

APSAC ADVISOR



American Professional Society on the Abuse of Children

Special Issue: Differential Response

Differential Response: A Dangerous Experiment in Child Welfare - Elizabeth Bartholet, JD 3

Differential Response (DR) represents the most important child welfare initiative of the day, with DR programs rapidly expanding throughout the country. This article describes the serious risks DR poses for children and the flawed research being used to promote DR as “evidence-based.” It puts the DR movement in historical context as one of a series of family preservation movements, supported by a merger of advocacy with research. The author calls for a change in the dynamics of child welfare research and policy so we can avoid endlessly repeating history.

Differential Response: A Misrepresentation of Investigation and Case Fact Finding in Child Protective Services - Ronald C. Hughes, PhD, and Frank Vandervort, JD 9

This article reviews how DR programming has misconstrued and vilified the CPS investigation and bifurcated it from the family assessment, often resulting in assignment of only the most egregious allegations to the traditional response track and diverting all others, including moderate and higher-risk families, to the alternative track, potentially increasing risk to children. The authors describe the CPS investigation and the family assessment as essential components of fact finding for almost all families served in CPS. They also explore the philosophical, legal, and practical framework for CPS investigation as a unique approach to CPS fact finding, different in both purpose and method from the more intrusive forensic investigation, and critical to ensuring child safety.

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Minnesota was an early adopter of Differential Response and provided a model program that was replicated by many other states. In 2014, a series of news articles examining Minnesota’s child protection system highlighted flaws in direct practice that had contributed to the death of a child served in an alternative track. This article describes the events that led to the formation of the Governor’s Task Force on Child Protection, which was tasked with rethinking and revamping Minnesota’s AR program to ensure child safety.

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An original goal of DR was to offer services to lower-risk families to prevent the need for more intrusive CPS intervention at a later time. This study explored track assignment patterns and re-report rates in 13 states operating DR programs. It found that re-referral rates for alternative track families were higher than re-report rates for traditional track families when more than 1/3 of all screened-in families were assigned to the alternative track, suggesting that many moderate and high risk families were also being assigned to alternative tracks. The article explores ways to improve the accuracy of track assignment decisions to prevent the assignment of higher-risk families to the alternative track.

Pioneer Institute: To Ensure Child Safety in Massachusetts, Most Critical Reforms Are to State’s DR Program - Kelli N. Hughes, JD 29

This article reviews a policy report by the Pioneer Institute. The policy report was prompted by a series of high-profile cases of serious abuse, neglect, and child death that occurred in Massachusetts, despite a range of reforms that had been enacted by the state’s administration. Based on their review of Massachusetts’ CPS programming, as well as DR research and the experiences of other states with DR programs, authors from the Pioneer Institute made a series of recommendations to guide future reform efforts in Massachusetts. This article summarizes their findings and links readers to the original report.

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APSAC Advisor Special Issue: Differential Response

Judith S. Rycus, PhD, MSW - Guest Editor

Introduction

Differential response (DR), variously called alternative response (AR), family assessment response (FAR), or multiple track response, developed concurrently with other systemic reforms to incorporate family-centered, strengths-based practices into public child protective services (CPS). The original goal of DR was to augment the capacity of CPS systems to provide more effective and less intrusive services to lower-risk families who had been referred to CPS for suspicion of child maltreatment. To achieve this end, at the time families were screened in or accepted for follow up by the CPS agency, they were assigned to either a traditional CPS track or an alternative response track, purportedly based on a determination of the family's risk level and the safety of the children being referred.

As my colleagues and I observed the implementation of DR programs throughout the country, we developed significant concerns about the validity of the outcome research supporting the intervention, the safety of children being served in alternative tracks, and the ethics of diverting CPS resources from the higher-risk families they were intended to serve to lower-risk families in alternative tracks. In 2011 we completed an in-depth assessment of the then-available outcome research and program literature on DR and wrote a policy white paper, titled "Issues in Differential Response," which was published in the journal *Research on Social Work Practice* in September, 2013, along with nine invited articles in response to our policy paper and a final article that articulated our response to the respondents.

In the 5 years since we completed our original research analysis, there has been continuing controversy about the strengths, benefits, problems, and challenges of DR programming. Some jurisdictions continue to profess confidence in and operate DR programs, while others have made significant changes to their operations or have abandoned DR entirely. Some jurisdictions undertook deeper explorations of their programming and ultimately reinstated fundamental CPS interventions that DR advocates had characterized as being hostile and unfriendly to families. In the research arena, outcome data remain inconclusive. Recent research continues to raise issues that have been largely unaddressed, creating ongoing skepticism about the validity of the "evidence-based" moniker that has been widely used to describe DR programming.

In this special issue of the *APSAC Advisor*, our goal is to provide a snapshot of perspectives on the issues and challenges associated with DR. Our guest authors include academicians, researchers, and direct service professionals still grappling with the question of whether and how to maintain the constructive, family strengthening components of DR without putting children at increased risk of harm. We hope to introduce a wider professional audience to the remaining issues and questions. We also encourage APSAC members to become better educated about DR, enabling them to work more effectively in their own jurisdictions to promote empirically sound programming to ensure that all families are well served and that children remain safe from harm.

The 11 articles from the September, 2013, issue of *Research on Social Work Practice* are available on the Sage Publications Web site: <http://rsw.sagepub.com/content/23/5.toc>

The original policy white paper, "Issues in Differential Response," can also be downloaded from: <http://www.ihs-trainet.com/assets/HughesRycusDifferentialResponse.pdf>

Readers may request further information or contact the authors through the Editor of this Advisor issue at ISRycus@aol.com.

About the Guest Editor

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Differential Response: A Dangerous Experiment in Child Welfare

Elizabeth Bartholet, JD

A draft of the full article from which this article was excerpted, with footnotes documenting sources, is published at SSRN http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2477089. The Introduction, Sections V and VI, and the Conclusion, with footnotes omitted, appear here. The final version of the full article, with footnotes included, was published in the *Florida State University Law Review*, 42(3), Spring 2015.

A powerful coalition of forces is pushing our nation's child welfare system toward a "reform" they generally call Differential Response (DR). The idea is to divert the vast majority of all cases now dealt with by child protective services (CPS) to an entirely voluntary system that leaves parents free to refuse to participate without fear of any consequence.

Other names for Differential Response systems include Alternative Response, Family Assessment Response, Dual Track, Multi-Track, Multiple Response, and in an earlier era, Community Partnership. The term Differential Response is often used to refer to the overall system that includes two tracks—one the new Alternative Response Track, and the other the traditional CPS track. Some systems have a third track for cases that would normally be screened out by CPS based on a conclusion that there is no apparent need for CPS intervention to protect children. I use Differential Response or DR to refer to the overall system; Alternative Response (AR) and Traditional Response (TR) refer to the two tracks used for cases that normally would be screened in by CPS.

DR constitutes the latest fad in extreme forms of family preservation promoted over recent decades. It is expanding rapidly throughout the country. One comprehensive analysis of DR notes that the "development of a national advocacy team and access to significant federal and foundation resources" make DR "one of the more widely replicated child welfare reform efforts in recent history." An important 2014 report summarizing recent research indicates that DR has already been implemented in a majority of states. The federal government gave DR a boost in 2010 by reauthorizing CAPTA legislation with language requiring states to include "differential response in triage procedures for the appropriate referral of a child not at risk of imminent harm to a community organization or voluntary preventive service."

The wealthy and powerful Casey Family Programs has combined with the American Humane Association, the Institute of Applied Research (IAR), and the Kempe Center

for the Prevention and Treatment of Child Abuse and Neglect to promote DR, provide technical assistance in implementing DR, and design and implement the research used to claim that DR is an evidence-based success story.

Casey Family Programs has played a central role. Its policy team maintains a major presence on Capitol Hill, in state governments, and in major child welfare policy forums around the country. Its financial and human resources provide a unique ability to influence policy. It has supported DR in a major way since 2003 when it sponsored a Breakthrough Series Collaborative on DR, and "formed a partnership with [California counties] . . . to develop, test and begin implementing differential response."

One observer summed up the current situation:

Perhaps the most important common thread has been the extent to which Casey Family Programs has been the primary proponent and funder of [the DR and related finance reform movement along with other family preservation efforts]. Casey has at various times used vast sums of its human and financial resources in support of each. Notably, all . . . possess at their core a commitment to reducing out-of-home placements. This supports Casey's 2020 goal of reducing foster care caseloads by half, and helps explain why Casey has invested so heavily . . .

This kind of family preservation movement has enormous power to shape the child welfare system. It is designed to change the way CPS systems use their broad discretionary power to decide whether or not to intervene in families to protect children against parental abuse and neglect. It may or may not be translated into formal law requiring CPS systems to implement DR. But regardless, it operates effectively as law, changing the nature of our child protection systems. As such it constitutes an end run around legislation such as the federal Adoption and Safe Families Act of 1997 (ASFA), which was designed to reduce family preservation bias and make child safety and well-being a higher priority. So, for example, ASFA tells state CPS systems and courts that children must be removed from parents found responsible for certain forms of dangerous child maltreatment, but those ASFA requirements are inapplicable if CPS never intervenes to make such findings.

The DR movement promotes two interrelated ideas. First

is to divert the vast majority of all cases now on the CPS track to a purely voluntary, “family-friendly” track. For family read parents, because the basic idea is to be friendly to parents accused of maltreating children. These parents would be free from intervention by CPS, intervention that can take the form of monitoring to ensure child safety at home, requirements to cooperate in rehabilitative treatment, removal of children to foster care as needed for their protection, and in the most extreme cases, termination of parental rights and placement of children in adoption. DR advocates say that their friendly approach will serve children better than the CPS system because it will more likely engage parents, and they point out that the CPS system fails to provide most of the families on its caseload with any helpful services. They also argue that when CPS uses its power to remove children to foster care it often does more harm than good.

The second idea is to finance the DR system with funds diverted from the traditional CPS system. Those promoting DR are pushing for what they call child welfare finance reform. The major focus is on changing the federal finance structure so as to shift federal funds now going to support foster care to the new DR system. In addition, DR advocates encourage the redirection of state and local funds allocated for CPS general operations to the DR system. This finance reform idea again cuts against the principles animating ASFA. ASFA’s goal of getting CPS and courts to put a higher priority on child interests and child protection would presumably call for an increase, not a decrease, in CPS resources.

The history here is important in understanding the nature of this new movement and the risks it poses to children. DR is a successor to two earlier “reform” movements similarly designed to keep more children at risk of maltreatment at home with their parents: Intensive Family Preservation Services and Racial Disproportionality. All three movements have engaged in a similar strategy, impressive in its sophistication. The advocacy groups involved in each movement have promoted the policy reform initiative, promoted the self-serving but fundamentally flawed research designed to give the impression that the new policy was successful, launched campaigns to persuade a broad range of players from policy makers to academics to media of its wisdom, and promoted implementation by child welfare administrations throughout the nation, and by state and federal legislatures.

In the past these reform initiatives have largely collapsed as the research has been found flawed and fraudulent, and the risks to children have become obvious. But memories in the child welfare field seem short.

History is repeating itself with the DR movement. DR advocates make the familiar claim that DR is evidence-based, that it will save money by reducing foster care and

thus costs to the state, but magically that it will not put children at any risk.

However, the flaws in the DR research and the risks posed to children by the DR program are blatantly obvious. Research shows that children on the traditional CPS track are at enormous risk of repeat maltreatment by their parents. If kept at home, most will continue to be abused and neglected. If removed to foster care and then returned home, most will be again abused and neglected. The large majority of the CPS caseload that DR is designed to move to the voluntary track are not minor “dirty house” or “mere poverty” cases as advocates often contend. Most poor families do not abuse or neglect their children—indeed only a very small percentage does. CPS legislation is designed to protect poor parents from state intervention based on circumstances beyond the parents’ control. The cases in which CPS intervenes generally involve serious drug or alcohol abuse, or both, forms of neglect that are known to destroy children’s chances for normal development, and situations where serious violence exists but may not be obvious.

We do need to protect children better. Families on the CPS caseload are not receiving the supportive and rehabilitative services they need. Children are not receiving the protection they need.

But there is no reason to believe that simply removing the power of CPS to monitor these families, to require cooperation with rehabilitative treatment, and to remove children from parents will work better to protect children. Research reveals that while it is hard for parents to free themselves from drug and alcohol addiction, coercive pressure to engage in treatment does sometimes work. Polite requests to engage in treatment on a purely voluntary basis are not likely to work better or indeed as well.

We need to strengthen the CPS system, provide it with more resources to monitor parents, and provide more parents with more rehabilitative services. We need to do a version of differential treatment, but within, not outside, the context of the CPS system, so that rehabilitative treatment can be required, not just suggested, and so that children can be protected in cases in which parents are unable or unwilling to take the necessary steps to become capable of nurturing.

CPS should of course be targeting different kinds of family situations with different types of treatment—and to a great degree CPS does that now. For many families that means keeping the children at home with supportive and rehabilitative services. But CPS will need more resources to do its job better. It keeps many children at home now with few if any services provided in significant part because it is forced to do triage and devote most of its limited resources to the most serious cases.

We also need to strengthen CPS by improving its ability to

protect children through removal and through termination of parental rights and adoption, as needed. Nobody wants children to go through the disruption of removal to foster care. But research reveals that foster care operates to protect children against the risk of death and other serious harm at home. It would work better for children if more often it were followed by timely termination of parental rights and adoption. Adoption works well for children generally but works best when they have not suffered lengthy periods of maltreatment or foster care drift.

DR proponents claim that by removing significant numbers of children from the CPS system, they will free that system to do a better job for the most serious abuse and neglect cases. But DR is designed not simply to remove children from the CPS system, but to weaken that system. The goal is not simply to divert children but to divert resources from the already resource-starved system to fund the new voluntary track system. Such diversion would leave CPS less, not more, able to appropriately handle the most serious cases.

There are reasons why many child welfare leaders keep promoting extreme family preservation movements. Child maltreatment is generally rooted in poverty and in the conditions associated with poverty, including unemployment, substance abuse, and devastated neighborhoods. Those committing child maltreatment are often themselves victims. Many advocates for extreme forms of family preservation see CPS intervention, including in particular removal to foster care and adoption, as yet another form of victimization. And they see the kinds of financial support family preservation programs like DR provide as at least some help in alleviating some of the financial needs of poor parents.

But DR cannot be justified as an anti-poverty program. It provides pathetically limited financial stipends to a small and irrationally selected subset of the poor—those who abuse and neglect their children. This will do nothing significant to change poverty conditions in our society.

Worse, DR sacrifices this subset of poor children, condemning them to a childhood of suffering that will also limit their life opportunities as adults. If our society honored children as of equivalent moral worth to adults, and honored child human rights as equivalent to adult human rights, we would not tolerate the extreme family preservation policies that regularly reappear. Children would be seen as having a fundamental human right to grow up with nurturing parents, of equal importance to the adult right to raise children free from state intervention.

We do need to address the conditions of poverty that help create child maltreatment, but we need to address them in a serious way through radical social change. In the meantime, we need to develop targeted maltreatment prevention programs designed to reach parents before they fall into the

dysfunction associated with child maltreatment. And for those children victimized by serious maltreatment, we need a CPS system strengthened so that it can provide adequate protection through supportive services and also through required rehabilitation programs, as well as through foster care and adoption.

The Underlying Politics: Why the Resistance to Child-Friendly Child Welfare Policies?

Why this DR movement? Why has it gotten such traction given all the obvious risks to children and flaws in the research? Why this succession of extreme family preservation movements with similar characteristics? Understanding all this is key to making the future of child welfare different.

The real reasons for these policies must be different from the reasons given. Those given are too obviously questionable, and the research cited in support of these policies is too obviously flawed. So, for example, with Intensive Family Preservation Services, it's hard to believe that those promoting these policies really thought that child maltreatment was typically just a six-week crisis that could be solved with social worker support and house cleaning. With Racial Disproportionality, it's hard to believe that those promoting the racial bias theory really thought that blacks could just overcome through their unique family strengths the poverty and related conditions that for other groups predict maltreatment. And now with Differential Response, it's hard to believe that the proponents really think that parents caught up in substance abuse, mental illness, domestic violence, and related child maltreatment will magically become nurturing parents simply because family-friendly social workers hand them a rent payment.

