

NEWS FROM THE FIELD

The Lessons of the Louise Woodward Case

The Louise Woodward "nanny" case touched a nerve, sparked an international hue and cry, and exposed some serious misunderstandings among the general public. Is shaken impact syndrome a true medical phenomenon or a figment of the imagination of "cult scientists"? Can a white, middle-class young woman commit child abuse? How could a professional couple rely on a minimally-trained au pair to care for their children? How could the jury find Louise Woodward guilty of second degree murder? How could Judge Zobel set her free?

In my mind, this case serves as a tragic reminder of the pressing need for ongoing public awareness and education, not only about the realities of child abuse but also about the intricacies of the criminal justice system. Below, several of the *Advisor's* Associate Editors consider the lessons they have learned and implications for the disciplines they represent.

Debra Whitcomb, MA
Editor in Chief

Diane DePanfilis, PhD, MSW Associate Editor - Child Protective Services

As I pause to think about the "lessons learned" for CPS, I think we are best served by considering these implications broadly. CPS personnel know better than anyone the affect that the media can have on public opinion and on the decisions that evolve when our work becomes politicized. So, rather than pointing fingers, I think it is important that we consider more broadly what can we learn from this for ourselves. The best lesson, I think is to consider the things that influence us to make poor decisions. And, by understanding these influences, hopefully we can improve the quality of our own decisions in the future.

Decisions are influenced by personal characteristics of the decision maker as well as by the context in which they are made. We make mistakes when: (1) we use the wrong information processing strategies, e.g., we attend to events that are vivid and ignore data that are less vivid since our memory capacity is limited and our perception is selective; (2) the motivation and values of others affect how we decide, e.g., vested interests in certain outcomes influence our decisions; (3) our emotional reactions influence what we notice and recall, e.g., we are influenced by "liking" or not "liking" family members; (4) we don't have the capacity to distinguish between science and pseudo-science and quackery (that is where APSAC comes in to help us build and understand empirical knowledge that will aid our decision making); and (5) when the task environment does not support good decisions, e.g., large caseloads, lack of clear agency policies, etc. While we can't control our environment, we can control how we process information, recognize that our decision making can be negatively influenced by the motivation and values of others and by our emotions, and we can find ways to increase our knowledge base by relying on scientific evidence.

(Information in these comments come from Gambriell, E. (1997) Characteristics of the decision maker. In Morton, T.D., & Holder, W. (Eds). *Decision making in Child Protective Services: Advancing the state of the art*. Atlanta: Child Welfare Institute and ACTION for Child Protection)

Veronica D. Abney, MSW Associate Editor for Culture Issues

Coming from a cultural perspective, what lessons have we learned from the Louise Woodward case? Unfortunately, this case highlights how gender, social class, nationality and race can have a great influence on how people are treated in the criminal justice system. Judge Zobel and many other Americans seemed to find it hard to believe that an innocent looking young English woman could, in a state of violent rage, fatally injure an eight-month-old child. For some reason, it is easier to believe that she was simply "a little rough" with Matthew Eappen. Why?

First, Louise Woodward is English. Although we Americans fought hard for our independence from England, we have a soft place in our hearts for the English and many of us could be described as ardent Anglophiles. Second, Louise Woodward and Deborah Eappen are female; for the au pair this was an advantage, but it was a clear disadvantage for Matthew's mother. At a time when Americans are advocating a tougher stance on crime for both adults and minors, we still do not like the image of women in prison, particularly young white women like Louise. Deborah Eappen's gender worked against her in the portrayal of her as a mother whose priorities were outside the home. Third, Louise is white and middle class. Statistics clearly indicate that the white middle class get shorter and less severe sentences if convicted of a crime. The image of a young white middle class female does not seem to evoke feelings of fear in the public like the usual mug shot image shown of less desirable members of our society who have committed crimes. One could speculate that if Louise was a member of a poor and less valued ethnic group, the media might have been compelled to present her as unattractive, frightening and malicious, and Judge Zobel might have never contemplated a sentence of time served. Lastly, I wonder if the unspoken fact that the Eappen's are an interracial couple and Matthew was a brown baby made them less sympathetic victims. It is for these reasons that it may have been difficult for many Americans, but most importantly Judge Zobel, to see Louise Woodward's actions as characterized by anything but "confusion, inexperience, frustration, immaturity and some anger, but not malice" on the day she fatally injured Matthew Eappen.

