of child protection, liberals and conservatives have expanded definitions and agencies. They do so to help more people, and to do more prevention; and who is against child protection? It is the definition of child protection and the structure of child welfare agencies that is contestable, but few question this. The liberal notion of big government comes to fuse with the conservative notion of it: long on coercion and short on prevention. In any event, because of its incorporation of a

"preventive" orientation, "child protection" gains the support of liberals as well as conservatives.

Even if poverty and its consequences were to be more adequately addressed through other, noncoercive systems, child removal activity would continue at current rates, so long as we allowed the dual-role child protection system to persist. Many Western European countries, which have dual-role child welfare systems like ours, maintain at least as many children in foster care (proportionately) as we do in the United States, even though they have far lower child poverty rates and more progressive and extensive social wel-



fare supports for families and children.⁶ Maybe even in these countries there are always an ample number of parents in poverty to be judged, or perhaps a dual-role coercive system always has the ability and motivation to raise the parenting standards to be enforced. When it is placed under the cover of benevolent intervention, a coercive system can take on a life of its own and expand independently of need.

Directions for Change

Several years ago I proposed reforms that might address these problems. Greatly narrowing the definitions of child abuse and neglect is a necessary first step. Beyond that, the investigative and foster care functions of the public

child welfare agency should be entirely severed from it.⁷ The agency could then be devoted to the delivery of preventive supports and services, largely to impoverished families, on a voluntary acceptance basis, without accusation or blame. More importantly, transferring the task of receiving reports and the investigative function to law enforcement agencies, and placing the foster care system under the civil court system, would unmask the coercive part of the total child welfare system. No longer would impoverished families needing assistance be so readily subject to threat and innuendo as they are now. No longer, at least not in the name of prevention and family preservation, would public monies flow into coercion and family separation through foster care placement. No longer would the civil rights of poor people be violated in the name of child protection.

Subsequent reform proposals have recognized the need to have a mechanism through which help can be given in isolation from investigation and blame, but they fail to address my more crucial point that when a coercive approach hides behind a helping orientation, the dynamics reviewed here will continue on their destructive course. The key is the structure of the public child welfare agency itself. In most reform proposals, the gateway to services will still be the gateway to accusation, investigation, child removal, and foster care. Even with narrowed definitions of child abuse and neglect, such a common gateway confuses coercion and control with nonjudgmental aid and prevention, deters potential clients, distorts and misdirects funding streams, and inevitably denies clients due process. Moreover, widening such a gateway to include community health services, for example, might contaminate these services with current child protection coercive approaches, deterring potential clients from these services, as well.

Such recent proposals reflect, I believe, a fear of letting go of control. One proposal,⁸ for example, begins with the desire to separate the helping from the coercive role, but ends by extending investigations to most situations

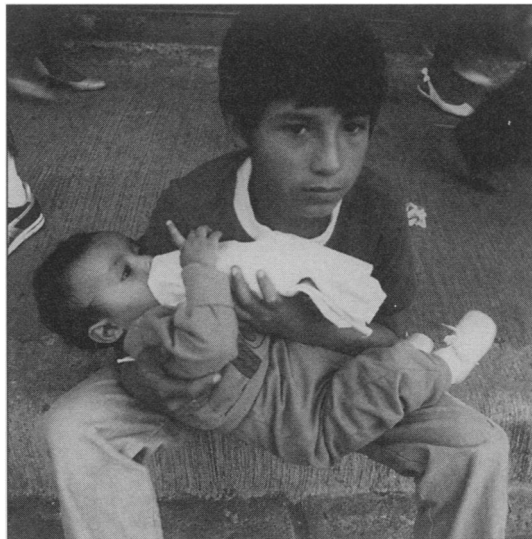
that currently are vaguely or questionably characterized as child abuse and neglect. This reflects the fear of what would happen to the children if we loosen our coercive grip of surveillance and control. Yet the current system has not succeeded. Indeed, the child welfare system predicates its cries for increased funding not on evidence of past success in reducing harm to children but on the supposed growth of the problems themselves. Paradoxically, moreover, the more families we presumably try to preserve, the more child removals result.