Some would say that family preservation simply reflects deeply held values about family privacy in our society. We value individual autonomy in ways that few other nations do, and this is reflected in constitutional and other policies protecting the family against state intervention.

But family privacy is not always sacrosanct. Women's rights advocates fought the idea of family privacy when they saw women victimized by domestic violence and felt the need for protective intervention by the state. They fought the idea that relationships in which women were victimized were the kinds of families that deserved preservation. And they have achieved dramatic changes in policy over recent decades expanding state intervention with the goal of liberating women from families that don't function the way families should.

Why have children not been seen as entitled to similar liberation?

Children Have No Rights

Unlike women, children have no rights. This is true in the literal sense that they—especially the most vulnerable among them—can't speak for themselves, demonstrate on the streets, vote, get themselves elected to office or appointed as judges, and do the other things that adults do both in expressing their rights and in pushing for the establishment of additional rights.

As a formal legal matter, children have no rights under federal or state constitutional law to nurturing parents. By contrast, parents have powerful constitutional rights to hold onto and raise their children free from undue state intervention. This constitutional framework both reflects our societal values and helps shape our entire CPS system. It makes extreme family preservation policies seem right and just.

The rest of the world thinks of children as having rights, at least as a formal matter. Virtually all other countries have ratified the Convention on the Rights of the Child (CRC), a Convention that accords children equal status with adults as rights holders. Under the CRC, children have rights to nurturing parents, rights to be protected against abuse and neglect. Under the CRC, nations have duties to protect children against maltreatment and to ensure that children receive appropriate nurturing. These aspects of the CRC are part of the explanation for why the United States has not ratified the CRC.

The Left-Right Bargain: A Cheap Version of the War on Poverty

Many of those advocating for extreme family preservation policies appear to be using children to promote an anti-poverty agenda. The children at risk for abuse and neglect are disproportionately the children of the poor. Left-wing forces committed to helping poor people and historically oppressed racial minority groups often see efforts to intervene in families to protect children as yet another attack upon already victimized groups. They often see family preservation services as providing at least some financial and other support for poor families in a society reluctant to provide enough such support.

Family preservation programs do as a general matter provide financial stipends and related forms of support for a subset of poor families. If children identified as at risk for abuse and neglect are kept at home, or returned home from foster care, the parents often receive supportive services. Intensive Family Preservation Services programs offered housekeeping, childcare, transportation, and other services and many other family preservation programs offer similar assistance. Differential Response programs pride themselves on providing financial stipends.

Right-wing forces often see family preservation policies

as a way to reduce government and save money. Those promoting family preservation provide evidence and arguments to support the cost-saving goal. And short term, these policies often do save money. Eliminating CPS jurisdiction over families eliminates the costs of social worker monitoring. Reducing foster care eliminates the cost of foster parent stipends as well as CPS administration. Most family preservation policies including both IFPS and DR have been sold in significant part on the basis of such cost savings arguments.

But there are problems with this left-right bargain that should trouble people on both sides of the political spectrum. For the left, this is a pathetically limited anti-poverty strategy. Providing poor people and oppressed racial minority groups the limited financial subsidies available in these family preservation programs is no road to empowerment.

Moreover, if the best we can do today are limited poverty alleviation efforts, it's wrong to choose one that comes at the expense of the most powerless subset of the poor, the children victimized by abuse and neglect. And it may ultimately be counterproductive: Children so victimized are disproportionately likely to grow up impoverished themselves; in the ranks of the homeless, the unemployed, and the drug and alcohol addicts; and to victimize their own children, thus continuing the vicious cycle into future generations.

It is also perverse to select that small subset of the poor who abuse and neglect their children as the beneficiaries of this limited anti-poverty campaign. Most poor people do their flat-out best to raise their children well, providing loving, nurturing care despite the oppressive conditions of their lives. Why should they be denied the financial benefits that abusive parents get in the form of family preservation services?

For the right, extreme family preservation policies may look cheap, but in the long run, they are very expensive. Children denied appropriate nurturing end up in disproportionate numbers unemployed, on welfare, in prisons, and suffering emotional and physical disabilities. These children are in the long run very, very expensive.

Private Wealth Dominance Over Policy Advocacy and Research

For the past several decades, a small group of enormously wealthy and powerful organizations has dominated both policy and research in child welfare. In the 1980s through 1990s, it was the Edna McConnell Foundation and the Annie E. Casey Foundation leading the charge on IFPS. In this century it has been a combination of the Casey Foundations, primarily the Annie E. Casey and the Casey Family Programs Foundation, leading the charge on Racial Disproportionality and Differential Response.

Research is desperately needed to guide policy. This is always true, given the difficulty of knowing how different policy ideas will play out in the real world. It is particularly true in child welfare given the danger that policies that purport to serve child interests will actually be motivated by various adult interests.

It is extremely dangerous to have one set of wealthy private players dominating both policy advocacy and research to the degree they have.

Future Directions for Reform

Children's Rights

We need a radical upending of the rights hierarchy in this country, so that children are valued equally with adults and their most fundamental rights to grow up with nurturing parents are valued equally with adult rights to raise their children.

Ratification by the United States of the CRC, or some other dramatic move to grant children equal status with adults as rights holders, would be a meaningful step forward in changing the dynamics of child welfare.

But it would not in itself solve the problem. Even with formal rights, the fact that children are inherently powerless as compared to adults makes a difference. Adults like to think that they love and appreciate children, but there is always a risk that those with more power will exploit and oppress those with less. And there is always a risk that adults claiming to represent children will be using children to promote various adult agendas. We need to acknowledge the challenge of granting children truly equal recognition in law and policy, and begin to design new ways of holding accountable the adults who in the end will still make so many decisions about children.

Maltreatment Prevention: Racial Social Reform, Early Supportive Intervention, and CPS Reform

The DR proponents are right in saying that maltreatment is generally rooted in poverty and social injustice. They are right in saying that we should focus more on early prevention of maltreatment. But they propose a solution that fails utterly to meet the mark. Providing rent stipends and other financial benefits to the tiny subset of the poor who maltreat their children is no empowerment strategy. Nor will it do much to prevent maltreatment.

We need a true war on poverty of the kind that President Lyndon Johnson announced but that no President since has renewed. We need serious programs to address poverty and the conditions associated with poverty, including unemployment, substance abuse, mental illness, and blighted neighborhoods.

Critics of the earlier family preservation movements that preceded this DR movement noted that those movements also constituted cheap and, in the end, utterly inadequate attempts to address the issues of poverty and injustice underlying child maltreatment. They noted that we needed a far more radical engagement with these issues, a true war on poverty. One of the authors of a landmark critique of Intensive Family Preservation Services (IFPS) concluded in a later article that IFPS was doomed to failure because the problems producing child maltreatment were “rooted in poverty, unemployment, inadequate housing, substance abuse, and severe and persistent mental illness.” My 2009 article on the Racial Disproportionality movement argued that it was similarly misdirected, proposing a false solution that avoided the real problems and the need for truly radical social reform.

Although such reform is sadly not on the immediate horizon, programs exist that could make a major difference that would not require radical social changes or overwhelming financial commitments. We should embrace these. So, for example, we should expand the programs that target parents at risk for maltreatment early on, before they fall into the kind of dysfunction that breeds maltreatment. This is the stage at which we have evidence that prevention efforts have the best chance of working. There are at least a number of early home visitation programs with powerful evidence of success in reducing maltreatment and reducing important predictors for maltreatment. We need to devote massively increased resources to these programs and to developing other promising programs similarly targeted to early prevention.

We also need to do some version of Differential Response, but within the framework of the traditional CPS system. For this we need new resources devoted to CPS, since a major reason that it provides so little in the way of services to the families on its caseload is the inadequacy of resources. Additional resources are also needed to enable CPS to protect the children at highest risk through monitoring, mandated rehabilitative programs for parents, removal to foster care, and adoption.

Resources will be hard to come by. Part of the allure of all family preservation proposals is that they promise to save money.

But, we can't protect children adequately on the cheap. And we are not saving state funds by allowing children to be abused and neglected. Many studies demonstrate the overwhelming long-term costs involved when children grow up in the absence of appropriate nurturing.

Research Reform

Major challenges have been raised regarding the quality and persuasiveness of the research touting DR as a success story.

An increasing number of critics have given voice to their concerns both about the nature of the advocacy research and about the substance of DR programs. This gives hope for better research in the future, providing a better guide to policy makers as to whether DR is the right direction for child welfare reform or, instead, just the wrong direction. It gives hope for research making child well-being the primary focus, and research comparing DR not simply to the current inadequate CPS system, but to a strengthened CPS system with enhanced power to protect children.

But even if this hope for better research is realized, and even if the DR movement is brought to a halt, fundamental change in the dynamics of child welfare research is needed if history is not endlessly to repeat itself. We have now had many decades in which different forms of extreme family preservation have been promoted, supported by research designed simply to validate the ideological view of those promoting the policy programs. Although there is some excellent independent research in the child welfare field, there is not nearly enough, and often it takes years for this research to surface, years during which advocacy programs are propagated based on false claims of success.

The child welfare field needs a new tradition of truly independent, neutral research, free from any advocacy agenda, committed to finding the objective truth. We need new sources for research funding, sources that have no commitment to predetermined policy directions. We need social scientists to be able to pursue the truth, and to ask questions and come to conclusions that challenge orthodox thinking, free from fear of retribution of any kind, including limits on future research opportunities. We need research that will place a new focus on child interests, research that can provide a meaningful guide to policy makers interested in doing the right thing for children.

Without this kind of fundamental change in the field's research dynamics, we can predict that even if the DR reform movement is derailed, another similar movement will take its place and will enjoy years of success based largely on the same kind of self-serving research that has historically played such a harmful role.

Conclusion

Differential Response represents a dangerous direction for children. But it's a familiar dangerous direction. The dynamics that have produced this latest fad are the same dynamics that brought us the Intensive Family Preservation Services and Racial Disproportionality movements.

There is some indication now that this latest fad may be fading. One recent report lists nine states as having decided to eliminate or limit expansion of their DR programs. Florida, one of the first states to adopt DR, dropped it after some five years' experience. Illinois just recently dropped

its DR program, close to the end of the QIC-DR research study. The Illinois CPS department justified this decision to the legislature based on concerns that DR had caused safety problems by diverting staff from the traditional CPS system, and noted that the soon-to-be-released QIC-DR report found children on the DR track more likely to experience maltreatment recurrence than children on the TR track.

Michigan concluded that DR research provided insufficient support for the program, and thus it decided in 2013 and again in 2014 not to implement DR. In Los Angeles, a report by the County Counsel's Children's Special Investigative Unit in 2012, triggered by a rash of child deaths, found that "under-informed investigations and an over-reliance on L.A.'s differential response experiment . . . , contributed to the majority of the deaths." Los Angeles eliminated its DR program in 2012 based on these and related concerns that the program's diversion of resources from the traditional CPS system put children at undue risk. Minnesota, one of the early DR states, formed a Task Force to assess the dangers to children posed by its child welfare system, including its emphasis on DR and the related assignment of a large percentage of reported cases to the AR track.

Differential Response may be increasingly discredited and even derailed in the coming years. But we can expect DR to be followed by another similar movement. A radical change in the dynamics of the child welfare field, and in our thinking about children's rights, is a prerequisite for any true, long-term reform.

About the Author

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Differential Response: A Misrepresentation of Investigation and Case Fact Finding in Child Protective Services

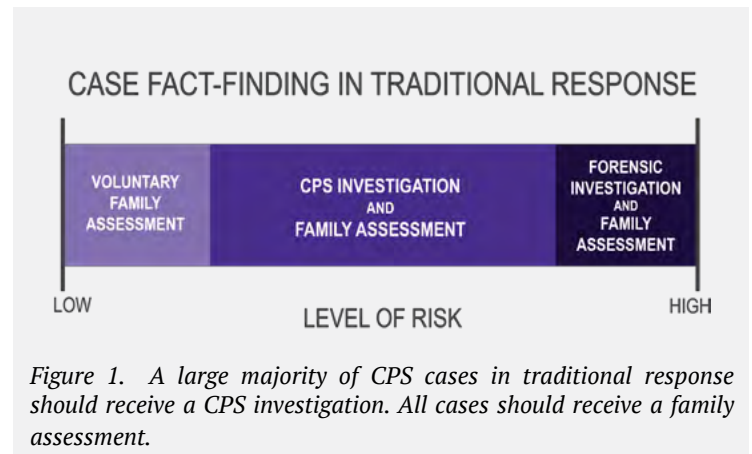
Ronald C. Hughes, PhD, MSSA and Frank Vandervort, JD

Traditionally, a host of necessary case fact-finding responsibilities and activities has been used by public Child Protective Services (CPS) agencies to ensure that they can achieve mandates to protect children from maltreatment as well as to strengthen and preserve the families of at-risk children. The primary CPS case fact-finding activities include risk assessment, investigation (both CPS and forensic), and family assessment. Information collected while engaged in any one of these three activities will often be relevant and important to the others. However, each case fact-finding activity also requires specific inquiry to elicit information that is essential to achieve its distinct purpose.

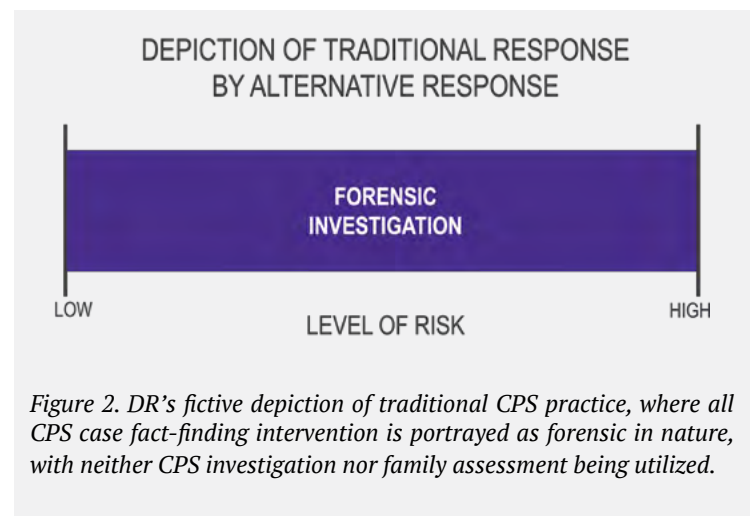
In traditional CPS practice, all children and families referred for suspicion of child maltreatment, with few exceptions, will be screened to determine the appropriateness of accepting the case to collect additional information. Cases not screened out as inappropriate should receive a safety and risk assessment, an investigation (a large majority to receive CPS investigation and a small percentage to receive forensic investigation), and a comprehensive family assessment. The risk assessment and the investigation, though most often completed in collaboration with families, are non-voluntary, mandated responsibilities of CPS. The family assessment, by its nature, requires voluntary family participation in most cases.

CPS case fact finding to assess and document potential maltreatment is essential to ensuring the effective assessment of child safety, case planning, and service delivery. A small proportion of referrals (perhaps 10%) that can be clearly and quickly determined as presenting little or no inherent risk can be served voluntarily without posing a significant threat to child safety. These cases do not require a formal investigation. The largest proportion of cases, those of indeterminate and moderate risk, receive CPS investigations, while a small proportion of cases, those at highest risk, receive forensic investigations, usually in collaboration with law enforcement or Child Advocacy Centers (CACs). In traditional CPS, family assessments are completed with all families. (Occasionally, very low-risk cases with singular and specific needs require little additional assessment. See Figure 1.)

One of the foundations of differential response (DR) reform has been its distortion of the traditional and historical model of CPS practice, particularly distortions in the DR literature about approaches to case fact finding. A significant portion of the DR literature suggests that prior to DR reform, CPS



case fact finding was a sedulous process in which all referrals to CPS were subjected to one monolithic assault of case fact finding – the “investigation.” In this literature, all CPS investigative activity is depicted as forensic investigation, (see Figure 2) when, in fact, only a small percentage of CPS cases warrants a forensic investigation to ensure child safety and to meet judicial requirements.