Lawrence Ricci, MD Associate Editor - Medicine

Some days after the conviction of Louise Woodward for the death of Matthew Eappen, I watched Barry Scheck suggest on the *Today* show that this 8-month-old child died from a minor accidental fall, that the "so-called shaken baby syndrome" was an unscientific diagnosis made by advocates, and that the defense argument in the case would soon be proven (whether that proof would occur in the courts or in the peer review literature where it belongs remained unsaid). My response and that of many forensic pediatricians was to gather on the Internet and, within 48 hours, send out a letter to all major news media with 50 signatures (now 70) clarifying for the public the state of the scientific literature on shaken baby syndrome and commenting on the bleed-rebleed phenomena. *Editor's note: The complete text of the pediatricians' letter is available on APSAC's webpage at www.apsac.org.*

The response to that letter was overwhelming and gratifying. Many of us were interviewed for national and local newspapers, TV and radio. For me, the mechanics of putting that letter together on the net (using a child abuse listserve and an e-mail

continued on next page

list generated at a recent Philadelphia meeting of 90 physicians interested in forensic pediatrics as a subspecialty) was a most exciting exercise in electronic collaboration and education

The letter generated many responses, including a response in the Wall Street Journal claiming that forensic pediatricians were part of an advocacy cult, a label that frightened me considerably. No less authorities than C. Everett Koop, the former Surgeon General of the United States and Joseph Zanga, the President of the American Academy of Pediatrics replied that the shaken baby syndrome was not blind advocacy but real science, supported by mountains of peer reviewed literature. Among all the discussion of the case, to see these two individuals speak out was most gratifying

In the end, after the media pundits have moved on to another topic, what can a forensic pediatrician say about the tragic death of 8-month-old Matthew Eappen? The case raises a number of questions which remain to be studied:

- The circumstances of this case and its analysis in the courts should spur much needed research into the mechanics of SBS. How long must the shake last? Is impact necessary and of what force? How often are neck injuries present?
- The courtroom adversarial process creates a strange brand of science. What role does peer review have in this process? Can anyone say anything in the courtroom or must scientific testimony be scientifically supportable?

Christine Courtois, PhD

Associate Editor - Mental Health/Adult Survivors

The judge's decision to downgrade Louise Woodward's conviction of second degree murder to manslaughter and to reduce the sentence from life to time served surprised and stunned many adult survivors just as it did the public at large. To many, this case (like OJ's) served as an example of the criminal injustice system, where influence, money and the media can influence the final outcome and where victims are revictimized rather than made whole by their day in court. The case also conveyed a disregard for the life of a child and caused many survivors to question and rage against the powerlessness of children both in society at large and in the legal system. The rejoicing of Woodward's supporters beamed from the pub in England was disconcerting: were her supporters unaware and insensitive to the fact that a tragedy had occurred and a child had died? Did they have no feelings for the parents of that dead child?

Many survivors seem to be in agreement with the sentiments expressed by one of the jurors who said he could live with the judge's reduction to manslaughter but not with the change in the sentencing to time already served. Woodward's actions towards the child may not have been malicious or intentional, yet a death still resulted and she should be held accountable for the consequences of her actions. The predominant feeling of many survivors is: are children really this expendable, and why can't we as a society do a better job of protecting them?

Thomas Lyon, JD, PhD

Associate Editor - Law

The Woodward case raises two legal issues with respect to Shake-Impact Syndrome (more popularly known as Shaken Baby Syndrome). First, should the defense theory of rebleeding be subject to the Daubert rule for the admissibility of scientific testimony? A number of physicians have argued that had Daubert been applied, the defense expert testimony would never have been admitted. However, whether Daubert is applicable to expert testimony that is based on clinical judgment rather than research is a matter of some dispute (for example, the 5th Circuit has recently held that Daubert is not applicable to such testimony). Consider what would happen if clinical psychologists could not testify for the prosecution in sexual abuse cases unless their experiential observations were backed by research

Second, since Shake-Impact Syndrome suggests that shaking with no impact, or with impact against an object such as a mattress, can lead to intracranial bleeding, permanent brain damage, and death, what are we to make of the mental state of caretakers who impulsively injure their children by such shaking? Do they recognize that what they are doing can cause fatal injury? The reason the trial judge in Woodward's case reduced the verdict from second degree murder to manslaughter was that second degree murder requires that the act results in "what a reasonably prudent person would have known was a plain and strong likelihood that death would result." Although the judge did not make it clear whether he accepted the prosecution or the defense theory regarding the severity of the shaking on the day the infant died, one reading of his opinion suggests he doubted that "reasonably prudent" people recognize how devastating the effects of shaking can be.

LETTERS

Editors of the *APSAC Advisor* welcome your letters! Appropriate topics for letters include:

- amplification on a point made in an editorial or article,
- disagreements with an author's stated position on a topic,
- disagreements with an author's interpretation of the relevant literature,
- suggestions for new features, or comments on existing ones,
- perspectives on issues in the field that you think are misinterpreted or neglected.

You can write to Debra Whitcomb, the Editor-in-Chief, via e-mail, at debraw@edc.org, or by regular mail, c/o APSAC, 407 S. Dearborn, Suite 1300, Chicago, IL 60605. You can also contact the Editor-in-Chief through APSAC's new web site, at <http://www.apsac.org>. Letters are typically edited for length, but every effort is made to preserve content. Letters must be typewritten and constructive for consideration for publication.