It is high time that we face the fact that the dual-role child welfare agency structure is a failure, and that most current proposals for reform maintain rather than change the status quo. We should recognize that the approach of expanding coercion and control leads not to better but to worse outcomes in child protection, by any definition of that term. The coercive, paternalistic, and, indeed, discriminatory approaches to social problems that have passed for liberalism over the past decades must be rethought.

1. Antler, J., and Antler, S. From child rescue to child protection: The evolution of the child protective movement in the United States. *Children and Youth Services Review* (1979) 1,2:177-204.
2. Gordon, L. *Heroes of their own lives: The politics and history of family violence*. New York: Viking, 1988, pp. 69-79.
3. Sudia, C.E. What services do abusive and neglecting families need? In *The social context of child abuse and neglect*. L.H. Pelton, ed. New York: Human Sciences Press, 1981, pp. 268-90.
4. Pelton, L.H. Personalistic attributions and client perspectives in child welfare cases: Implications for service delivery. In *Basic processes in helping relationships*. T.A. Wills, ed. New York: Academic Press, 1982, pp. 81-101.
5. AFDC refers to Aid to Families with Dependent Children, the government pro-

gram that provided cash assistance to poor families until August 1996. See the article by Courtney in this journal issue for further discussion of AFDC.

6. Pelton, L.H. Child welfare policy and practice: The myth of family preservation. *American Journal of Orthopsychiatry* (1997) 67,4:545-53.
7. Pelton, L.H. *For reasons of poverty: A critical analysis of the public child welfare system in the United States*. Westport, CT: Praeger, 1989.
8. Lindsey, D. *The welfare of children*. New York: Oxford University Press, 1994.



4 COMMENTARY

Michael W. Weber

Editor's note: Michael W. Weber is the president and chief executive officer of Volunteers of America, a multiprogram direct-service agency in Minnesota. He formerly headed the Hennepin County social services program, which included CPS, and served as associate director of the National Committee to Prevent Child Abuse. He helped to develop a community-based model for child protection reform at Chapin Hall, a children's police center at the

University of Chicago. He served as president of the National Association of Public Child Welfare Administrators and as chair of the U.S. Advisory Board on Child Abuse and Neglect.

Most of the articles in this journal issue have presented views on the history of child protective services, the issues facing the field, and research findings that can guide the directions that the field might now take. This article will suggest that the development of community-based partnerships to protect children represents a direction of reform that is programmatically sound, is strategically feasible, and is the basis of the vast majority of current reform initiatives in the child protection field.

Is there a widespread readiness for significant change in how society attempts to protect children from abuse? My work over the past four years with a national child abuse prevention organization, a research university, and a county child protective services (CPS) agency has enabled me to undertake a fairly systematic exploration of that question. Reviews of the literature, focus groups with families participating in child protective services programs, discussions with elected officials, reviews of media coverage of child abuse tragedies, and discussions with civic groups uniformly indicate a readiness to pursue reform. Discussions with professionals working in and leading CPS agencies¹ have revealed that even persons most intimately involved with child protection programs—while clearly recognizing that their programs have saved many children from abuse—want their programs to assume a significantly different focus. Throughout the discussions, a consensus emerged that the anticipated CPS reform should be community based and should rely on a network of services and supports offered by partnerships involving multiple sectors of society—tenets that are easy to propose but difficult to articulate in any level of detail. But this consensus is strong and represents the primary direction in CPS reform. It is being implemented in four demonstration sites supported by the Edna McConnell Clark Foundation. The same consensus underlies

the reform legislation that recently passed or is pending in the states of Florida, Iowa, Missouri, Nevada, North Dakota, South Carolina, Virginia, and Washington.

Partnership-Oriented Community-Based Child Protection Networks

Most assessments of individual CPS systems arise in the aftermath of a child tragedy,² and they typically identify 10 to 15 consistent problems. A composite list of those assessments would include 40 to 60 operational problems, ranging from too little training for staff to too little reliance on technology. But, if we step back from the specifics of these assessments, three basic concerns emerge about existing CPS systems: (1) the systems are too crisis oriented; (2) society relies almost exclusively on the CPS agencies for dealing with child abuse; and (3) CPS agencies respond uniformly to all reports of abuse and neglect.