Many DR advocates falsely portray CPS investigation as a monolithic approach to case fact finding, depicting it as “inflexible,” “adversarial,” “judgmental,” “legalistic,” “intrusive,” and “threatening” (Hughes et al., 2013, p. 505). Although some of these terms—e.g., adversarial, legalistic, intrusive, and threatening—can apply to the forensic investigation necessary for the few CPS cases involving suspected criminal conduct, this is not so for the majority

of CPS cases. In this majority of cases, non-forensic CPS investigation is the appropriate approach to case fact finding, a reality that is confounded in DR's erroneous depiction of traditional CPS practice.

That said, because of CPS legal, moral, and practical responsibilities to ensure children's safety and well-being in cases of intrafamilial child maltreatment, parental participation in CPS activity is not, and cannot be, voluntary. Therefore, any CPS intervention into family life has the potential to be both threatening and aversive to parents. However, the extent of the perceived threat to parental autonomy will depend upon the type of investigation needed to fulfill case fact-finding objectives and responsibilities. Because neither CPS investigations nor family assessments are forensic in nature, their fact-finding approaches will be most successful when parents can be engaged and empowered to collaborate in fact finding as the first step toward accurately identifying family needs and strengths and planning appropriate interventions. DR advocates have not acknowledged the inherently less threatening nature of CPS investigation or its capacities for parent engagement and collaboration without the threat of incarceration or coercion that exists with forensic investigation. By depicting all CPS investigations as if they were forensic in nature and qualitatively adversarial, DR is able to justify the need for an "alternative" response for the majority of CPS cases—an approach that can be voluntary, non-threatening, collaborative, and engaging with families, rather than the DR figmental and pejorative depiction of a typical CPS investigation. This "new" approach in DR is often called a "family assessment."

In fact, no initial fact-finding intervention by CPS can be voluntary for families. CPS must collect information pertaining to suspected child maltreatment irrespective of parents' willingness or inclination to engage with the process. Thus, as previously explained, any non-voluntary CPS intervention, whether called an investigation, family assessment, or anything else, will initially be threatening and possibly perceived as aversive by parents. With good social work practice, however, CPS workers can engage parents and promote collaboration, thereby empowering parents over time.

Of significant concern is that the DR reform literature does not acknowledge the general utility of family assessment in traditional CPS practice, even though family assessment is a fundamental and essential activity for all CPS cases. Because of lack of understanding of this necessity, plus lack of acknowledgment of the historic use of family assessment in traditional CPS, DR advocates inappropriately identify family assessment as a new, unique, and defining case fact-finding approach applicable only in the alternative track, which in some states is even named the "family assessment track."

Thus, two major misconceptions of DR reform – that all CPS investigations are forensic in nature without goals of collaboration and family engagement; and, that family assessments have utility only for low-risk cases—form the foundation of the original DR two-track model.

CPS case fact finding is a unique and sophisticated child welfare intervention. It was developed over several decades in response to the need in CPS to balance social work goals of both ensuring child safety and strengthening and preserving families. A child's right to safety and well-being is the paramount responsibility of child welfare practice. But family health and the integrity and support of parental rights are important responsibilities of child protective services, contingent only on their compatibility with child safety. In a small minority of CPS cases, child safety cannot be achieved without family disruption and even, at times, termination of parental rights; however, most often child safety and well-being can be achieved by strengthening families and empowering parents, using social work interventions of engagement and collaborative case planning, including CPS investigations.

In sum, the rich diversity of viable CPS responses needs to be carefully understood and preserved. The variety of manifestations of child maltreatment, the varying degrees of risk among CPS referrals, the differing strengths and areas of concern identified in parents and families, the various applicable manifestations of child and family law, and the scope of alternative responses necessary and available to address this variety of presenting variables have together shaped the contours of traditional CPS practice, including the range of case fact-finding strategies in today's public CPS systems that adopt best practices.

Legal Framework of Child Protection

In 1923, the United States Supreme Court first interpreted the "liberty" provision of the Constitution to include protections for family life (*Meyer v. Nebraska*). In essence, it affirmed that parents, rather than state authorities, are primarily responsible for child-rearing decisions. Over the past 100 years, the Court has repeatedly upheld the basic principal that parents have a constitutional right to the care, custody, and control of their children. Reciprocally, children have a constitutionally protected interest in the benefits of a day-to-day relationship with their parents, generally free from interference by governmental actors such as child protective service workers and courts. Even when parents are abusive or neglectful, the Supreme Court has held that parents retain a "vital" interest in parenting their children (*Santosky v. Kramer*). At the same time, the government has an "urgent" interest in protecting children from child maltreatment, and it may act to protect that interest (*Lassiter v. Department of Social Services*). Thus, the Constitution requires that these interests of parent, child, and state must be balanced when a parent is abusive

or neglectful. Best traditional practice in public CPS has evolved to reflect this balance.

All states and the District of Columbia have enacted laws to protect the state's interest in the welfare of its children. As a result, children have statutory rights to be free from parental maltreatment. To incentivize certain child welfare practices and programming, the federal government has established an elaborate series of funding schemes to encourage states to adopt particular approaches to child welfare. A basic tenet of child welfare practice, which has been enshrined in federal funding statutes since the enactment in 1974 of the Child Abuse Prevention and Treatment Act, is that child protection agencies must make reasonable efforts to preserve families after child maltreatment has occurred.

DR and CPS Investigation

DR operates from a premise that traditional CPS has been too aggressive in investigating allegations of child maltreatment using approaches typical of forensic investigation and, in doing so, has alienated parents rather than engaged them. For this reason, DR proponents assert that investigation to determine what has happened in a family should be eliminated in favor of a family assessment in an increasing percentage of CPS cases. Because DR is ideologically driven, there is no consistent formulation in the DR literature of a methodology or algorithm to distinguish the levels of risk appropriate to warrant cases being assigned to the alternative track. Thus, some states refer only lower-risk cases to the alternative track, and others profess goals of assigning to the alternative track all cases except those requiring forensic investigation. Over its history, traditional CPS has developed a series of case fact-finding approaches and applications necessary to ensure proper case adjudication and service planning. These include screening, investigation, family assessment, and risk assessment. However, the DR literature's idiosyncratic and dissembling use of the terms "investigation" and "family assessment" cause considerable confusion, both in understanding and in implementing DR reform.

As explained previously, the DR reform literature suggests that a family assessment track be developed as an alternative to their fictive depiction of the monolithic, adversarial "investigation" that is inaccurately portrayed as traditional CPS practice. Because CPS investigation is not acknowledged as a unique and specific form of CPS case fact finding, this leaves a forced choice in the DR model between a voluntary family assessment track and a forensic investigation track. As a result, the grey area consisting of families of moderate to higher risk, who are inappropriate for forensic investigation, is increasingly assigned to the voluntary assessment track, resulting in increased child morbidity and maltreatment recidivism over time. (See articles in this issue by Mark Hudson and Kathryn Piper. See also Figure 3.) Additionally, the use of family assessment

only for lower-risk cases prohibits effective case planning for a majority of CPS cases.

The Elements of Real Traditional Response

Screening

When a family is referred to CPS for suspicion of child maltreatment, the agency first makes the decision to screen the case in or out. Screening a case out occurs when, in the judgment of the screener, the family circumstances described by the referent do not warrant CPS intervention. According to DePanfilis (2005), the function of CPS screening is to determine whether the information provided by the reporter meets the statutory and agency guidelines for child maltreatment and to determine whether a child is at significant risk of imminent or future harm. For example, parental substance abuse, in and of itself, may not meet the agency's criteria and may be screened out, unless there is information to suggest that parental substance abuse has resulted in maltreatment of a child or presents a high risk of imminent or future harm. Statistics from *Child Maltreatment 2013* show that in fiscal year 2013, 39% of the 3.5 million cases of suspected child maltreatment were screened out. Some states screen in 100% of referrals, while other states screen out as many as 83% (Department of Health and Human Services, 2015).

Screening a case in means the information provided in the referral is of enough concern that CPS must accept the case for additional case fact finding to determine the following: whether a child has been maltreated, the degree of risk for future maltreatment, whether a case should be opened for services, and whether other protective measures are necessary. This additional fact-finding activity is the CPS investigation. It is important to understand that cases are screened into CPS for one reason only: because CPS has determined that additional information is necessary to evaluate or corroborate the existing risk of child maltreatment. This is the only justification for state intrusion into family life and interference with parental child-rearing rights and prerogatives. Thus, some level of investigation is initiated for all cases screened into traditional CPS to collect the additional information necessary to do a thorough risk assessment for child maltreatment and to determine whether services are needed.

Investigation

In CPS traditional response, the investigation will take one of two forms: a CPS investigation or a forensic investigation. It is important to be clear about the purpose of a CPS investigation and, conversely, what it is not intended to accomplish. A CPS investigation by a child welfare agency is intended to determine whether a child has experienced harm in the form of child maltreatment and whether there is significant risk of future harm. A CPS investigation is

not intended to punish a perpetrator of maltreatment. Rather, it is intended to ascertain whether a child has been harmed by abuse (e.g., physical, sexual, or psychological), by neglect (e.g., the failure to provide adequate food, clothing, education, shelter, medical care), or by the failure to eliminate a known risk of harm (e.g., as when a mother refuses to take steps to protect a child from her boyfriend's physical or sexual abuse), thereby making it possible to assess the risk of future maltreatment.

A CPS investigation by a child welfare agency is not intended to result in criminal charges against a perpetrator of child maltreatment. However, CPS may initiate a forensic investigation separate from the CPS investigation (often in collaboration with law enforcement), and the law enforcement portion of that joint investigation may result in criminal charges. Because the focus of the CPS investigation by the child welfare agency is to protect the child and not to punish the parent, a number of constitutional rights implicated in forensic investigation are not implicated in non-forensic CPS investigations.

A forensic investigation seeks to determine whether a criminal law has been broken and is conducted most often with law enforcement personnel or by Child Advocacy Centers (CACs), with the expectation that the case may be adjudicated in criminal court—either exclusively or simultaneously with a child protection proceeding. The Child Abuse Prevention and Treatment Act (CAPTA, 1974, 2010) mandates that state CPS agencies cooperate with law enforcement. Thus, some cases—typically those involving sexual abuse or physical abuse resulting in more serious injuries—are investigated jointly by CPS and law enforcement. However, the vast majority of cases screened into CPS receive only a CPS investigation. Research by Cross and his colleagues demonstrated that CPS-exclusive investigations were conducted in 72% of cases of alleged physical abuse and 55% of alleged sexual abuse cases (Cross, Finkelhor, & Ormrod, 2005).

Because of the more stringent rules applicable to criminal cases (e.g., higher burden of proof and stricter application of the rules of evidence), a forensic investigation will be more adversarial and threatening to parents or suspected perpetrators than will a CPS investigation. However, in CPS investigation cases requiring legal action, the vast majority of such cases will be adjudicated in juvenile or family court. The establishment of juvenile courts, a reform undertaken during the Progressive Era in the United States, allows cases involving children to be adjudicated in a court setting where the purpose is to ensure the safety and well-being of juveniles and their families, rather than in a venue specifically intended to adjudicate criminal behavior. This is significant for several reasons.

First, child protection proceedings are civil, not criminal. A child protection proceeding cannot result in a person being

incarcerated, and physical liberty is not at stake. Because juvenile proceedings are civil in nature, and because of the evolution of the law to adapt to the unique concerns of children, these proceedings are handled much differently than criminal cases. For example, in juvenile or family courts, the standard of evidence is typically lower. Whereas the prosecution must prove a criminal charge that could result in incarceration by the “beyond a reasonable doubt” standard, a child protection case may typically be proven by a preponderance of the evidence (i.e., 51%). Additionally, the procedural rules for proving a child protection case in juvenile or family courts are generally less stringent, often admitting evidence that would not be allowed in a criminal prosecution. For instance, in a child protection case, the court's rules against hearsay may be more flexible, some opinion evidence that would be inadmissible in a criminal trial may be used in some child protection proceedings, and some rules relating to documentary evidence may be less stringent. In some jurisdictions, the rules of evidence simply do not apply at all to certain phases of a child protective proceeding.

CPS investigation has evolved to take advantage of these stark differences between criminal courts and juvenile and family courts. The purpose and goal of the adjudication of criminal culpability are punishment of the perpetrator of child maltreatment. However, the purpose of a child protection proceeding is to ensure a child's safety and well-being and, in the vast majority of cases, attempt to remedy the problems that led to the adjudication, maintaining children in their parent's custody or returning them to their family as soon as the home is determined to be safe.

When the state seeks to criminally punish a perpetrator of child maltreatment rather than to ensure a child's protection, it utilizes a forensic investigation with its inherent characteristics of coercion, threat, and adversarial interface. One clear example of this difference is the questioning techniques used. Parents in child protective proceedings investigated by CPS are interviewed in order to understand the child's history and the family's functioning. By contrast, law enforcement interrogates a suspect with the goal of obtaining evidence of a criminal act, including eliciting a confession to a violation of the criminal law. Some proponents of DR have either misunderstood or misconstrued traditional CPS investigative process as universally forensic in nature, thereby falsely constructing a rationale for not investigating a majority of CPS cases. This tack further confuses the issue by frequently asserting that the intent and practice of CPS investigations aim to punish parents.

Because CPS workers can collect essential case information without having to meet the strict standards of evidence collection and preservation required for admissibility in criminal court proceedings—without having to use the adversarial methods of evidence collection required to meet

criminal court standards, without the same high burden of proof, and with court goals of child safety and well-being rather than punishment—CPS investigation of suspected maltreatment can be a less formal, more collaborative, and clearly remedial fact-finding process than forensic investigation. Thus, CPS workers can use less threatening, less adversarial, or less rigid case fact-finding strategies and still be assured that the information will be appropriate for court purposes, if that becomes necessary.

Because CPS investigation methods and strategies were developed and evolved within these realities, their utilization in CPS case fact-finding remains the most essential and effective method of case fact-finding for low- and moderate-risk cases in juvenile and family court jurisdictions, and they are therefore a cornerstone of CPS practice. The history of the evolution of CPS investigative practice in the social work profession has been one of developing less adversarial, coercive, and threatening methods of case fact finding. Because CPS workers are able to utilize these less adversarial investigative methods, the potential for collaborative and empowering family assessment is preserved, or even enhanced, as the caseworker moves the case process from the investigation phase to family assessment.

Family Assessment

According to DePanfilis (2005), the family assessment in CPS is a comprehensive process that identifies and weighs factors that affect safety, permanence, and well-being for children and youth. Whereas a CPS investigation seeks to determine what happened, a family assessment seeks to understand why the maltreatment occurred and the conditions that contributed to and sustain it, to provide the most effective and relevant services to ensure a child's safety, permanency and well-being in the family.

Family assessment forms the foundation for all decisions and activities in child protective services. It is an essential and ongoing component of case management and service delivery in all open cases. Assessment begins at intake and does not end until the case is closed. Just as investigation is not unique to the DR traditional track, family assessment is not unique to the alternative track. DR sets up a false dichotomy in which families are selected to receive either an investigation or a family assessment. This fictive dichotomy obscures the fact that these are not mutually exclusive CPS activities. In fact, both investigation and family assessment are essential features of CPS involvement in nearly all CPS cases.

In completing a family assessment, CPS collects all the necessary and relevant information regarding the family's personal and social environments and family dynamics to inform social work interventions, including the following: the contributors to maltreatment and risk (e.g., a parent is addicted to drugs, has a mental illness, has been a victim

of intimate partner violence, is economically challenged, has been subjected to institutional racism or cultural marginalization, or cannot meet the family's basic needs); the effects on the children (e.g., developmental level and developmental needs, behavioral and emotional problems, medical and health care needs, exposure to trauma); and the services or advocacy deemed necessary to alleviate underlying causes (e.g., substance abuse or mental health treatment, information about child development, assistance getting to a shelter or to medical care, empowering a family's strengths, or advocating for social justice and remediation). With information provided by the CPS investigation regarding imminent or long-term risk of maltreatment, the family assessment will determine what interventions will be needed to make it possible for children to remain safely in their own families.

