

ational ad hoc advisory committee
report on
child battering

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Health
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Santé et
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REPORT OF THE NATIONAL AD HOC ADVISORY COMMITTEE

ON CHILD BATTERING

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PRINCIPAL RECOMMENDATIONS

SEP 11 1978

ACQUISITIONS

1. Mandatory case reporting systems should be retained or established, if not existing, in the provinces and territories and a central registry should be established in each province and territory.
11. Intervention and case management to deal with the individual situation effectively should be instituted immediately upon reporting, using all relevant disciplines in a team approach.
111. General preventive measures should be expanded or developed, such as those aimed at supporting or supplementing the parental role, and providing an environment which would promote the proper growth and development of the child.
- 1V. Programs of research, experimentation and education should be developed to guide and inform in all approaches to the problem.
- V. The federal government should expand its involvement in the problem of child battering through the following measures:
 - a) Establish a national coordinating office to assist in the collection and dissemination of information, public education and the provision of consultative services;

- b) Allocate adequate funds for the support of programs of research, experimentation and education;
- c) Review relevant federal legislation, in particular the Criminal Code references to child abuse and neglect.
- d) Consult with the provinces as soon as possible on the desirability of establishing a national registry of battered children to extend the usefulness of provincial registries.

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FOREWORD

Representatives of health, welfare and law, both governmental and non-governmental, together with interested individuals, were invited by the Minister of National Health and Welfare to participate on a National Ad Hoc Advisory Committee to study the subject of child battering. This decision was prompted by requests from a number of individuals and agencies including the Dominion Council of Health which recommended the appointment of an advisory committee to study and report its findings at the Council's next meeting.

In response to the invitation, a meeting was held in Ottawa on February 15 and 16, 1973, of members of the Advisory Committee as listed in Appendix A.

For purposes of discussion, the Advisory Committee has defined "child battering" as: "the intentional non-accidental use of physical force by the caretaker aimed at hurting, injuring, or destroying the child."

The Advisory Committee has been asked to consider the subject under four headings, though one and three have been combined as being indivisible in practice.

1. To study the desirability and implications of a system of reporting child battering.
2. To consider methods of preventing child battering.
3. To study the problems of collecting and recording information on child battering.

4. To prepare a final report with recommendations for the Minister of National Health and Welfare

The Advisory Committee has been unable to segregate the more extreme forms of physical battering entirely from other forms of child abuse and neglect, particularly in considering preventive programs. In consequence, a number of recommendations related to the subject but not directly on it have been incorporated in the findings. In addition to the principal recommendations already presented, the more specific recommendations appear in the report after the summary of the discussion under each of five headings: reporting and registration; intervention and case management; prevention; research, experimentation and education; and federal role.

Overriding all proposals is the conviction that the only effective approach to child battering lies in remedial treatment and preventive measures and not in punishment. It is, of course, recognized that the necessary programs and services lie within provincial jurisdiction. Though the role of the federal government in resolving problems related to child battering is a limited one, it is the Advisory Committee's viewpoint that it should be nevertheless important and not be minimized.

Child abuse and neglect has generally been associated with parental failure or breakdown. However, there is increasing recognition that society must share child rearing responsibilities with parents. Consequently, child battering is an indicator that society and parents together are not fulfilling their responsibilities for the growth and development of children.

DISCUSSION AND RELATED RECOMMENDATIONS

Reporting and Registration

Mandatory reporting of child neglect or battering is law in a number of provinces and in many states of the United States. However, the results have been disappointing on the whole. A number of factors can be identified as contributory: there are anxieties amongst doctors about the effect on the doctor-patient relationship and fears about the possibility of libel suits; there is reluctance to take any action which could lead to the involvement in time consuming court proceedings; and in some instances there is uncertainty and confusion about what should be reported, to whom, and the proper procedures to follow.* There is also reluctance to bother with reporting unless an immediate and effective response can be expected.

Despite the unsatisfactory experiences to date, it is the Advisory Committee's opinion that reporting is essential for effective intervention and treatment and should not be abandoned and that, in addition, measures are required to deal with the factors causing failure to report.

The Advisory Committee cannot fully agree on what should be reported or who should report. Opinion is divided on whether only proven cases should be reported or whether suspected cases should also be included. In support of the latter position, it has been pointed out that suspicion could be the forerunner of proof, when evidenced by repetition of the injury. Further to this view, it is believed that the reporting of children "at hazard" could be an important part of a preventive program.

* See Appendix B for provisions of provincial child welfare legislation.