To be successful, any proposed reform for CPS must hold significant promise for being able to rectify these three problems, and the effectiveness of any reform initiative should be assessed on its ability to affect these three issues. The balance of this article will examine how a community-based child protection practice can respond to each of the three problems cited above.

1. Because the system is too crisis oriented, reform must encompass a prevention orientation. While state statutes mandate that public agencies respond to all reports of child abuse and neglect, including reports of suspected abuse, the increasing number of reports has overwhelmed the capacity of most agencies and led them to respond to only the most serious situations. Since in most communities the CPS agency is the only organization prepared to respond to child abuse in a systematic way, only the most serious situations receive attention. Less-than-egregious situations receive little or no attention until they recur as more serious reports after the parents' behavior has worsened.

In contrast, almost every other sector of society has begun to emphasize prevention over crisis intervention. Medicine has gone

from curing illnesses to promoting public health practices and preventive medicine. Corporate design has moved from provisions for repairing defects at the end of the production line to reengineering efforts to prevent the product defects in the first place.

The first step in CPS reform must be to systematically prevent child abuse before its occurrence. While we do not have the empirical knowledge or methods to prevent all child abuse, research evidence points to prevention models (such as home visiting) that have promising effects.³ A solid reform effort must



incorporate at least what we do know about preventing abuse.

Even after abuse has occurred, programming with a preventive thrust remains crucial to avert recurrence. Too often, the CPS response to child abuse reports emphasizes first making a defensible determination as to whether the reported behavior constitutes abuse, and second, holding parents accountable for their actions. A major focus of the response should be to provide the services and supports most likely to prevent a recurrence of the abuse. Moreover, since many abused children become abusers as they grow into adolescence and adulthood, a prevention

orientation must also include the clinical treatment of abused children to stop the intergenerational cycle of abuse.

A comprehensive strategy for prevention-oriented community efforts to deal with child abuse would include:

- Universal supports for all families to assist with positive, effective, nurturing parenting;
- Prevention programs to avoid the emergence of abusive behavior in families exhibiting characteristics associated with an increased incidence of abuse;
- Early intervention strategies to stop abuse as soon as the behavior emerges;
- Crisis responses to deal with abuse after it has occurred, to both provide immediate protection for the child and prevent any recurrence (typically the CPS agency's role); and
- Therapeutic services for children to prevent a new generation of abuse.

2. The entire community should share with CPS the responsibility for preventing and responding to child abuse. The child protection legislation adopted in most states during the 1970s mandated that the CPS agency receive and respond to all reports of abuse or suspected abuse, but it was not envisioned that this assigned role would relieve the rest of society of responsibility for addressing the problem. However, the unintended result is that in most communities, the CPS agency alone—with its scant financial resources and its burgeoning number of reports—is expected to carry the responsibility for dealing with child abuse and for the child tragedies that will inevitably occur. No single sector of society can fulfill such an awesome responsibility, and it is particularly ironic that this responsibility has been endowed so heavily on a governmental agency, when political rhetoric supporting limited government is so strong.

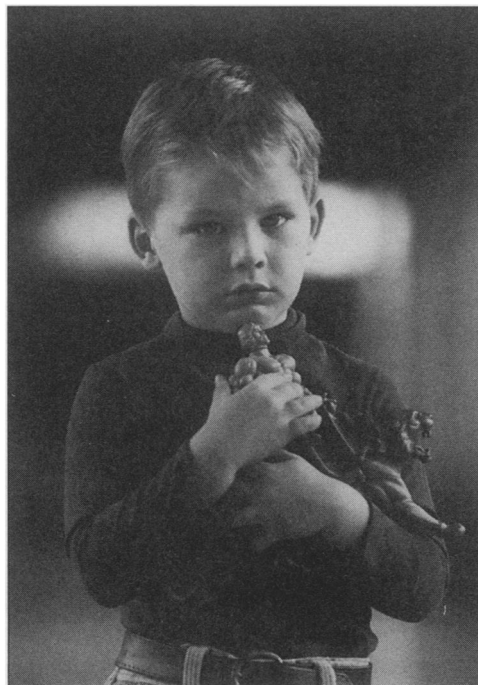
No single sector of society can accept the full responsibility for responding to child abuse, and no single strategy will prevent its