When removal of a child from the home is necessary to ensure the child's safety, information from a family assessment is used to determine a child's placement needs and identify the best available placement resources; determine whether children can be or should be reunified with their families; identify the most appropriate permanent family placement for children who must be permanently removed from their families; and determine whether a family's case can be safely closed without raising the risk of maltreatment recurrence.

Family assessment is essential for all CPS cases and should involve all relevant family members—perpetrators, non-offending caregivers, child victims and their siblings, and often, extended family members or others with high levels of personal involvement with the family. Participating in the assessment of problems, needs, and strengths can be an educational and empowering process for families, helping them learn constructive ways to meet family members' needs and resolve problems and challenges

Even in family situations where forensic investigation is necessary and a perpetrator may be criminally prosecuted, the family assessment should be completed to develop a service plan for the non-offending parent and children and for the rehabilitation of the offending parent, when appropriate. Without the collection of essential information through both CPS investigation and family assessment in all cases screened into CPS for suspicion of child maltreatment, we will be able neither to achieve goals of child safety, permanence, and well-being nor family health and integrity.

Summary

Because DR rhetoric does not acknowledge the existence, nature, and fundamental role that CPS investigation plays in child welfare practice, it provides only two choices, or tracks, for cases screened into CPS for additional case fact finding: family assessment or forensic investigation. Family assessment is promoted as voluntary and de-emphasizes case fact finding regarding potential maltreatment

dynamics, essential information for the determination of risk. Further, it is used only in alternative, non-investigation-track cases, in spite of its universal necessity and utility for all CPS cases. As discussed, DR advocates depict all CPS investigation as forensic investigation, coercive and threatening, and ignore the historical use and special utility of CPS investigations, including their capacity for parental engagement, empowerment, and collaboration. Without the option of CPS investigation, the DR model needlessly forces a binary choice between voluntary cooperation by the parent and an extremely coercive forensic investigation.

As a result of this forced choice in states adopting DR, it is likely that over time families with higher and higher risk levels will be tracked into voluntary family assessment to avoid the fictive depiction that the only alternative choice to voluntary family assessment is a coercive and threatening forensic-like investigation (See Figure 3).

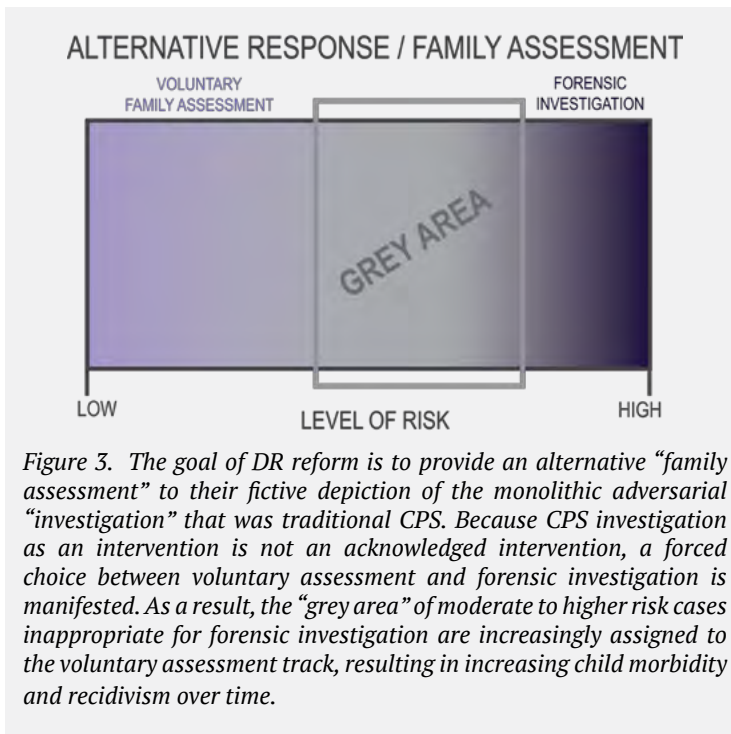


Figure 3. The goal of DR reform is to provide an alternative “family assessment” to their fictive depiction of the monolithic adversarial “investigation” that was traditional CPS. Because CPS investigation as an intervention is not an acknowledged intervention, a forced choice between voluntary assessment and forensic investigation is manifested. As a result, the “grey area” of moderate to higher risk cases inappropriate for forensic investigation are increasingly assigned to the voluntary assessment track, resulting in increasing child morbidity and recidivism over time.

This is a problem because, as Loman and Siegel point out (2012), the alternative response track is effective primarily for those families living in poverty, who are reported for circumstances where it is difficult to distinguish child neglect from poverty. They also contend that the family assessment track may be too limited an approach for families with more complex needs, such as domestic violence, substance abuse, serious mental illness, and chronic involvement with CPS, and that families in these circumstances may need more intensive and authoritative CPS intervention.

Moreover, since DR practice forces a choice between voluntary parental involvement and forensic investigation, it fails to recognize that most CPS cases are best suited for a CPS investigation. Without this third alternative, we

can also expect over time to see increasing numbers of cases that do not receive appropriate protective services, accompanied by increases in rates of recidivism and child morbidity.

Conclusion

The history of child welfare reform in this country exhibits swings in federal and state legislation, administrative rule, and CPS practice, with alternating emphasis on child safety or family preservation. Unfortunately, these historical swings are played out as simplistic political and bureaucratic attempts to address the inherently complex dilemma of balancing parental rights and privileges, children’s need for and interest in safety and competent parenting, and the state’s fiduciary responsibility to intervene in family life to protect children from harm. Within this paradigm, DR reform can be understood as a well-intentioned swing toward emphasizing parents’ rights. Unfortunately, this well-intentioned effort, with its simplistic dogma and charismatic promotion, paves a familiar and disastrous road. But hell for children served by CPS has two faces: it affects not only children who are inappropriately removed from their homes, causing disruption of family life, assault on parents’ rights, and emotional and developmental harm to children, but also children inappropriately left in homes at high risk of imminent harm from child maltreatment, who face an almost certain future of injury, neglect, and emotional harm.

CPS needs a well-supported, scientifically vetted range of alternative responses to the complicated presentation of suspected child maltreatment. DR is a well-intended attempt to provide alternative responses for referrals of suspected child maltreatment to counter those CPS agencies that are too reliant on intrusive interventions. Unfortunately, DR advocates and researchers have misunderstood, misconstrued, and miscommunicated the strengths and weaknesses of existing CPS practice, undermined CPS capacity to collect essential case information to perform risk assessment and effective investigation, and promoted DR as a scientifically vetted model of practice, a claim that has not been supported by outcome research. It is way past time that we stop these swings of inappropriate emphasis on one or the other horns of the CPS dilemma, and develop models that reflect and integrate the inherent complexities of CPS practice. The first step in this effort is to acknowledge the relevance and effectiveness of CPS investigation as the cornerstone of the integration of extant complexities. The second step is to develop more effective and ethically legitimate technologies and methods of CPS case fact finding for both investigation and family assessment in CPS practice. Such a focus of financial resources and practice reform by persons committed to improving the lives of children and families served by CPS would pay enormous dividends.

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When “Just As Safe” and “No Less Safe” Are Not Safe Enough. . .

Ronald C. Hughes, PhD, MSSA

Suppose you read an article with the following headline: “Tonsillectomy Using New Surgical Procedure Is Now Just as Safe as Open Heart Surgery.” And suppose the article continued, “A new method of surgery for tonsillectomy has proven no less safe than traditional open heart surgery, with comparable one-year death rates.”

You would probably think, Wait a minute, tonsillectomy is a low-risk surgery, and open-heart surgery is very high risk. Tonsillectomy with the same mortality rates as open-heart surgery is not good. In this context, “just as safe” is not safe enough.

Several DR-outcome research reports and articles present a similar conclusion: children in non-investigation, alternative-track cases are just as safe or no less safe than children in higher-risk, investigation-track cases (Center for Child and Family Policy, 2009; Institute of Applied Research, 2004; Samuels & Brown, 2013; Drake, 2013). These outcome reports use findings of similar recidivism rates between the two tracks to justify the DR claim of comparable safety for children in both tracks and to strengthen CPS agencies’ confidence in the broader use of the alternative track’s non-investigation and voluntary approaches to cases reported for suspected child maltreatment.

The problem with the refrain “just as safe” is the same problem exhibited in the open-heart surgery analogy. We would expect low-risk families, as a group, to have considerably lower-recidivism rates than higher-risk families. The claim of “just as safe,” based on similar raw rates of recidivism, is a false equivalency. The real news is that high-risk families undergoing an investigation in traditional tracks are reporting comparable recidivism rates to low-risk families in non-investigation alternative-track cases, suggesting the possibility of a powerful, positive effect on recidivism from the investigation intervention and traditional response. This is but one example of many potentially biased conclusions from outcome research evident throughout much of the DR research literature (Hughes et al. 2013; Hughes & Rycus, 2013).

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Minnesota's Experience with Differential Response

Mark Hudson, MD

Minnesota was an early adopter of Differential Response (DR) reform, which was referred to in Minnesota as Alternative Response (AR) or Family Assessment. Over time, Minnesota's AR program evolved into a national model that was widely recognized by other states, and the architects of Minnesota's AR system provided technical assistance to other jurisdictions in program implementation. However, ironically, the most important lesson to be learned from Minnesota's DR experience is the disastrous result when a runaway train goes off the track.

Minnesota's involvement in DR began in 1997, when the Minnesota Legislature authorized pilot programs aimed at intervening earlier with families referred to the public child welfare system and responding to these families in non-traditional ways. In 1999 the Legislature authorized all 87 counties to develop and implement Alternative Response systems. These early efforts were targeted primarily at intervention in neglect cases.

Minnesota saw rapid expansion of Alternative Response in the early 2000s, when the McKnight Foundation provided funds to support a study administered by the Institute for Applied Research. In this study, families deemed "eligible" for Alternative Response were randomly assigned to either the Alternative Response track or the Traditional Response track, thus serving as comparison groups for the study. The McKnight Foundation also provided funding to support services for families in the Alternative Response arm of the trial, but not to families in the Traditional Response arm. This inequitable distribution of funds resulted in a significant increase in the resources available to serve families in Alternative Response.

When the study results were published in 2004, they claimed that children served in Alternative Response were no less safe, and were potentially safer, than children served in Traditional Response, even though the actual difference was quite modest. At the time, researchers and advocates paid little attention to methodological flaws in the study and did not consider the difficulty of maintaining fidelity to the model once the study had concluded and Foundation money was no longer available. Nonetheless, Minnesota child welfare administrators communicated that Alternative Response was an evidence-based intervention, that it was more cost effective, and that children were safe when served in the alternative track. Alternative Response was also regarded as a success because self-reports by parents indicated a higher level of satisfaction, which was

naively interpreted to be a measure of better "engagement" of families. Ultimately, the Alternative Response track in Minnesota became the preferred track for families referred to the public CPS system, and it subsequently formalized in a state statute.

By 2006, more CPS referrals were being assigned to the Alternative Response track than to the Traditional Response track, and by 2013 nearly 3 times as many children were being served in AR than in TR. Minnesota's Screening Guidelines document claimed that compelling evidence showed children were safer with the Alternative Response, despite the fact that the rate of re-report to CPS was most often higher in the AR track. This higher re-report rate was particularly startling, given the fact that children in the AR track had reportedly been assessed to be at lower risk than were children assigned to the TR track. A casual observer should have been able to identify this pattern; yet, child welfare leaders in the state made no effort to change course, and they moved forward with ever-expanding application of the Alternative Response.

A primary feature of Minnesota's Alternative Response program was its active discouragement of fact-finding activities that could be construed by parents or caregivers as negative or adversarial. Additionally, in-depth fact-finding was deemed to be irrelevant to ensuring children's safety. Official documents from the Minnesota Department of Human Services (DHS) advised that collateral contacts to gather evidence were unnecessary when evaluating a case in Alternative Response. The philosophy that children were safer, even without an investigation or in-depth fact-finding, was so deeply ingrained that in 2014, the Legislature codified a DHS recommendation that prior child protection reports could not be considered in making screening and track assignment decisions, and no information could be gathered from collateral contacts.

The expansion of Alternative Response in Minnesota also coincided with a significant decrease in funding for child protective services in the state. By 2013, funding for child protection had been reduced by \$40 million when compared with 2002 levels. Budget pressures only increased the appeal of Alternative Response. The lack of clear standards or definitions for track assignment, either locally or nationally, and the fact that a determination of maltreatment was not made in the Alternative Response track enabled the most cursory of evaluations of child maltreatment allegations. Yet, administrators could still claim that children were

better off in the Alternative Response because it was an evidence-based program. County data indicated that by 2015, child protective service workers in the Alternative Response track were processing nearly 2.5 times as many cases as their colleagues in the Traditional Response track. Furthermore, a majority of the children in Alternative Response were never offered services, and services were deemed necessary for only a small minority of families served in the AR track. A report by Casey Family Programs (2015) alleged that Alternative Response was being used as a workload management strategy in Minnesota's largest county. Moreover, as formal case dispositions (substantiated or unsubstantiated) were not made for families served in the AR track, assigning a majority of families into Alternative Response falsely decreased the rate of child maltreatment victimization, and of revictimization.

In 2014, Brandon Stahl, a journalist for Minneapolis' newspaper the *Star Tribune*, published a series of articles examining Minnesota's child protection system. His efforts culminated in a story about the death of a young boy named Eric Dean. Concerns about Eric had been reported to child protective services on numerous occasions, and most of these reports had been screened out. Eric had also been assigned to the Alternative Response track, having reportedly suffered injuries that included bite marks and bruised ears. Yet, these injuries had reportedly never been investigated and law enforcement never notified. Eric had received no significant intervention from CPS. Ultimately, Eric died of an abdominal injury days after the injury had been inflicted. This and other stories published in the *Star Tribune* ultimately led Minnesota's Governor, Mark Dayton, to describe Eric's case as a "colossal failure." Supporters of the Alternative Response program were quick to claim that Eric's case was an anomaly. However, Stahl's investigative reporting revealed that lack of agency attention in Eric's case was more often the rule than exception in AR cases, and lack of investigation and fact-finding, the absence of a multidisciplinary response to maltreatment allegations, and lack of comprehensive services were in line with standards of care in the Alternative Response track.

Ultimately, public outrage led to the formation of the Governor's Task Force on Child Protection, co-chaired by the DHS Commissioner and a County Commissioner from Minnesota's second largest county. The Task Force consisted of 26 members from diverse backgrounds, including legislators, law enforcement personnel, social service providers, physicians, activists, former judges, educators, and social service administrators. The Task Force embarked on a broad review of Minnesota's child protection system. Three work groups addressed six primary topics: screening, racial equity and disparity, resources, family assessment, training, and oversight and transparency. After intensive review, consultation with experts, and vigorous debate, each work group made recommendations for topics to be further dialogued in more depth by the Task Force. Ultimately,

the Task Force reached consensus and recommended sweeping changes in the state's child protection system, engineering the reversal of many of the changes that had been implemented under Alternative Response.

What follows has been excerpted from the primary document outlining the Task Force's findings and recommendations. The document, titled *Governor's Task Force on the Protection of Children: Final Report and Recommendations*, dated March, 2015, is available online at the following Web address: <https://edocs.dhs.state.mn.us/lfserver/Public/DHS-7057A-ENG>

The Future of Our Two-Track Child Protection System

Today, once a maltreatment report is screened into our child protection system, that screener makes a decision whether to place the case on the "family investigation" track or the "family assessment" track. Currently, Minnesota Statute 626.556 directs this decision in cases of Substantial Child Endangerment to the family investigation track, and there is no agency discretion. As noted in the Task Force's preliminary recommendations, family assessment has been the "preferred response" to child protection reports, and more than 70 percent of all screened-in reports are assigned to family assessment. The reported benefits of family assessment are a less adversarial process (leads parents to more readily engage in safety and case planning) by reducing resistance through a strength-based approach. However, as noted in the Task Force's preliminary report, "it is clear that Minnesota's use of family assessment is beyond that of other states and beyond what the statute allows." In its final recommendations, the Task Force recommends short-term changes to family assessment, including steps on how "track" decisions are made, as well as narrowing the types of cases in the family assessment track. In the longer term, the Task Force questions whether a two track system is appropriate and recommends, as part of its overall redesign, that DHS consider moving toward one child protection system, with fact-finding for all "screened in" cases, but several potential "branches" of that system available depending upon the best interests of the child.

