Ideas In-ACTION

Child Welfare Institute

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# Undressing Mandated Reporting

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> *"Both common sense and empirical research lead naturally to the conclusion that mandated reporting is a bankrupt policy."*
>
> Gary Melton

In a recent article titled "Mandated reporting: a policy without reason," Gary Melton (2005) fires a shot across the bow of mandated reporting that cannot be ignored. Melton traces the history of mandated reporting to the early work of Henry C. Kempe and his colleagues. Accoring to Melton, in discovering what he later labeled as "the battered child syndrome," Kempe apparently assumed that child maltreatment was a problem affecting a few hundred children subjected to violent behavior by some severely disturbed parents. Melton believes Kempe concluded that the best policy response would be to require health professionals to report serious cases to public authorities. All 50 states passed mandated reporting laws within three years of the publication of Kempe's article on the battered child syndrome and nearly a decade in advance of passage of the Child Abuse and Treatment Act of 1974 (CAPTA). CAPTA required mandated reporting as a condition of receiving federal funds under the act.

While Melton does not question the motives of child maltreatment's early pioneers, he observes, "It is important to recognize that *experience has shown that the assumptions that guided the enactment of mandated reporting laws were largely erroneous* (emphasis in original)." (p. 10) He goes on to state that "In the united States and numerous other jurisdictions that have copied the US model, policymakers maintain a child protection system that is now known to lack grounding in valid empirical assumptions and indeed to have terrible consequences." (p. 10)

Melton cites the first and most fundamental error as the grossly underestimated scope of child maltreatment. In adopting mandated reporting laws only one of the 50 US states adopted an appropriation to accompany its mandated reporting law, the others assuming that the responsibilities could be handled with existing resources. Kempe's work focused on egregious physical abuse. As states later expanded the definitions of child maltreatment statutes the number of reports escalated dramatically.

Melton also believes that Kempe and his colleagues made one more fundamental error. They grossly underestimated the complexity of the problem. Early perspectives held that child maltreatment could be reduced to "syndromes," persons with psychological aberrations. Indeed, when considering the totality of child maltreatment, the types of cases Kempe described are very rare. Child maltreatment more commonly stems from a multiplicity of personal, social and economic problems.

According the Melton, "Whatever the basis, though, for the initial misjudgments about the nature and frequency of child abuse and neglect, the result has been a formal child protection system that is increasingly ill-

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matched to the needs of children and families who enter it." (p. 12) Instead of seeing many calls to CPS as a sign of a family in distress, the call is treated as an allegation of wrongdoing. The initial response is to collect evidence to determine whether neglect or abuse has occurred. If a decision is made that there is no abuse or neglect, the case will likely be closed. Even if the case is substantiated more than 40% of cases will be closed with no services provided. The reporter has fulfilled a moral or legal obligation to report. The state has fulfilled its obligation to investigate. Beyond investigation, the state can only legally go farther if it can prove "imminent danger of serious harm," a standard met on average in only 20-25% of substantiated cases.

In 1990 the US Advisory Board on Child Abuse and Neglect observed:

> The most serious shortcoming of the nation's system of intervention on behalf of children is that it depends upon a reporting and response process that has punitive connotations and requires massive resources dedicated to the investigation of allegations. State and County child welfare programs have not been designed to get immediate help to families based on voluntary requests for assistance. As a result, it has become far easier to pick up the telephone to report one's neighbor for child abuse than it is for that neighbor to pick up the telephone and receive help before the abuse happens. (p. 80)

Melton concludes that after decades of encouragement to report cases of suspected child maltreatment both the general public and relevant professions equate child protection with reporting and investigation. Child protection is seen as the responsibility of CPS not the community at large. Enormous resources are spent on investigation that could be spent on assistance to families.

Ironically, when child protection systems appear to fail, often measured by high profile fatalities, the legislative response is to turn up the heat on forensic investigations, in some cases transferring child protective investigative responsibilities to law enforcement. Approximately two-thirds of investigated reports are never substantiated, and there is no apparent evidence that this rate is due to forensic failure on the part of child protection investigators. Nor is there evidence in child fatality cases that failure to substantiate some form of maltreatment is the principal factor in any failure to protect the child.

"Both common sense and empirical research lead naturally to the conclusion that mandated reporting is a bankrupt policy. The assumptions on which the system was built are now known to be plainly erroneous." (Melton, 2005, p. 15). Melton believes that models in mental health and public health that minimize heavy-handed control offer a way out. These models build "friendly" systems for individuals in which the individual has a say in which care is given. Several states have moved in this direction by implementing alternative response systems. North Dakota eliminated investigations in all cases not involving criminal prosecutions.

There is no good data on the number of truly serious cases of child maltreatment because neither states nor the federal government have moved beyond fatalities to try to define serious maltreatment and to collect such data. On average nationally only about 20% of cases meet a threshold of dangerousness sufficient to cause the removal of a child. Perhaps less than 2-4% of children are seriously injured during the occurrence of child maltreatment, but this number is uncertain.

England does not have mandated reporting. While it's child protection system endures many similar criticisms once involved in families as does the US system, there is no evidence that the absence of mandated reporting results in a higher rate of government failure to protect children in need of protection. Lower rates of reporting mean fewer resources spent on investigation and more that can be devoted to helping. It is time for US policy makers to take a serious look at mandated reporting. Melton's challenge to the efficacy of this policy should not be summarily dismissed.

Melton, G. B. (2005) Mandated reporting: a policy without reason. Child Abuse and Neglect 2: 9-18.

US Advisory Board on Child Abuse and Neglect. (1990) Child abuse and neglect: Critical first steps in response to a national emergency. Washington, D.C." US Government Printing Office.

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