It is important that reporting systems should be clear as to purpose, scope and use so that they can be well understood by those obliged to report. Moreover, it is held desirable that the information relayed to the provincial registers should be uniform across Canada to enable case identification and the ready transmission of usable information from one province to another.

It is accepted that all professions dealing with people, chiefly doctors, public health nurses, social workers, teachers and police, should be required to report to the central register. But there is less agreement whether reporting should be required of everyone else who has knowledge of child abuse or neglect. Nor is there a consensus on the need to penalize any person for not reporting this information. It is recognized that enforcing penalties would be difficult, if not impossible. Nevertheless, some members of the Advisory Committee believe that it would make it easier for doctors, for example, in their relationship to patients, to be able to point to their legal liability for reporting. Against this, it is argued that any law which cannot be enforced is bad law that could bring the whole system into disrepute. Furthermore, the requirement that anyone having knowledge of child abuse must report or be subject to penalty could discourage some parents from seeking necessary help for themselves and their children.

Though reporting should be primarily for the immediate needs of adequate and helpful intervention, a central registry of child battering is required for such purposes as identifying repeated cases of injury for follow-up, particularly in view of

the mobility of people, and for research.

Questions concerning stigmatization and the civil rights of individuals, that emerged during discussion, indicate a need for appeal procedures and methods of removal of names from any register.

In the opinion of the Advisory Committee, access to a register should be carefully restricted to the helping professions excluding law enforcement agents. Lists of all names should not be available to anyone; access to the register should be only for the purpose of confirming the presence of a particular name.

RECOMMENDATIONS:

- (1) When it does not exist, specific provision should be made in law to protect all reporting persons from libel suits or other liability unless the reporting was done with malicious intent.
- (2) Uniformity in registering systems, procedures, and information collected should be encouraged to facilitate the accumulation of comparable data for such purposes as research and the exchange of information. Access to registries should be controlled and available only to the helping professions excluding law enforcement agents. Also, there should be appeal proceedings and provision as well for the removal of names.

- (3) Reporting should be for remedial, not punitive purposes, and adequate facilities for immediate and effective intervention and case management are essential counterparts to reporting and should be established and operated in cooperation with a reporting system.

Intervention and Case Management

The objective of intervention and case management is remedial not punitive, though in some situations punishment must be invoked. Intervention and case management are seen as requiring a multi-disciplinary or team approach. One of the major difficulties is the uncoordinated structure of existing services for children with ensuing misunderstandings and even hostility often arising between the various agencies. One of the first requirements in case management, therefore, is the systematic coordination of services and facilities. These include, principally, the services of local child welfare authorities, hospitals, and family or juvenile courts that depend upon the cooperation of the professions of nursing, medicine and social work.

It has been observed that breakdown in services all too frequently results from the overloading of staff, particularly nurses and social workers. Consequently, the adequate staffing of these services is necessary for effective coordination.

RECOMMENDATIONS:

- (4) The action taken subsequent to a report of battering should be based upon a coordinated team approach, which requires a clear

responsibility resting upon a designated authority, to ensure effective intervention and the coordination of all relevant disciplines and services.

- (5) Services such as those provided by nurses and social workers should be adequately staffed to enable them to function promptly and effectively, both initially and for the necessary follow-up.

Prevention

Accurate information to indicate the extent of child battering is not available but its incidence appears to be on the increase. This trend can only be understood in light of the violence, tensions and stress which are prevalent in our society, the high degree of mobility of the population and the rootlessness and loneliness characteristic of so many people. All this is compounded by the uncertainties about accepted norms of parental roles and behaviour and perplexities about what to expect or insist upon in child behaviour in a "permissive" society. Unwanted children add to family problems and tensions.

Laws and concepts still focus on child abuse or neglect by the parent even though neglect may actually arise through the action or indifference of society, which today shares with the parent in providing for the proper growth and development of the child. Thus it is incumbent on society to provide a suitable social environment for the child and to help parents to increase their capacity to fulfill their responsibilities, either through

their own resources or by income and other support and stress reducing measures in a broad spectrum of health, welfare, legal, and educational programs.

Battering can and does appear among all socio-economic groups. Research indicates that the incidence of battering is greater amongst poverty groups where grossly inadequate housing and deprived environmental conditions generally increase the problems of child rearing and intensify the stresses and tensions underlying much of child battering and neglect.

RECOMMENDATIONS:

- (6) Family support services should be extended, with priority to low income groups living under deprived environmental conditions; to relieve stress and tension and to provide crisis intervention, remedial and respite services. Such services should include counselling, day care centres, visiting homemakers and recreation for families living under high stress conditions.
- (7) There should be effective measures to insure adequate income and housing for low income families to help prevent the build-up of stress which may lead to impulsive action causing injury to children.
- (8) In the education of all helping professions, there should be greater attention paid to

the methods of identifying and dealing with high-risk parents and children at hazard.