Our recommendations for short-term improvements are made with the idea that they could be building blocks for long-term reform as well. Fundamental to our recommendations is the belief that:

- All children, regardless of track, should receive a comprehensive assessment which provides the foundation for assisting children, youth, and

families with what they need

- Progress should be monitored to see if the child (and the family, where appropriate) is getting better because of child protection intervention
- Child Protection workers (in both tracks) should review progress with both forensic and family engagement tools close at hand.

If these fundamental building blocks are in place, a continuum of safety-focused child protective responses can and should protect children and meet the unique service needs of families. It is best to proceed methodically, making thoughtful short-term changes to the current model while examining long-term redesign options. (p. 12-13)

Therefore, the following recommendations are made which relate to Family Assessment:

29. Rename Family Assessment to Differential Response (DR) and Family Investigation to Traditional Response (TR). This renaming would be consistent with national practice and help avoid confusion when interpreting federal laws and regulations.

30. Differential Response and Traditional Response are both involuntary child protection responses to reports of alleged child maltreatment. It is critical that either response provide a critical and methodical assessment of child safety while identifying key family strengths that can be built upon to mitigate safety and risk concerns. The goals of any child protection response should be to:

- Make child safety paramount in decision making
- Assess and ensure the safety of any child involved
- Conduct thorough fact-finding to determine if a child has been harmed and/or if services are needed
- Identify family strengths to mitigate risk factors and ensure child safety
- Be culturally affirming
- Coordinate and monitor services to families
- Address effects of maltreatment through trauma-informed interventions
- Promote child well-being and permanency
- Increase positive outcomes (i.e., reduced re-reports, avoid subsequent harm)

31. Make child safety the focus of any child protection

response. The statute should no longer identify Differential Response as the preferred method.

32. Interview children individually first and prior to contact with parent/legal guardian whenever possible. In addition, DHS should research and implement training on best practices in regards to child interviewing protocols. These protocols would be developed in consultation with content experts, cultural advisors, counties and other key stakeholders. Specific practice guidance should be provided regarding audio recording of interviews, locations of child interviews, and interview techniques that are culturally responsive and trauma-informed. Child safety must be the primary guide as to when and how to structure interviews.

33. Ensure that fact-finding occurs in all child protection responses. DHS should develop protocols to support thorough fact-finding. At minimum, information to be gathered should include gathering details from a variety of sources including the alleged victim(s), sibling(s), parent(s), and other relevant collateral contacts regarding:

- Who, what, when, where and how regarding the reported allegation
- Patterns of behavior that present risk to a child (i.e., recency, frequency, duration, severity)
- Harm (current and historical) and the respective impact it has on said child
- Protective parental capacities (e.g., knowledge of parenting and child development; nurturing and attachment; parental resilience; social and emotional competence; concrete supports in times of need; and social connections)
- Child vulnerability factors (e.g., age, disability, etc.)
- Family and/or child(ren)'s strengths that promote resiliency
- Context and times in the family when the child is safe as a starting point for additional safety planning or services.

DHS should develop a required case summary form for Traditional Response and Differential Response cases in the Social Service Information System (SSIS) where results of fact-finding must be documented. This would include details surrounding the reported allegations and include

a statement about whether or not the reported maltreatment incident occurred and identify the victim(s) and offender(s). Data from this case summary form will be gathered and tracked to identify county, tribal, and state trends.

34. DHS to encourage and support the use of Multi-Disciplinary Team (MDT) decision making by developing the infrastructure to support the development of MDTs across the state. The MDT infrastructure would address:

- Philosophy behind MDTs
- MDT-specific training
- An evaluation component
- Ongoing training for MDTs.

Any and all statutes, policies, and/or practice guidance that discourage use of MDTs should be discontinued.

35. Adopt stronger and more robust intake and screening tools for data gathering prior to pathway assignment to strengthen the quality of the information available.

36. DHS should, as an interim measure, retain dual pathways for responding to reports of alleged child maltreatment. The dual pathways should include Traditional Response (Family Investigation) and Differential Response (Family Assessment). Explicit criteria for immediate assignment of High Risk and Low Risk allegations of child maltreatment must be defined:

- High Risk (all Substantial Child Endangerment and can include other risk factors) – Traditional Response
- Low Risk (Reports of alleged child maltreatment that are clearly low risk. These are reports that exclude all Substantial Child Endangerment and Moderate and High Risk. Additional criteria are necessary to ensure the proper parameters that clearly define a maltreatment report as low risk) – Differential Response
- All other cases, which include those with moderate risk and those which are difficult to assign without additional information (excludes all Substantial Child Endangerment). These maltreatment referrals require fact-finding before track assignment can be made. DHS is to provide guidance on

necessary fact finding inclusive of collateral contacts and face-to-face interviews with child subjects and parents or caregivers.

37. DHS must develop, in consultation with counties, tribes, stakeholders and subject matter experts, a required information standard for making pathway response determination. This standard should reflect what is required and be implemented with a practice understanding that more information is better. Fact-finding must occur until such time the pathway assignment required information standard is met. Fact finding efforts may include collateral contacts and “in-person” interviews with the child subject and the family.

38. DHS shall, in consultation with counties, tribes, subject matter experts, and stakeholders, define clear and consistent pathway assignment criteria to either pathway including a definition for cases appropriate for Differential Response. Cases that clearly should follow pathway assignment into Traditional Response will be assigned within 24 hours, consistent with the Substantial Child Endangerment statute. DHS should develop guidance regarding the timing for those cases that require initial fact finding.

Criteria should also be provided for when path switching is or is not allowed and identify specific documentation requirements to support the decision. It is important to note that pathway determination should not extend any existing timeframes for the initial face-to-face contact with the alleged child victim. These criteria should be developed on or before December 31, 2015. In addition to existing statutes that define specific child protection responses for defined actions (i.e., Substantial Child Endangerment), other criteria for pathway assignment to be considered should minimally include:

- Necessary fact-finding before a track decision is made for those alleged maltreatment referrals believed to present moderate risk
- Multiple differential response cases within a certain time period
- The age of the child and other children in the home. The identified age should be based on clearly defined objectives which could include the risk for fatal or near fatal injury, brain development, social isolation, or the child's ability to protect him/herself
- Other vulnerabilities (child is developmentally delayed, pre-verbal, etc.)

- The presence of unrelated adults in the household.
39. DHS will monitor and evaluate initial pathway assignment and path changes using the established criteria and provide feedback to counties and tribes regarding the quality of decision-making. A culture of continuous quality improvement should be supported and promoted. Results of pathway assignment should also be used for training and accountability.
 40. DHS should immediately review, update, and validate all decision-making tools, with priority given to the safety assessment. In general, any tools used by DHS and counties are to have a clear purpose to facilitate decision making at critical points in the child protection response, and that such tools are updated and valid; and, that any tools adopted are culturally responsive and appropriate for families from different racial, ethnic, and socio-economic backgrounds. Overall, regarding all tools, DHS should clearly define:
 - What decision-making tools are to be used at key decision making points along the child protection continuum
 - The purpose for each decision making tool, and
 - How the specific tools are to guide decision-making.
 41. Identify a validated safety assessment tool that better reflects dangerousness and child vulnerability factors. A safety assessment should address any factors proven to predict safety concerns. Some potential factors could include:
 - Recentness of abuse/neglect
 - Frequency
 - Severity
 - Child characteristics.
 42. DHS should review research on protective factors and predictive analytics for how it can reduce or eliminate risk factors, and implement this information in trainings and practice. This would include use of screening and assessment instruments that have been validated. This should be done through a long-term contract arrangement to improve child safety outcomes over time.
 43. Require in statute a mandatory consultation with the county or tribal attorney to determine the appropriateness of filing a Child in Need of Protection or Services (CHIPS) petition in the event that a family does not engage in necessary services and child safety and/or risk issues have not been mitigated prior to closure of a child protection case, regardless of track.
 44. Include in statute the requirement for a minimum of monthly face-to-face contact with children for cases in which a family is receiving protective services while the child(ren) remains in the home.
 45. Traditional Response cases should result in the following determinations: maltreatment determined (yes or no), and, are child protective services needed (yes or no). For Differential Response cases the determination would include whether or not child protective services are needed. Documentation for DR cases will include a case summary form, which will include a statement that will identify if the child experienced maltreatment. This data should be entered into SSIS so that they can be reviewed in future cases and so that summary data on a countywide basis can be collected. DHS should provide guidance on criteria and best practice for making the determinations and require supervisory review and approval.
 46. Complete trauma pre-screenings should be completed for any child during a child protection response. DHS should pilot a trauma pre-screening tool in 2015 and expand statewide in 2016. Implementation of trauma pre-screening should be consistent with research on best practices.
- Longer-Term Reforms:**
47. DHS should, as part of a redesign review, engage an outside expert to work with the agency, counties, tribes, and stakeholders to advise, develop, and implement Minnesota's child protection response continuum. This evaluation should consider when and how pathway decisions should be made and whether Minnesota should move to a single child protection response, albeit one with different branches and approaches depending upon how to best meet the interests of child safety and welfare. Part of this review should consider the impact of any changes that result from the work of this Task Force.
 48. DHS shall convene a workgroup for further analysis and definition of threats to child safety

and risk of maltreatment as the foundation for development of a comprehensive long-term child protective services response continuum. This continuum must be designed for appropriate response alignment based on child safety and risk and may include multiple pathways, depending upon the best interests of the child. This response continuum design should be completed by January 1, 2017. The workgroup shall minimally include the representation from the following agencies/disciplines:

- Minnesota DHS
- Administrative and frontline County/Tribal Child Welfare Agency staff
- Law Enforcement
- County Attorney
- Court
- Defense Attorney
- Guardian Ad Litem
- Pediatrician
- Child Development
- Mental Health
- Parent(s)
- Child Welfare-Focused Academic Institutions
- Child Safety/Risk Subject Matter Experts

49. Coordinate services and financing across the system in the fields of mental health, chemical dependency, housing, and other related areas within the State of Minnesota—Department of Human Services for children and families who need child protection case management services so as to prioritize services for interventions that would increase safety and reduce risk of future harm. This would promote more holistic and effective responses for children and families who have experienced trauma, abuse, neglect and/or other egregious harm to reduce recidivism into the child protection system.

50. Make referrals for clinical, mental health, and functional assessments of children, along with their families, who receive child protective case management services, and who have trauma or mental health needs identified during screening. These assessments should be conducted by experts in the field. For example, if significant trauma to a child has occurred, a clinical trauma assessment with a qualified mental health professional should be required.

For this recommendation to be effectively

implemented, resources must be allocated to counties and community providers to improve the social and emotional well-being of children to heal from trauma, as well as reducing physical harm.

51. DHS should adopt a plan to monitor the provision of services and outcomes to assure that children and families receive appropriate, effective and needed services. This plan should include a periodic functional assessment of a child's well-being while in the child protection system and evaluate whether such services actually improved and benefitted children and their families. (p. 13-19)

References

- Casey Family Programs Assessment Team. (2015, June). Full report: Hennepin County Assessment and Recommendations. <http://archive.kare11.com/legacy/pdfs/hennepin-county-full-report.pdf>
- Governor's Task Force on the Protection of Children. Final Report and Recommendations. (2015, March). www.dhs.state.mn.us/main/groups/agencywide/documents/pub/dhs16_193608.pdf

About the Author

Mark Hudson, MD, received his Doctor of Medicine degree from the University of Minnesota and completed a Pediatrics residency at the University of Minnesota. Following residency he completed a two-year Child Abuse Fellowship and is Board Certified in Child Abuse Pediatrics. Dr. Hudson is a Fellow of the American Academy of Pediatrics and a member of the Ray Helfer Society. He is currently the Medical Director of Midwest Children's Resource Center, a medically based Child Advocacy Center at Children's Hospitals and Clinics of Minnesota. He is the Executive Director of the Midwest Regional Child Advocacy Center. He was a member of the Governor's Task Force on Child Protection and was the Lead of the Workgroup on Family Assessment.

Differential Response in Child Protection: How Much Is Too Much?

Kathryn A. Piper, PhD, JD, MEd

“Are my parents going to know what I tell you?”

Throughout my twenty years representing children in abuse and neglect court proceedings, this was the question I most often needed to answer before my young clients felt safe enough to tell me what was happening in their families. I quickly learned there was considerable pressure placed on these children by their parents to keep the family’s secrets.

In 2007, Vermont passed legislation mandating the implementation of differential response (DR) to screened-in, or accepted, reports of child abuse and neglect. By July 2009, Vermont’s differential response system had been implemented into practice. Differential response (DR) refers to a dual track system that allows public child protective service (CPS) agencies to respond to accepted reports of child abuse or neglect with either a traditional investigative response (TR) or an alternative response (AR). The AR track was designed to be a less authoritarian and less adversarial approach to families who had been identified as having a lower risk of future maltreatment. Alternative track programming promoted caseworker collaboration with family members to complete a comprehensive assessment of the family’s needs, risks, and strengths, rather than involving families in a traditional CPS investigation. Families in the alternative track would then participate in services voluntarily.

One of the provisions of Vermont’s DR legislation was as follows: When an accepted child maltreatment referral was assigned to the alternative response track, the legislation required that any interview with an alleged child victim “shall occur with the permission of the child’s parent, guardian, or custodian” (33 Vermont Statutes Annotated §4915a(a)(2)). When I questioned the wisdom of this policy—requiring the Department of Children and Families (DCF) to obtain permission from an alleged maltreating parent to interview their allegedly maltreated child—I was assured that if the parent refused to grant permission, DCF could always reassign the case back to the traditional, or investigation track. I pointed out that by then, parents would have had ample opportunity to pressure their children into recanting maltreatment allegations before DCF could conduct the interview. A DCF spokesperson subsequently told me that this was not an issue, because the DR research had demonstrated that children served in the AR track were “just as safe” as children in the investigation track.

I thought, Really? Were children just as safe, or had they

simply learned not to make further disclosures? Were my perceptions of parental pressure on children to recant skewed by the fact that I saw only the high-risk families that ended up in court? What did the research really say? I didn’t know the answer, and I didn’t have the knowledge or skills to assess the reliability or validity of the research studies addressing these questions. I hit the same wall each time I questioned a child welfare policy or practice. Which interventions had been proven effective? Which ones had not? And, how could I truly make a difference to children and their families if I didn’t know?

I subsequently left the direct practice of law and enrolled in a doctoral program in social policy at the Heller School at Brandeis University, and I used the educational research opportunities afforded to me to answer some of these pressing questions. I ultimately completed my doctoral dissertation on the topic of “Differential Response in Child Protection Services: A Comparison of Implementation and Child Safety Outcomes.” What follows is some of what I learned through my dissertation research.

Explaining Differential Response

Four basic premises underlie differential response: (1) families can be accurately assessed at intake and categorized according to their level of risk for future maltreatment; (2) families referred to an alternative track will be more likely to engage in services voluntarily than would families in the TR track, because of AR’s less “adversarial” and “accusatory” approach; (3) services needed by families would be available and accessible to them; and (4) services provided to families would be effective in remediating the underlying issues that led to maltreatment (Baird, Park, & Lohrbach, 2013; Bartholet, 2012; English, Wingard, Marshall, Orme, M., & Orme, A., 2000; Zielewski & Macomber, 2007; Zielewski, Macomber, Bess, & Murray, 2006).

Based on these assumptions, the logic model of DR might be pictured as diagrammed in Figure 1.