emergence. Every sector of society—individuals, neighborhood organizations, religious organizations, schools, civic groups, social service agencies, businesses, and the like—can play an effective role regarding child abuse. Each can work within its own sphere of influence, in an appropriate role. Churches and synagogues do not have to offer formal social services, but they can provide a value system that treasures children, and opportunities for parents to break the social isolation that often leads to child abuse. Home visiting programs can offer the essential support for new parents which is often no longer available from extended family members. Individuals can offer children who have been abused the opportunity for a positive contact with an adult outside the family, a relationship that the literature on resiliency consistently indicates is highly associated with successful adulthood for these children. Youth athletic organizations,⁴ schools, and employers can provide the experience of success needed by children whose needs are neglected by their parents.

These varied contributions can be woven together to craft a comprehensive network of supports and services, which provides families and children the assistance needed to prevent child abuse and to deal with it when it is not prevented. These complementary roles must be articulated as partnerships, with clear and explicit mutual roles understood by the entire community, and a collaborative mechanism must exist to maintain the commitments of all partners.

3. *CPS agencies should have the capacity to provide varied responses to the reports of abuse and neglect received.* The reports received by CPS agencies differ dramatically in severity and type. They include reports of children going to school with inadequate clothing, and reports of minor physical injuries inflicted in a disciplinary context, along with severe battering of young children, life-threatening chronic neglect, and long-term sexual abuse. Differing causal factors contribute to the various forms of child abuse, and a wide spectrum of patterns regarding severity and frequency emerges.

Yet, because of our current prescriptive state statutes and regulations, the response of most CPS agencies to this wide variety of reports is a homogeneous one, differing only by whether the agency must respond immediately, within 24 hours, or within 72 hours. This uniform response underlies the policy debates about whether CPS is too intrusive or not intrusive enough; whether it is too family-friendly or too antifamily; and whether it focuses too much on child safety or too much on family preservation. The major flaw in such policy debates is the underlying assumption that any



single homogeneous response could be appropriate for the wide range of reports received.

Instead, at least three differential responses can be identified that should be available to be applied in different circumstances: diversion from the CPS agency to the larger community, provision by CPS of services and supports designed to strengthen parenting, and use of authoritative intervention. (See also the discussion of differential responses in the article by Waldfogel in this journal issue.)

Diversion

Many reports appropriately made to CPS agencies (particularly since statutes mandate the

reporting of suspected abuse and neglect) do not constitute abuse as it is defined in statute. Other reports do technically meet the statutory definition, but the circumstances and pattern of the abuse do not indicate the need for involuntary governmental intervention. This does not mean that no parenting inadequacies exist, or that there is no need for efforts to prevent the parents' behavior from deteriorating. For many of the families that are the subjects of such reports, the response of choice should be a concerned, supportive referral to voluntary services, or assistance from one of the community partners with the capacity to meet the family's needs and to reduce the likelihood of abuse. Under current practice, such families often go unserved because the CPS system gives priority to the more egregious cases, and a formal means for diversion to the larger community does not exist.

Preventive Services and Supports

For many families in which abuse or neglect has occurred, there is no reason to anticipate an imminent threat to the child's safety. Often these families are characterized by a multitude of social problems and inadequacies rather than by any pattern or expectation of extreme violence to family members. For these families, the response with the greatest hope of preventing further abuse would be to provide effective services and supports that would predictably offset the impact of the factors that research indicates are highly associated with the occurrence of abuse—young parenting, social isolation, the parent's history of child abuse, a disability of the child or of the parent, and others. Such a response would be consistent with the historical foundation of CPS services in the social work tradition, but it would not discount parental responsibility. Parents would be required to participate actively in a set of planned services and supports, and would be held accountable for safely parenting their children. If this response was not effective in preventing abuse, the CPS agency would then escalate its response to a more authoritative one.