- (9) High schools and junior high schools should be encouraged to introduce their students to problems of child-rearing, particularly under conditions of stress encountered in present day society.
- (10) In order to protect other children in the family, coroners should be required to immediately report to the child welfare authority if a child's death is due to abuse or injury.
- (11) Family planning education should be expanded and services be readily accessible to all persons who desire them.

Research, Experimentation and Education

Much needs to be learned about the conditions, circumstances and motivations which underlie child battering if fully effective measures are to be taken to prevent it. Research is required to increase our understanding and to develop new modalities of treatment. The data obtainable through adequate and uniform registration systems could be of great value for these purposes.

Experimentation in new approaches and services could determine the value of programs before they are widely and fully developed.

In many ways education is related to research. There

needs to be much more adequate training in the causes and in the identification of child abuse and in methods and systems to deal with it as part of the education in each of the helping professions.

Public education in the recognition of child abuse and what can be done about it is also needed.

RECOMMENDATIONS:

- (12) Research should be undertaken to identify the characteristics of high-risk parents and children so that the preventive aspect of public health and welfare services could reduce the number of victims of battering and so that priorities in preventive services could be rationally established.
- (13) Further studies should be made to find, and action be taken to encourage the use of, effective alternatives to physical force in disciplinary methods in child-rearing.
- (14) Experimental community centres should be established which would offer integrated services in a friendly atmosphere such as day care, counselling, birth control, education in child rearing and others designed to help parents in their responsibilities. Though battering may occur more frequently among low income groups, it is not exclusive to them; such centres should also be established in middle class areas.

RELATED RECOMMENDATIONS:

Any discussion about child battering and particularly prevention, inevitably leads into broader aspect of the needs and rights of children and how they are being met by society. The Advisory Committee has made the following recommendations on several of these closely related aspects:

- (15) The federal government should sponsor a series of three annual conferences on children to review, (first) child-rearing practices (second) parent education (third) children's rights and methods of intervention to protect children.
- (16) The federal government should participate with provincial governments to provide cash allowances and dietary supplements to pregnant mothers to be continued for mother and child for one year after birth. This proposal is founded on the universal right to adequate food, clothing and other necessities of life. Such measures could be used to provide some incentives to women to participate in other types of education and support services.
- (17) Federal assistance should be provided to interested provinces and/or communities to hold workshops similar to that of the National Ad Hoc Advisory Committee. The purpose of such

workshops would be to develop policies and programs to assist children at risk.

Federal Role

It is appreciated that the federal role in measures to deal with child battering outside of any criminal aspects is quite limited. At the same time, the Advisory Committee has clearly defined a significant federal contribution with respect to information, consultation and financing. Besides the relevant "PRINCIPAL RECOMMENDATIONS" listed on pages 1-2 and those under "RELATED RECOMMENDATIONS", on pages 13-14, the following proposals for federal action are presented for consideration:

- (18) The federal government should encourage a broad array of services by the dissemination of information and the provision of consultation and financial support.
- (19) The federal government should provide thrust funds to assist the provinces in developing effective reporting and registering systems.
- (20) The federal Law Reform Commission should be requested to review Section 43 of the Criminal Code, which sanctions the use of force against children.
- (21) As there is evidence to indicate that adversary proceedings in courts can lead to further deterioration in family relations and functions,

the federal Law Reform Commission and similar provincial commissions should be requested to examine and assess the desirability of the adversary system in protecting the rights of children in Family Courts.

PROTECTION LEGISLATION

All provinces and territories make statutory provision for the intervention of the public authority or its delegated representative when children under a specified age, usually 16 years, appear to be neglected or in need of protection according to criteria set out in the legislation. Anyone may report a condition of neglect to the child welfare authorities who are under obligation to investigate all such complaints.

In recent years, a number of provinces (Newfoundland, Nova Scotia, Ontario, Manitoba, Alberta, British Columbia) have introduced provisions in their legislation making obligatory the reporting of information, whether confidential or privileged, of the abandonment, desertion, physical ill-treatment or need for protection of a child. In five of the provinces it is stated that no action lies against the informant unless the giving of the information is done maliciously or without reasonable and probable cause.^{1/}

^{1/} Excerpt from a bulletin on Child Welfare Legislation in Canada, in process of preparation in the Welfare Research Division of the Policy Research, Planning and Evaluation (Welfare) Branch of the Department of National Health and Welfare.

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