The results of Vermont’s initial implementation of DR appeared to support the second assumption in this logic model. At the time DR was adopted, Vermont made a clear commitment to serve families who would have received little or no assistance under prior DCF policies and programming because they would not have risen to the level of concern that would warrant CPS involvement. Implementing DR clearly had the intended effect of increasing the number

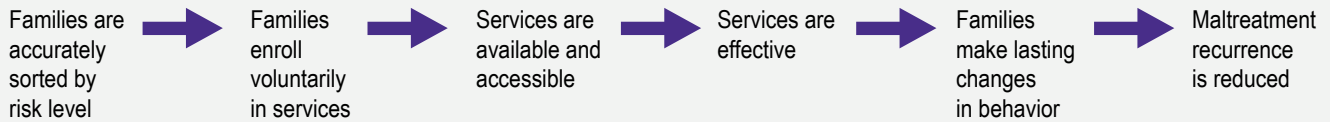


Figure 1. Logic Model for DR Programs

of lower-risk families who received services from CPS. The screen-in rate reportedly jumped from 19.0% in 2008 to 26.6% in 2010 (U.S. Department of Health and Human Services, 2011 and 2010), suggesting that many families who would have previously been screened out were screened in and received services as a result of DR implementation. An analysis of National Child Abuse and Neglect Data System (NCANDS) data for the same time period confirmed that the number of families who received services from the agency increased from 659 in 2008 to 920 in 2010.

Unfortunately, this increase in service provision did not result in better child safety outcomes, based on re-report rates for children served in the AR track compared with those served in the TR track. While in FFY 2011 there was no significant difference in the rate of re-reporting between the two tracks, in both 2010 and 2012, AR case re-report rates were higher than those on the TR track. In 2012, re-reports of families in a 12-month period showed 167 families (15%) assigned to the AR track had been re-reported, compared with 291 families (11%) served in the TR track (Vermont Department for Children and Families, 2012). Using NCANDS data and survival analysis, my research showed that children whose cases were assigned to AR in Vermont in FFY 2010 were about 30% more likely to be re-reported than those assigned to the TR track.

By definition, families referred to the AR track should be at lower risk. Therefore, we would expect families in AR to have a lower risk of recurrence than families assigned to the TR track. The fact that this was not true in Vermont suggests that families may not have been accurately categorized by risk level at the time of track assignment, or that some aspect of the AR track intervention (such as the expectation that parents would voluntarily engage in services) was having a negative effect on re-report rates. In other words, the first two assumptions of the logic model in Figure 1 may not be supported under Vermont's model of DR implementation.

Several studies of DR in other states have found that a surprisingly high percentage of families assigned to AR tracks were at high risk for maltreatment recurrence. Loman and Siegel, in their 2004 study of the use of the

Structured Decision Making (SDM) Family Risk Assessment tool for more than 15,000 families in Minnesota, found that 17.4% of families who were initially categorized as appropriate for the AR track were later assessed to be at high or intensive risk (Loman & Siegel, 2013, p. 555). In the evaluation of Virginia's DR program, researchers found that 18% of families on the AR track were at high risk, as measured by the risk assessment made at the completion of the family assessment (Commonwealth of Virginia, 2008, p. 14). Similarly in research in Washington State, English and colleagues (2000) found that despite having been classified as low risk, 20% or more of the neglect cases assigned to the alternative track had been preceded by intake reports that contained allegations indicating a "potentially serious disregard to the health and well-being of children"... "based on the child's primary caregiver failure to follow through with medical intervention for serious health issues" (p. 382). These authors also found that many of the intake reports of families assigned to AR alleging physical abuse contained information indicating "the potential for serious harm" based on parental acts such as blows to the head, shaking, choking or smothering a child (p. 387).

Despite these findings, as Loman and Siegel (2013) point out, only 2% to 6% of cases initially assigned to the AR track in DR states are ever reassigned to TR, with Illinois being an exception. English, Marshall, Brummel, and Orme (1999), studying re-referrals in Washington State, opined that the state's system of risk assessment "may not adequately address the issue of cumulative harm versus imminent risk" (p. 305) and also failed to assess for domestic violence, substance abuse, and maltreatment of the caregiver as a child, all of which are among the factors most highly associated with maltreatment risk.

In an evaluation of Wyoming's DR program, the Wyoming Legislative Service Office (2008) concluded that many track decisions were being made "hastily, without needed information." The report recommended that the time allotted for track assignment decisions be increased to a week from 24 hours to provide supervisors with "the results of the safety assessment, initial interviews, collateral contacts, and caseworker observations" to inform track

assignment decisions (pp. 2–3). The Wyoming Department of Family Services did not implement this recommendation.

Cameron and Freymond (2015) expressed similar concerns, stating,

There have always been some fairly intractable problems with the American conception of a differential approach to child welfare. It is difficult to construct a credible basis for dividing child welfare clientele into investigatory and assessment cohorts, based upon information gleaned from limited contact with children and parents, or no contact when decisions are made by CPS hotline staff based on partial information from the reporter. (p. 3)

At times, track assignment is based on a determination of a family's willingness to cooperate with the caseworker and to participate in services. The problem is that caregivers' expressed intentions to participate in services and their actual participation are often very different (McCurdy & Daro, 2001). Two Vermont CPS staff members described the challenge to me:

I just don't know that they [families] have the wherewithal once the social worker is out of the picture to really stay connected to a service provider... [When they don't stay connected, this may be because] the provider didn't connect, the provider didn't push it, or the parent is invested when we're there, but when we're not there, the motivation wanes. (Piper, 2013, p. 10)

Lip service.... Everybody has the opportunity to say "yes" to us and say, "Yah, I'll do it. I'll do it." But it's always things get in the way... [There are people that just want us out and agree to do something. Maybe they'll do it while we're involved and then it drops off once we're out. (Piper, 2013, p. 10)

A recent unpublished study by Darnell and Fluke (2014) suggests that as the percentage of cases assigned to the AR track increases, the number of high-risk cases on the AR track also increases. At some point, therefore, the percentage of re-reports in AR cases will exceed the number of re-reports on cases in the TR track.

My dissertation research compared re-report rates between AR and TR tracks in the thirteen states that had implemented DR statewide as of 2012, using data from the 2000–2012 National Child Abuse and Neglect Data System (NCANDS) Child Files. My research determined that in these thirteen states, anywhere from 2.21% (in Illinois) to 84.14% (in Wyoming) of screened-in child maltreatment referrals had been assigned to the AR track. Given that track assignments

are supposedly determined by risk level, and the AR track was designed to serve lower-risk families, it would be fair to expect AR cases to recidivate at significantly lower rates than cases assigned to TR.

However, the results of a survival analysis show that AR cases were re-reported at a lower rate than TR cases only when fewer than 33% of all accepted reports had been assigned to the AR track. In states that assigned more than 33% of accepted referrals to AR, these cases were often re-reported at significantly higher rates than cases assigned to the TR track. In five states in specific years (Kentucky in 2005 and 2006, Minnesota in 2004 and 2006–10, Wyoming in 2002–2008 and 2011–2012, Virginia in 2008, and Massachusetts in 2011), there was no significant difference. In Missouri, Tennessee, and North Carolina, AR cases were re-reported at higher rates than TR cases during every year for which those states reported AR dispositions to NCANDS. The data from Oklahoma reflect the overall trend among all the states. In Oklahoma, when the percentage of reports assigned to AR was less than 23%, the re-reporting rate was less than for TR. However, this trend reversed in 2009, as soon as the percentage of families assigned to AR jumped to 49.34%. Then, in 2012, when the percentage of families assigned to AR dropped back down to 23.35%, there was no significant difference in re-reporting of families served in the two tracks.

A caution is warranted when interpreting this data. A comparable re-report rate between AR and TR tracks does not indicate that children served in AR are "just as safe" as children served in TR. Based on the presumption that AR cases are, to begin with, lower risk than are investigation track cases, a similar re-report rate in both tracks is still highly problematic. Because the baseline for child maltreatment occurrences in low-risk families is very low, an appropriate re-report rate for families served in the AR track should be considerably lower than for TR.

Implications

The results of my research suggest that states should adopt methods of implementing DR that result in fewer than 33% of all screened in child maltreatment reports being assigned to the AR track. This recommendation is based upon the research finding that a cutoff of approximately 33% of families assigned to AR is necessary to maintain equivalent re-report rates between the two tracks. However, because AR cases are, by definition, lower risk than TR cases, an argument could be made that an even lower percentage of referrals to AR would better reflect a true "equivalence of child safety" between the two tracks.

There is one other caution: This recommendation has less to do with the mathematical percentage of referrals to AR than with the high probability that raising the rate of case assignment to AR above 33% will likely result in increasing

numbers of unidentified higher-risk families being assigned to the alternative track.

There are several ways states can improve the accuracy of track assignment decisions, thereby preventing the inaccurate assignment of higher risk families to the alternative track.

Timing of Track Assignment Decisions

In most DR programs, track assignment decisions are usually made within 24 hours of receipt of the referral. At such an early stage of the case process, intake workers typically have little information with which to assess a family's risk level, other than that provided by the referral source. States should delay track assignment until the intake caseworker has conducted a thorough review of CPS, court, and Department of Corrections (DOC) records. It may also be appropriate for workers to gather information from collateral contacts as well as from in-person interviews with alleged child victims and their families before making a track assignment. In short, there is emerging agreement that caseworkers need sufficient time to collect necessary information to complete a valid risk assessment before making track assignments (Minnesota Governor's Task Force on the Protection of Children, 2015; Casey Family Programs, 2014).

Criteria Used for Track Assignments

Policy makers in DR states should reconsider the criteria on which track assignments are based to ensure that higher-risk cases are not assigned to the AR track. It is most important that policies should require consideration of a family's prior history of CPS involvement when making track assignment decisions, since prior CPS involvement is the factor most highly associated with future maltreatment risk (English et al., 1999; Wulczyn, 2009). The Minnesota Governor's Task Force on the Protection of Children (2015) formalized this as a recommended reversal of policy because previously, caseworkers had been instructed not to consider prior allegations or previous involvement with CPS when making track decisions. Loman and Siegel (2012), in their 8–9-year follow-up of a DR study in Minnesota, found an absence of discernible positive effects from being served in AR among families who had prior CPS involvement, suggesting that

the short-term assistance that generally characterizes DR family assessments is most effective among families that are being seen for the first time, and might be targeted first to this group.... [C]hronic families are likely to need more assistance." (p. 1,665)

They go on to suggest that in such cases, "[m]ore [assistance] may be needed to address deeper and more intractable problems, such as mental illness, substance abuse, domestic

violence or children that are difficult to care for" (p. 1,666).

Use of Risk Assessment Instrument in Track Assignment

States should consider using validated risk assessment instruments during the decision-making process used for track assignment. Caregivers need to be assessed for possible substance abuse, mental illness, domestic violence, and other factors that have high predictive validity in estimating the likelihood of future maltreatment. These problems in families have been repeatedly shown to be more responsive to the traditional investigation response (TR) than to the AR track (Commonwealth of Virginia, 2008; Fuller, Nieto, & Zhang, 2013; Loman, Filonow, & Siegel, 2010; Loman & Siegel, 2004; Loman & Siegel, 2012).

Separate Child Interviews

Accurate information obtained from alleged child victims is essential for an accurate determination of risk. However, children may be heavily influenced by parental pressure not to disclose incidents of maltreatment. All states implementing DR should carefully examine policies encouraging the use of conjoint family interviews during initial fact-finding assessments of cases on the AR track. Such conjoint family interventions, when used instead of child-only interviews, are not appropriate when recent child maltreatment or current high risk, or both, are suspected. It is telling that the Minnesota Governor's Task Force on the Protection of Children (2015) recommended that "CPS interview the child individually first and prior to contact with the child's parents/legal guardians whenever possible" (p. 14).

Track Assignment Upon Re-reporting

When families originally served in the AR track are subsequently re-reported, these cases should not be reassigned to AR. If AR programming was not successful in ensuring children's safety, why would one use the same approach again when these families are re-referred? Yet my research showed that upon re-referral, cases originally served in AR tracks were reassigned to the AR track at twice the rate, on average, of families re-reported after having been served in TR. According to NCANDS data for the thirteen states in this study, on average, 25.17% of cases initially assigned to TR were assigned upon re-report to AR, while 49.04% of cases initially assigned to AR were reassigned upon re-report to AR. With the exception of Illinois, in all the states I examined, the percentage of AR cases reassigned to AR upon re-report exceeds the percentage of TR cases assigned to AR. This explains why the substantiated re-reporting rate is such a misleading measure of child safety when comparing AR and TR cases. In every state, cases served in AR are not substantiated. So given the above figures, overall substantiated re-reporting of cases is obviously going to decrease as the percentage of

cases initially assigned to the AR track increases. Clearly, this tells us nothing about the true relationship between AR utilization and child safety outcomes.

Conclusion

In 2003, the federal government recognized the goal of DR as serving families who might not otherwise receive any kind of intervention or assistance from state CPS agencies (Child Welfare Information Gateway, 2003; Hughes & Rycus, 2013). According to Waldfoegel (1998), under prior CPS screening criteria, approximately 20% of all referrals to CPS agencies would have been closed out upon completion of the investigation, with no services provided because allegations of abuse or neglect did not rise to the level to warrant CPS involvement. In its early stages, DR was designed to serve only this group of underserved, low-risk cases. My research has supported the contention that, in those states that assign a high percentage of accepted referrals to the AR track, the DR program has gone far beyond its original goal of serving this limited category of families.

What is the optimal level of AR utilization? Policy makers need to understand and consider the lessons learned from DR research. As Samuel Taylor Coleridge (1817) once said: “Every reform, however necessary, will, by weak minds, be carried to an excess that itself will need reforming.” The only way to stop this natural human tendency is through sound research and a rational, evidence-supported political environment.

Note: The data utilized in this publication were made available by the National Data Archive on Child Abuse and Neglect, Cornell University, Ithaca, New York, and have been used with permission. Data from the study “Differential Response in Child Protection Services: A Comparison of Implementation and Child Safety Outcomes” were originally collected by Kathryn Piper (principal investigator, Marji Erickson Warfield, Heller School, Brandeis University). The collector of the original data, the funder, the Archive, Cornell University, and its agents or employees bear no responsibility for the analyses or interpretations presented here.

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Pioneer Institute: To Ensure Child Safety in Massachusetts, Most Critical Reforms Are to DR Program

Kelli N. Hughes, JD

The Pioneer Institute released a report in November 2015 titled “Driving Critical Reforms at DCF: Ideas for a Direction Forward in Massachusetts Child and Family Services.” The document was aimed at understanding and correcting system failures at the Massachusetts Department of Children and Families (DCF) (Blackburn & Sullivan, 2015).

This policy white paper was prompted by a series of high profile cases of serious abuse, neglect and child deaths that occurred in Massachusetts, despite a range of DCF reforms enacted by the state’s administration just the previous year. Bella Bond, a 2-year-old girl who went missing in May or June of 2014, was found dead on June 25, 2014, after caseworkers had failed to gather enough information to accurately identify her level of maltreatment risk. Then, in July, 7-year-old Jack Loisel was reportedly found unresponsive by his father. Upon examination, health care professionals determined Jack was in a coma, his body was covered with bruises and burns, and he was severely malnourished, weighing only 38 lbs. Records showed, however, that Jack had received CPS services in the 5 months prior to this incident, including 110 visits and 16 interactions with caseworkers. One month later, two foster children, both female, were found unresponsive in their caregiver’s home. The 2-year-old died upon arrival at the hospital, and the 22-month-old was in critical condition. They were both suffering from symptoms of asphyxiation and heat exhaustion. This incident happened three days after a routine visit by DCF. To help Massachusetts’ DCF prevent cases such as these, the Pioneer Institute’s articulated goal was to inform future reform efforts so that children’s safety and well-being are the top priority in all case response options (Blackburn & Sullivan, 2015).

The “first and most important recommendation” made in this report, which the authors state “should be the central focus of any changes at the agency,” was to overhaul Massachusetts’ version of Differential Response (DR), a two-tiered child intake system that they call the Integrated Casework Practice Model (ICPM) (Blackburn & Sullivan, 2015, p. 5).