Authoritative Intervention

Currently, in most jurisdictions, the standard CPS response for all reports is an authoritative

intervention. This strategy is an appropriate one and is predictably the most effective means of preventing further abuse, but only in the most egregious cases.⁵ In these cases, an intrusive investigation should seek to identify who did what, how often, and how seriously; and it is essential to determine legally whether child abuse statutes were violated. Law enforcement should be consistently brought in as a partner, because of the likelihood that criminal charges will be pursued. Services designed to treat such problems as substance abuse and domestic violence can still be offered, but with a very high level of accountability for parental participation and progress. Laws should allow for expedited termination of parental rights, particularly when parental behavior toward children is so damaging that it does not warrant a second chance. The courts should be regularly involved to remove the children from parental custody for immediate protection, and to mandate participation in services as a condition for the reunification of the family. Foster care should be used often, and reasonable efforts to reunify children safely with their parents should be accompanied by concurrent planning for an alternative permanent family.

Criteria for Success

It would be wonderful if this commentary and this journal could conclude with an empirical statement that this—or any other—reform strategy has been systematically demonstrated for a number of years in multiple communities, and that sound research indicates it to be effective. But the proposed direction described in this article is only now being formulated and initially demonstrated, and research findings will identify the outcomes of this approach only in the future. However, the intended outcomes of this direction for reform can be articulated, so the reader can judge whether there is a logical basis to assume that these outcomes might emerge from the reforms described above. The desired outcomes can be outlined as follows:

1. The community is more involved in and assumes responsibility for protecting children from abuse and neglect.

2. Only some portion of the families in which abuse or neglect is suspected or observed are involved with CPS agencies, because many can be served by the community partners.

3. When CPS is involved with families, it has the capacity to respond differentially in ways logically expected to prevent abuse and neglect, to support the family, and to do no harm in the process.

4. The safety of the children who come to the attention of the child protection system is



increased, and there is less recurrence of child abuse or neglect.

5. Prevention efforts decrease the incidence of abuse and neglect, though the change may be unmeasurable.

We must note clearly that, unfortunately, it is not reasonable to expect that this approach—or any approach available today—will put an end to abuse or neglect, or eliminate child abuse fatalities.

Finally, it must be up to the reader—and the many policymakers, agency heads and staff, community leaders, service providers, and individual families who share responsibility for protecting children—to decide whether the direction for reform presented in this commentary holds significant promise as a means of achieving these desired results.

1. Especially significant were a number of 1994 discussions with the leadership and membership of the National Association of Public Child Welfare Administrators, representing the leadership of CPS agencies across the country.

2. Such assessments began to emerge predictably in the 1980s, typically launched in the wake of a child abuse tragedy reported in the media. An example of a recent, widely publicized assessment was the New York Governor's Child Protection Task Force, appointed following the death of Elisa Izquierdo on the day before Thanksgiving, 1995, at the hands of her mother.

3. Home visiting was identified as the most promising child abuse prevention strategy in the following report: U.S. Advisory Board on Child Abuse and Neglect. *Creating caring communities: Blueprint for an effective policy on child abuse and neglect*. Washington, DC: U.S. Government Printing Office, September 15, 1991. The Healthy Families America initiative of the National Committee to Prevent Child Abuse identifies the critical elements of effective home visiting, a strategy being implemented in more than 270 sites in 37 states. Information on Healthy Families and on the National Committee's research about its effectiveness is available through 1-800-CHILDREN.

4. Wynn, J., Costello, J., Halpern, R., and Richman, H., eds. *Children, families, and communities: A new approach to social services*. Chicago: Chapin Hall Center for Children at the University of Chicago, 1994.

5. The author is unaware of any empirical basis for suggesting an appropriate percentage of current reports for this response, but his proposals that it might apply to the most serious 20% to 30% of current reports have not been seriously challenged. ♦