The authors cited pervasive “mission confusion” at the Massachusetts DCF (Blackburn & Sullivan, 2015, p. 10). The agency reportedly identifies as its principal value that all practice is “child-driven,” but that isn’t reflected in programming. This is particularly true of its DR model (Blackburn & Sullivan, 2015, p. 10). The authors note that the DR model is the product of a child welfare service

reform movement that advocates for CPS strategies designed to prioritize family preservation. They also assert that the combined CPS goals of family preservation and child protection often conflict in direct practice. They note that DR systems exist in states all across the country, and that there is no standard model, but that some DR systems typically have at least two pathways for screened in cases, and the decision to divert a case to either pathway is purportedly determined by assessment of risk. Cases can change pathways in response to changes in risk. Families on the alternative path may refuse services, and no substantiation occurs, so there is no formal disposition of maltreatment and no victim or perpetrator identified.

The authors performed a literature review looking for research on the effectiveness and outcomes achieved in states with DR programs to determine whether a consensus existed in the research community about DR’s efficacy. They determined that much of the DR research evaluating outcomes from various two-tiered systems across the county was “inconclusive,” and, even though some DR publications have claimed that “child safety has not been compromised” in states with DR programs. The most significant research findings contend that DR presents grave concerns with respect to child safety. The authors also concluded that the research determining that children in AR tracks are safe were based on insufficient data. Other concerns included inappropriate research methodology, inaccurate conclusions drawn from data, and potential conflicts of interests, as the researchers were noted to be connected with the advocacy groups that had created and aggressively marketed the DR model. (Blackburn & Sullivan, 2015, p. 11).

The authors also cite concerns with the intake screening process. In DR programs, screeners typically make recommendations to accept or reject cases, prioritize the cases for agency response, and make recommendations on track assignment (ostensibly based on level of risk,) all from a single phone call from a referral source. Without any extra fact-finding, these decisions appear to be made using limited and potentially inaccurate information.

The authors also highlight problems related to reporting CPS data to the federal Child and Family Services Review (CFSR). States must report data regarding maltreatment recurrences to the CFSR. Maltreatment recurrence is defined as the substantiation of a re-report after a substantiated incident of maltreatment. One of the key features of DR programs is that there is often no substantiation and therefore, many

instances of recurring maltreatment from cases that are in multi-track programs are not recorded in this data. This presents an incomplete picture of recurring maltreatment cases, and raises concerns about state accountability for child safety in the alternative track. The authors suggest that, without a mandate for this information, it may even incentivize states to adopt DR programs so they can conceal information that reveals more pervasive levels of child maltreatment on their watch.

The authors go on to discuss some of the more specific issues that states have had in their DR program implementation. They report that Massachusetts is not alone in experiencing child maltreatment issues linked to DR two-tiered intake systems. They note that the Florida DCF experienced similar mission confusion stemming from unenforceable safety plans. They report the voluntary track of Florida's DR program saw 80 child deaths from 2008 to 2014. Of those 80 children, 34 died after Florida DCF had documented at least 10 reports on the child. Illinois discontinued its DR program in 2012 because they found it encouraged case overload. Studies found there were higher rates of re-reports and substantiated reports in the alternative tracks than in the traditional response tracks. Virginia modified its DR system when a study showed that 54% of the cases in the assessment track were moderate to high risk instead of lower risk as intended. A Minnesota review initiative suggested the state reform its assessment track to be child-focused, with the long-term consensus that the two-tiered intake system in that state should be abandoned completely.

Based on their research review and on the experiences of other states with DR programs, the authors made the following recommendations in their report to guide future reform efforts in the Massachusetts:

- Engage an independent research group to conduct a comprehensive review of the ICPM assessment track, including a close look at instances where DR deployment was linked directly to CPS failures.
- Make necessary changes to their DR programming so that it always and clearly prioritizes children's safety.
- Provide better training for assessment track case reviewers, and ensure that training is standardized across all tracks so that accurate risk assessments are completed for all families. Both traditional investigation and assessment track case reviewers should be trained in both family engagement and investigation techniques.
- Correct the endemic DR practice of asking parents' permission before conducting interviews with children who are possible victims of maltreatment. Interviews should be conducted prior to a family's knowledge of the interview, if at all possible, and children should be interviewed alone, without another family member or

guardian in the room.

- Ensure that cases diverted to the DR assessment track still include some essential elements of traditional investigation, such as in domestic violence and substance abuse screening.
- Monitor all cases diverted to the assessment track for 12 months after they have been closed.
- Consider re-examining cases in which families have refused voluntary services to see if those families should be re-routed into the traditional track response.
- Strengthen the criteria for intake decisions, including checking out additional information sources before a track assignment is made, including, at minimum, a required check of court records and information from collateral sources such as teachers, physicians, mental health professionals, and substance abuse counselors. If sufficient information is not available, track assignment should be postponed until it is available.

To read the entire Pioneer Institute white paper, access it online at <http://pioneerinstitute.org/download/driving-critical-reforms-at-dcf-ideas-for-a-direction-forward-in-massachusetts-child-and-family-services/>

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Washington Update

Ruth Friedman, PhD and Rebecca Robuck, MPA, MSW

Throughout the spring and summer, lawmakers in Washington remained active on two primary policy issues of relevance to child welfare: first, new legislation called the Family First Prevention Services Act and, second, the child welfare system's response to the opioid epidemic and its impact on families. Other policy activity, including progress on reauthorizing some key programs that support vulnerable children and families, such as reauthorizations of the Temporary Assistance for Needy Families (TANF) program and the Child Abuse Prevention and Treatment Act (CAPTA), was somewhat limited, although it is possible that CAPTA reauthorization may be taken up later this year.

Family First Prevention Services Act

The most significant federal activity in child welfare has been around a legislative proposal called the Family First Prevention Services Act (H.R. 5456/S.3065). Representative Vern Buchanan (R-FL) introduced the bill on June 13, and the House of Representatives passed it with unanimous support on June 21. On June 16, Senators Ron Wyden (D-OR) and Orrin Hatch (R-UT) introduced the bill in the Senate, where it is still under consideration. This bipartisan, bicameral bill is historic because it opens up Title IV-E, the largest source of federal funds for child welfare, to pay for some prevention services. It also limits the use of residential placements.

Summary of the Bill

The Family First Prevention Services Act allows for Title IV-E dollars to be used for time-limited prevention services for children and families considered at risk of entering the child welfare system. Title IV-E dollars can be used only to provide services for a maximum of 12 months and for only two types of services: (1) Mental health and substance abuse prevention and treatment services provided by a qualified clinician; and (2) In-home parent skill-based programs. These changes would represent an unprecedented shift in the child welfare financing system, although they would remain an option for states, not a requirement.

Under the bill, three groups of children would be eligible for these prevention services: (1) Children who are candidates for foster care (i.e., those identified as being at “imminent risk” of entering care) but who can safely remain at home or in a kinship placement if they are provided with services that prevent entry into foster care; (2) Pregnant or parenting children and youth in foster care; and (3) The

parents or kinship caregivers of candidates for foster care when services are needed to prevent entry into care and directly relate to the child's safety, permanence, or well-being. These children and their families would be eligible for services regardless of income eligibility—which means that unlike the Title IV-E program, which is tied to income eligibility requirements established in the Adoption and Safe Families Act (ASFA), federal dollars will reimburse states for providing prevention services to any child in foster care.

The bill also features a strong focus on funding high-quality services, as explicitly defined in the bill. The Secretary of HHS is required to issue guidance to states regarding criteria for services and programs, including a pre-approved list of prevention services and programs meeting the quality criteria. Federal financing for the three types of prevention services will only be for prevention services and programs that are identified as “promising, supported, and well-supported practices,” which are modeled from the evidence-based criteria used by the California Evidence-Based Clearinghouse for Child Welfare (California Evidence-Based Clearinghouse for Child Welfare).

The bill also takes steps to limit the use of inappropriate group care. Due to concerns that children and youth in foster care are too often placed in inadequate group settings that do not meet their needs, the bill establishes a new definition for residential placements, called Qualified Residential Treatment Programs (abbreviated as QRTPs) that can be supported with federal dollars. It also requires child welfare agencies to conduct timely and comprehensive assessments, and requires careful ongoing court review for all children placed in QRTPs to ensure that placement continues to be most appropriate for the child's needs.

Finally, the bill includes provisions to improve other existing programs, including the Regional Partnership Grant program, which is aimed at helping families affected by substance abuse; interstate placements for foster care, adoption, and guardianship; licensing standards for relative foster family homes; and the John H. Chafee Foster Care Independence Program.

Current Status of the Bill

In July, after hearing from hundreds of stakeholders across the country, including over 180 letters of support, Senators

Wyden and Hatch took steps to “hotline” the bill, a procedure that would allow the legislation to pass the Senate with unanimous consent. Under this procedure, Senators are permitted to place an anonymous hold on the bill if they have concerns with its provisions. If these concerns can be addressed, the bill will move forward and pass the Senate, after which it would go to the President for signature. If concerns cannot be addressed, negotiations will continue in September, at which point Senators Hatch and Wyden will seek an alternative strategy.

The bill did not pass the Senate before Congress left for recess on July 14. Several Senators have reservations about the legislation, including Senators Enzi (R-WY), Cornyn (R-TX), and Boxer and Feinstein (both D-CA) in response to concerns from their states about the bill’s potential fiscal impact and how it would align with various reform efforts already underway. Others, including some federal lawmakers who ultimately voted in favor of the bill, have also expressed concerns that the bill provides no new money to support the new prevention programs, but rather uses savings from the reduction in congregate care placements to fund these services—as some have put it, “robbing Peter to pay Paul.”

Senate Finance Committee staff and others will continue to work throughout the recess to address any ongoing concerns and eliminate remaining barriers to passage. Senators Wyden and Hatch have indicated that they are committed to getting the bill passed, so if unanimous consent is not possible when Congress returns in the fall, a floor debate and vote on the bill also remain a potential option.

Attention to Substance Abuse and Child Welfare

Lawmakers’ attention has also been focused on the role of substance abuse in the child welfare system and, in particular, the impact of the opioid epidemic on the child welfare system. In February, the Senate Finance Committee held a hearing on “Examining the Opioid Crisis”; in April, the Senate Homeland Security and Governmental Affairs Committee held a field hearing in Ohio on the impact of the opioid crisis in that state; and in May, the House Ways and Means Committee Subcommittee on Human Resources held a hearing on “Continuing the Effort to Protect Children From Parental Drug Abuse.” All of these hearings examined the impact of substance abuse on children and on the child welfare system.

In July, the House and Senate passed, and the President signed, the Comprehensive Addiction and Recovery Act (also known as CARA), which is the primary Congressional response so far to the national opioid crisis. Among its many provisions to support individuals and families struggling with substance abuse, the bill makes some amendments to the Child Abuse Prevention and Treatment Act (CAPTA).

Specifically, the bill expands on CAPTA’s existing

requirement that states develop a plan of safe care for infants born and identified as being affected by illegal substance abuse or withdrawal symptoms or fetal alcohol spectrum disorder. It requires that such plans include health and substance abuse treatment for the affected infant and caregiver as well as state oversight to ensure these services are implemented. The bill also requires states to collect incidence data on these children and the services they and their caregivers receive, and it requires HHS to monitor state compliance with their Title 1 state plans. It does not provide any new money for CAPTA, despite these additional mandates.

Other Updates

Appropriations

The House and Senate Appropriations Committees each passed their own versions of the FY2017 Labor, Health and Human Services, and Education (Labor-HHS-Ed) appropriations bill, which funds most of the major federal programs related to child welfare. Most child welfare programs were flat funded.

The House bill does not enjoy the same bipartisan support as the Senate bill, in part due to contentious policy riders attached to the House bill, such as a provision aimed at halting the Administration’s directive on transgender students’ right to access school restrooms. The House bill also eliminates teen pregnancy prevention funding.

Neither the House nor the Senate bills are likely to be enacted, because the appropriations process is stalled in the Senate; however, the funding levels in the bills could form the basis for an omnibus appropriations bill, which is likely to be negotiated in December or March. In the meantime, Congress is expected to pass a Continuing Resolution, which could continue current funding levels, into some part of FY2017 (the federal fiscal year begins October 1, 2017).

Temporary Assistance for Needy Families (TANF)

Speaker Paul Ryan, who has taken an interest reforming federal anti-poverty programs, has created six House taskforces to develop policy platforms for the GOP. Their work is significant for child abuse prevention because their work includes programs aimed at supporting vulnerable families with children. In June, the Poverty, Opportunity, and Upward Mobility taskforce released its plan. The plan talks in generalities about ensuring work-capable adults in exchange for welfare benefits, improving incentives, measuring progress, and supporting a skilled workforce. It also proposes to add work requirements to federal low-income housing programs and food assistance (SNAP). It is not expected that these proposals will be introduced as legislation in this Congress.

In May, the House Ways and Means committee passed several TANF bills. The Senate Finance committee has not indicated that they will be taking up TANF reauthorization soon, and with so few days left in the legislative calendar, passage of TANF reauthorization by this Congress seems unlikely.

CAPTA Reauthorization

The Senate Health, Education, Labor, and Pensions (HELP) committee recently completed work on the Every Student Succeeds Act (ESSA), which reauthorized No Child Left Behind. It is expected to take up the Higher Education Act (HEA), after which it will turn its attention to CAPTA reauthorization.

White House Hackathon

On May 26, the White House convened a two-day “hackathon” featuring leaders from both the child welfare and technology fields to explore ways to improve the foster care system through the use of technology. One topic of discussion was the ways in which technology can be leveraged to more effectively assess family needs and match them to services to prevent child maltreatment and foster care placement.

HHS Final Rule on CCWIS

The Comprehensive Child Welfare Information System (CCWIS) final rule was published in the Federal Register on June 2. When it becomes effective August 1, this final rule will replace the current Statewide/Tribal Automated Child Welfare Information System (S/TACWIS) regulations. This is the first time in 23 years that the U.S. Department of Health and Human Services has issued new regulations guiding the use of technology in child welfare. The regulations seek to promote innovation and allow child welfare agencies to implement more effective and efficient technology to link children and families to appropriate services. They also encourage the sharing of information between child welfare and other partners such as health care agencies, education systems, and the courts.

References

California Evidence Based Clearing House for Child Welfare at <http://www.cebc4cw.org/>

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Ruth Friedman, PhD, serves as the Executive Director of the National Child Abuse Coalition. She is a Washington D.C. based independent child and family policy consultant, working with government entities, non-profits, and foundations to improve the lives of children and their

families. She spent more than 12 years as a policy advisor for Democratic staff of the U.S. House Committee on Education and the Workforce. On behalf of Congressman George Miller and House Democrats, she spearheaded numerous initiatives to improve the well-being of children and families. She assisted in the passage of the Uninterrupted Scholars Act in 2012, led reauthorizations of the Child Abuse Prevention and Treatment Act, assisted in Congressional investigations into institutional abuse of students and teens in residential settings, and child abuse reporting laws and practices. She also spearheaded the 2007 reauthorization of Head Start, the 2009 Early Learning Challenge Fund Act, and child care, pre-kindergarten, and home visiting legislation. Dr. Friedman has a Ph.D. in clinical psychology and an M.A. in public policy. Prior to working on Capitol Hill, she was a researcher and therapist, focusing on resiliency in children and families living in high poverty neighborhoods

Rebecca Robuck, MPA, MSW, is a Senior Associate at ChildFocus, a national child welfare consulting firm. She works with nonprofits, foundations, and public agencies to improve policies and practices that impact vulnerable children and families. Previously, Rebecca worked as a Legislative Assistant to Representative Jim Cooper and handled a range of social welfare issues, including child welfare. Rebecca holds Masters degrees in Public Administration (MPA) and Social Work (MSW) from the University of Pennsylvania. During graduate school, she worked as a caseworker, and with the Medical Director of the Philadelphia child welfare agency. Rebecca received a B.A. in History from Davidson College. Contact her at rebecca@childfocuspartners.com

APSAC Announces Joint Venture with The New York Foundling at 24th Annual Colloquium

The New York Foundling President, Bill Baccaglini, announced the joint venture on June 24 as part of the opening plenary at the 24th APSAC Annual Colloquium in New Orleans.

The Foundling is a New York based charity that works to empower 27,000 children and families to live independent, stable, and fulfilling lives. You can read more about the Foundling and its excellent work at www.nyfoundling.com.

This collaboration will be beneficial to both APSAC and The Foundling, and we couldn't be more pleased with the agreement. APSAC will now be able to provide more value to members by expanding our work in vital areas of child maltreatment policy, training, and direct practice.

2016 APSAC Colloquium Success

Thank you to everyone who joined us for APSAC's 24th Annual Colloquium in New Orleans June 21–25. More than 600 professionals from across the country and beyond participated. This was APSAC's largest turnout for the Colloquium since 2010 (also in New Orleans).

Participants came from 45 states, Washington, D.C., Puerto Rico, and 10 other countries to attend 80+ institutes and workshops, to network with peers, and to have a great time. Thursday's Sage Charles T. Hendrix Keynote Address was delivered by Paul Stern, JD, and Ben Saunders, PhD, and titled "What Practices Are We Engaging in Now That 15 Years From Now We're Going to Look Back on and Think 'What in the World Were We Thinking?'" Friday's plenary presentation, "What Are Current Social Norms Around Child Well-being?" was sponsored by Prevent Child Abuse America and presented by Janet Rosenzweig, PhD, David Murphey, PhD, and Sandra Alexander MEd. Friday's awards luncheon included the dedication of the Outstanding Research Career Achievement award in honor of Mark Chaffin, PhD. This year's Colloquium focused on offering more advanced-level sessions, including a two-day session on Trauma-Focused Cognitive-Behavioral Therapy (TF-CBT), which was presented by past APSAC president Anthony Mannarino, PhD. Look for this focus on advanced training to continue in future APSAC training events.

Another conference highlight was the first ever APSAC

"Second Line Parade"—a New Orleans tradition best described as a block party in motion. Over 150 Colloquium attendees followed the Storyville Stompers brass band from the Sheraton Hotel to Drago's Restaurant in an enthusiastic opening to the Colloquium. Conference attendees also enjoyed the Thursday evening reception/poster session/silent auction, yoga classes, and many New Orleans activities (e.g., haunted history tour, New Orleans cooking class, swamp tours).



Watch for information about the 2017 APSAC Colloquium, which will be distributed soon.

APSAC Award Winners Announced at 2016 Colloquium

APSAC recognizes achievement in many ways through its annual awards program. Each year, APSAC asks its members for award nominations in several categories. Awards are presented during each year's Annual Colloquium. This year, the award for outstanding research was renamed the Mark Chaffin Outstanding Research Career Achievement Award, in honor of Mark Chaffin, PhD.

The 2016 award winners are as follows:

Mark Chaffin Research Career Achievement Mark Chaffin, PhD

This award recognizes an APSAC member who has made repeated, significant and outstanding contributions to research on child maltreatment during his or her career.

Nominator: Tricia Gardner, JD

Outstanding Service

Michael L. Haney, PhD, NCC, CISM, LMHC

This Award recognizes a member who has made substantial contributions to APSAC through leadership and service to the Society.

Nominator: Ronald Hughes, PhD, MScSA

Outstanding Professional

Bea Yorker, JD, MS

This award recognizes a member who has made outstanding contributions to the field of child maltreatment and the advancement of APSAC’s goals.

Nominator: David Corwin, MD

Outstanding Frontline Professional

Bethany Mohr, MD, FAAP

This award recognizes a front-line professional (e.g., child protection worker, law enforcement personnel, mental health counselor, or medical professional) who demonstrates extraordinary dedication and skill in his or her direct care efforts on behalf of children and families.

Nominator: Lori Frasier, MD, FAAP

Outstanding Research Article

Lucy Berliner, MSW; Shannon Dorsey, PhD; Monica Fitzgerald, PhD; Steven Ondersma, PhD; Charles Wilson, MSSW, and Mark Chaffin, PhD

This award recognizes author(s) of a research article judged to be a significant advancement to the field of child maltreatment: “Report of the APSAC Task Force on Evidence-Based Service Planning Guidelines for Child Welfare,” *Child Maltreatment*, February 2016.

Nominator: Daniel Whitaker, PhD

Outstanding Doctoral Dissertation

Kelly McWilliams, PhD

This award recognizes an individual whose dissertation has the greatest potential to make a significant contribution to the child maltreatment theoretical and applied knowledge base: “Parental Bias, Parent-Child Discussion, and Children’s Memory.” University of California, Davis.

Nominator: Gail Goodman, PhD

Outstanding Service and Advancement of Cultural Competency in Child Maltreatment Prevention and Intervention

Stacey Patton, PhD

This award recognizes an individual, organization, or agency that has made outstanding contributions to the advancement of cultural competency in child maltreatment prevention and intervention.

Nominator: Lisa Fontes, PhD

William Friedrich Memorial Award

Deborah Daro, PhD

This award is presented by the APSAC Board of Directors

to an individual who has demonstrated a career that exemplifies the achievements and character of the late William Friedrich.

Nominator: Viola Vaughn-Eden, PhD

APSAC offers its sincerest congratulations to this year’s award winners and great appreciation for their outstanding work.

Register Today for APSAC’s Forensic Interview Training Clinic in Norfolk, VA

APSAC Forensic Interview Training Clinics focus on the needs of professionals responsible for conducting investigative interviews with children in suspected abuse cases. Interviewing alleged victims of child abuse has received intense scrutiny in recent years and increasingly requires specialized training and expertise.

This comprehensive clinic offers a unique opportunity to participate in an intensive 40-hour training experience, including personal interaction with leading experts in the field of child forensic interviewing. Developed by top national experts, APSAC’s curriculum emphasizes state-of-the-art principles of forensically sound interviewing, featuring a balanced review of several models. Training topics include the following:

- How investigative interviews differ from therapeutic interviews
- Overview of various interview models and introduction to forensic interview methods and techniques
- Child development considerations and language issues
- Cultural considerations in interviewing
- Techniques for interviewing adolescents, reluctant children, and children with disabilities
- Being an effective witness

This year’s clinic will be held October 3-7, 2016.

For details and registration, visit www.apsac.org.

Save the Date for APSAC’s Advanced Pre-conference Training Institutes in San Diego

APSAC Advanced Pre-Conference Training Institutes will be held January 29-30, 2017 during the 31st Annual San Diego International Conference on Child and

Family Maltreatment (January 31–February 3, 2017).

Last year, nearly 110 individuals participated in APSAC's Advanced Training Institutes in San Diego, California.

In January, we will feature the following three institutes:

- Institute #1 - **Advanced Issues in Child Sexual Abuse**
Presenters: Debra Esernio-Jenssen, MD, and Barbara Knox, MD
- Institute #2 - **The Multidisciplinary Response to Human Trafficking**
Presenters: Jordan Greenbaum, MD, and Angela Rabbitt, DO, FAAP
- Institute #3 - **Functional Family Therapy**
Presenters: Dr. Michael Robbins and Sylvia Rowlands, PhD, The New York Foundling

Save the Date for APSAC's Advanced Training Summit in Portland, Maine

APSAC will host an Advanced Training Summit from June 21–23, 2017, at the Westin Harborview Hotel in Portland, Maine.

The Training Summit will feature Advanced Training Institutes designed for professionals in mental health, medicine and nursing, law, education, prevention, law enforcement, research, advocacy, child protection services, and all who serve children and families affected by child maltreatment and violence.

Call for papers coming soon!

Meet APSAC'S New President

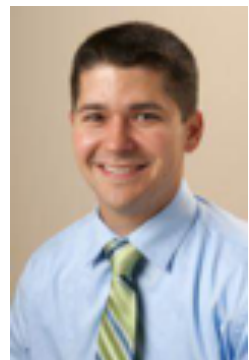


Tricia Gardner, JD, is an Associate Professor at the University of Oklahoma Health Sciences Center in the Department of Pediatrics, and a licensed attorney. She currently serves as the Administrator and Director of Professional Education for the Section of Developmental and Behavioral Pediatrics. She also serves on the Oklahoma Children's Hospital Child Protection Committee and is a member of the Steering Committee for the National Center for the Review and Prevention of Child Deaths.

Meet APSAC's Newest Board Members



Ryan Brown, MD, is a Board Certified Child Abuse Pediatrician at The Children's Hospital at OU Medical Center in Oklahoma City, Oklahoma. He works as an attending physician in the Emergency Department and is on the faculty at the University of Oklahoma College of Medicine as a Clinical Associate Professor. He also sits on the Child Protection Committee at the Children's Hospital, where he has been the Medical Director of the CPC for the past year. He has been appointed to the Child Death Review Board for the State of Oklahoma and is the current Assistant Child Abuse Examiner for the state as part of our Board of Child Abuse Examination.



Bart Klika, MSW, PhD, is Assistant Professor at the University of Montana, School of Social Work. His research and scholarship examine the causes and consequences associated with child abuse and neglect in an effort to prevent their occurrence. Since 2008, Bart served as a research assistant on the Lehigh Longitudinal Study, one of the longest running national studies examining the long-term effects of child abuse and neglect. During his doctoral studies, Bart served as a research consultant for the Centers for Disease Control and Prevention (CDC), examining issues related to the prevention of child abuse and neglect.

Committee Updates

Publications Committee

The APSAC Advisor has new co-editors, Angelo Giardino, MD, and Christopher Greeley, PhD, from Texas Children's Hospital and Baylor College of Medicine. The APSAC Board is very excited about these appointments.

In 2015, *Child Maltreatment* received 165 submissions with an acceptance rate of 17%. The *Child Maltreatment* article of the year was Berliner, L., Fitzgerald, M. M., Dorsey, S., Chaffin, M., Ondersma, S. J., & Wilson, C. (2015). "Report of the APSAC Task Force on Evidence-Based Service Planning

Guidelines for Child Welfare.” *Child Maltreatment*, 20(1), pp. 6–16. The most recent issue of *Child Maltreatment* focused on trauma-informed care.

Bart Klika, PhD, from University of Montana and Jon Conte, PhD, from the University of Washington are the editors of the 4th edition of the *APSAC Handbook on Child Maltreatment*. They are currently reviewing the chapters.

The APSAC Board of Directors has created the APSAC Monograph Series, which will be published electronically on the APSAC Web site. The initial monograph will be on the topic of psychological maltreatment. Guidelines for monograph submissions will be posted online in the near future.

APSAC members now have a new member benefit. Members are entitled to receive the journal *Trauma, Violence, & Abuse*. Go to the Members Only menu on the APSAC Web site, click on the link to *Child Maltreatment*, and then go to <http://TVA.sagepub.com>.

A revised set of “APSAC Practice Guidelines on Psychological Maltreatment” will be available soon.

Amicus & Public Policy Committee

The Amicus & Public Policy Committee seeks to provide a voice to APSAC’s members in legal and public policy debates relevant to child maltreatment. To achieve this goal, the Committee monitors cases of interest to the membership and seeks out opportunities to file Friend of the Court briefs in cases in which significant issues are presented. The Committee also identifies critical and controversial topics in areas of public policy and develops policy papers that address those matters. Over the past year, APSAC has filed or joined briefs in five legal cases, three of which were or are before the United States Supreme Court and two that are before federal Circuit Courts of Appeal.

The issues in these cases range from whether a 10-year-old boy who killed his abusive father could make a knowing and intelligent waiver of his right to remain silent when interrogated by police, to whether a child abuse pediatrician working in a university hospital should be immune from civil liability for taking reasonable and medically necessary steps to protect a child she was treating. APSAC sometimes files these briefs alone, and at other times joins like-minded organizations to co-author them. We have been very effective at leveraging pro bono legal assistance from major law firms across the country to write these briefs. The Committee is working on policy papers on topics as diverse as the appropriate response to children and adolescents with sexual behavior problems, and the need for more developmentally appropriate questioning procedures for taking the testimony of children and adolescents in cases of maltreatment.

State Chapter Committee

APSAC State Chapters play a crucial role in the fulfillment of APSAC’s mission. State Chapters provide an opportunity for the professionals who work in the same state to meet, share ideas and experiences, develop strategies for improving professional services to clients in their state, influence public policy, and educate the public, other professionals, and policy makers about child maltreatment. State Chapters can be the local face of APSAC and can engage in a variety of activities, such as the following:

- Publishing newsletters
- Sponsoring conferences and training seminars
- Evaluating public policy
- Educating members of the media, legislators, and policymakers
- Convening interest groups and task forces
- Cooperating with other organizations that respond to child maltreatment

State Chapters are very important to the national organization. State Chapter coordinators and officers are an important conduit of information between the national staff/Board and APSAC members at the local and regional level.

The State Chapter Committee co-chairs – Dave Corwin, MD, (APSAC Board Member), Kathy Johnson, MS, (former APSAC Board member), and Mel Schneiderman, PhD (APSAC Board Member) along with Laura Hughes, MSW (staff at our national headquarters) meet monthly to plan the agenda for State Chapter conference calls and to discuss State Chapter Committee goals and activities. The State Chapter Committee and representatives from the current active State Chapters meet via conference call the first Thursday of each month.

Fiscal year 2015/2016 has been an active and productive time for the State Chapter Committee. The Committee has focused on three goals:

Reorganization of State Chapter conference call meetings

To ensure that the State Chapter calls allow representatives to share and learn from others, time is allotted on each call for several activities: (1) introduction and reports from State Chapter representatives discussing recent activities, (2) APSAC national committee reports or news about national APSAC activities, (3) focus on selected themes, such as increasing and sustaining State Chapter membership, (4) collaborations with other child maltreatment organizations, (5) fund raising, (6) public policy initiatives, (7) training and

workshop activities, and (8) organizational information, such as grant requests and annual reports.

Support for existing State Chapters to increase membership and activities

Laura Hughes supplied representatives with relevant and timely information about State Chapter activity grants, APSAC policy updates, membership contact information, or materials and banners for training and expo tables. In addition, State Chapter Committee co-chairs have been assigned to State Chapters to help provide support and expertise. For example, a State Chapter co-chair participated in a State Chapter board meeting to offer advice about board expansion and how to write white papers.

Help restart or start up new state chapters

State Chapter Committee co-chairs have taken on the assignment to help start two new state chapters during the next year. An organizational meeting was held at the June APSAC Colloquium to start a new State Chapter in Louisiana. Contact e-mails have been written inviting APSAC members to become involved in starting a new State Chapter in their state. Four State Chapters are working on reinstating their chapters, and ten states have APSAC members who have said that they may be interested in starting a new State Chapter. State Chapter Committee co-chairs are following up with these members and will be hosting Web-based calls to help facilitate these start-ups. APSAC has start-up funds that may be utilized by new State Chapters. The eight existing State Chapter officers will also be available to serve as mentors to new start-ups.

For more information on your State Chapter, or on how to establish an APSAC State Chapter in your state or territory, please visit the State Chapter section of the APSAC Web Site at <http://www.apsac.org/state-chapters>. Contact Laura Hughes at lhughes@apsac.org for valuable information and referral to one of the co-chairs.

October 17–20, 2016

Prevent Child Abuse America
2016 National Conference for America’s Children
Cincinnati, OH
312-663-3520
www.preventchildabuse.org

November 1–4, 2016

International Conference on Innovations in Family Engagement
The Kempe Center for the Prevention and Treatment of Child Abuse and Neglect
Amy.hahn@childrenscolorado.org
www.thekempecenter.org

January 31—February 3, 2017

31st Annual San Diego International Conference on Child and Family Maltreatment
San Diego, CA
SDConference@rchsd.org
<http://www.sandiegoconference.org>

March 27–30, 2017

33rd International Symposium on Child Abuse
Huntsville, AL
265-533-5437
aboyd@nationalcac.org
www.nationalcac.org

May 31, 2017

AFCC 54th Annual Conference
Sheraton Boston, MA
608-664-3750
afcc@afccnet.org

June 21–23, 2017

APSAC Advanced Training
American Professional Society on the Abuse of Children
Portland, Maine
877-402-7722
apsac@apsac.org
www.apsac.org

Conference Calendar

September 27, 2016

International Courthouse Dogs Conference
Seattle, WA
206-316-6273
celeste@courthousedogs.org
<http://courthousedogs.com/>

October 3–7, 2016

APSAC Child Forensic Interview Clinic
American Professional Society on the Abuse of Children
Norfolk, VA
877-402-7722
apsac@apsac.org
www.apsac.org

**American Professional Society
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