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Cover Page Footnote

The authors gratefully acknowledge the skillful interviewing assistance of Jean Sharp in gathering data for this project. We are very grateful to the many people working in child protection who gave us candid accounts of the way they make day-to-day decisions in the court and social service agencies. We are grateful to the case conference team members who allowed the observation of their decision making processes. The comments of Sociological Practice reviewers were also very helpful.

In the Shadow of Best Interest: Negotiating the Facts, Interests, and Interventions in Child Abuse Cases

*Gene Kassebaum
David B. Chandler*

ABSTRACT

Most cases of child abuse and neglect are not as extreme or clear-cut as those reported in the media. In routine cases the perpetrator is usually a family member, the evidence of injury is ambiguous and the identity of the perpetrator is uncertain. Prosecution, removal of the child, and therapy for the family are sometimes contradictory mandates which courts and social service agencies must balance.

Norm-centered negotiation is the decision making process found in this study of child protective work. Child protection workers sometimes negotiate with families in their decisions to confirm abuse, representatives of different agencies negotiate with each other to establish the facts of a case, the best interests of the child, and the service plan. Negotiation is interpreted to be a practical solution to chronic factual uncertainty, contradictory mandates and multi-agency participation in decisions.

Recognition and legitimation of negotiation as the actual decision making process in many cases will permit agencies to keep records and data which permit more adequate monitoring of case processing. Legitimation of negotiation will permit explicit training of staff in more effective methods to negotiate in the shadow of the best interests of children.

Introduction: Child Abuse As a Social Problem

There is dramatic symbolism in the imagery of a playground marauder or day care center employee who molests children. Public reaction to these widely reported cases is swift and uncompromising. Offenders are to be prosecuted and severely punished. Court procedures which seem to impede prosecution or inhibit the testimony of child victims are easily criticized. There is little public sympathy for the rights of the accused and much public concern for the victim.

Child abuse (physical battery, sexual exploitation, or gross neglect) has become a social issue (Nelson 1984). Recent improvements in the public consciousness of the pervasiveness and severity of domestic violence has led to action. New child protective laws and increases in the reporting of abuse have intensified the demands on state, municipal, and family courts for vigorous prosecution and on social agencies for expeditious intervention to protect children.

However, for every child that is a victim in a highly publicized case in which the villainy and the villain are known, there are hundreds who live in more ambiguous situations. Their danger is less obvious and interventions to protect them are not clear. While expeditious decisions and an emphasis on safety characterize the new laws and agency policies, they also reflect the realities of handling large numbers of heterogeneous and ambiguous cases.

By every estimate most child abusers are members of the family. For these cases, laws and policies emphasize the interests of the child over criminal prosecution. Balancing these two objectives is difficult and controversial. There is a strongly expressed and extensive argument that the preservation and reunification of the family is in the child's best interests. The reasoning is that even a problematic family is better for child development than the loss of family (Goldstein, Freud, & Solnit 1973; Wald 1980).

On the other hand, public concerns for lowering the risk of danger to children, and deterring abusers require holding ready or using the coercive power of the law to remove children and to criminalize abusive conduct. Some criticize child protection agencies and family courts for the low rate of prosecution of family members as dereliction of the duty to protect and deter, or as simple inefficiency.

There are three models of intervention in child abuse cases that have been advocated historically. However, in this study of child abuse case processing, a negotiation model was found to typify the working style of crisis social workers and other professionals.

The Prosecutorial Model

In the past, police and prosecutors were reluctant to make arrests within violent families. Such arrests were thought to be unproductive because of witness failure and the possible provocation of further violence by the offender upon return to the family. But the justice model has recently gained credibility through the well-advertised study of Sherman and Berk (1984), which argues that arrest in spouse abuse cases produced lower re-abuse rates than two other non-arrest options (Sherman & Berk 1984; Berk & Newton 1985).

However, child abuse cases within families are infrequently prosecuted. Absence of clear and dependable testimony from a first-hand witness is still a major factor in the low rates of prosecuting child abuse. Abused children are an extreme type of "situational" victim. The experiences of these crime victims shows that they are beset by problems which are not solved by an arrest or even a conviction. These situational victims are caught in a context which exposes them to continual or episodic contact with an offender. This contact in turn results in repeated injury, harassment, or avoidance costs. Effective escape is precluded and inhibits them or their family allies from pressing for prosecution. For abused children the privacy of the home, the extremity of dependency, and power differences may drastically reduce any gains brought about by prosecution. While the prosecution model seeks and may achieve some deterrence effect, the costs born by the victim may be considerable.

The Clinical Model

The clinical model seeks to deliver effective services to victims and offenders. Psychological, psychiatric or social work case services are intended to restore the victims and protect them from further abuse by rehabilitating the offender, or restructuring the family situation. The full medical-case work model is brought into play in some cases, but is restricted by the high cost of trained clinical personnel and the number of cases in which the client resists seeking or accepting help.

Poor parenting skills, alcohol and drug use, and other treatable problems may be assessed as the basis for abuse or neglect. Family members may be receptive and participate in programs or services. But the time required for the achievement of treatment effects even in a favorable situation may leave the child victim at unacceptable risk during the treatment process.

Clinical models apply professional and technical expertise to human problems. They work best when there are clear diagnostic and treatment-response criteria. In a review of eleven child maltreatment programs, however

[there is] little consensus in the field on what constitutes quality [of case management]...since we are still in the midst of debates about some of the dynamics of child abuse and neglect...it is difficult to judge with confidence how well various services are being delivered and the adequacy with which certain functions are being carried out. (Cohn & Miller 1977, 457)

The Child Saving Model

“Child saving” emphasizes the removal and rescue of a neglected or abused child over criminal prosecution and clinical intervention. Its current revival dates from the publication of the well-known “battered child syndrome,” and is an ideological animus to much of the thinking and practice in child abuse. However, child protective laws, while establishing the legal right to rescue, also prescribe limits to the removal of a child from the home. There are various rationales for these legal limits. One is the orthodox psychoanalytic conviction that disruption of parent-child bonds is inevitably disturbing to child development. A second is the advocacy of the child’s rights to a place in his or her family. A third is the liberal defense of rights or citizens against the coercive power of the State. A fourth is the practical possibility of a subsequent civil action by someone too quickly or falsely accused of child abuse.

While rarely articulated, an additional reason for limitations to the removal of children, is the foster home problem. There is a relatively high risk of continued problems when a child is placed in a series of foster care homes. Reliable studies of the results of foster care suggest that the quality of supervision is often substandard, that reabuse upon return to the original family is high, and that the sheer unavailability of foster homes limit its use (Block & Libowitz 1983; Wald, Carlsmith, Leiderman, deSales French, & Smith 1985).

The three models separate the principle approaches to abuse for a clearer description and understanding. However, real life agencies and professionals

mix and use elements of all models. The models coexist as a basis and rationale for decision making in most child abuse cases.

The *severity* of abuse and the *clarity* of the facts are two case attributes which also help reveal how decisions are made. In the many confirmed cases where abuse is not severe, social workers process cases unilaterally. In these "minor" cases, families often agree to intervention, accept counseling and other supports to keep the family relatively intact and perhaps even improve the family climate for children. If families cooperate and permit intervention and closer supervision, the clarity of the facts become less important.

A small number of cases are not treated as minor. They have one or more of the following features. Injuries may be visible, and in a few cases, serious. The facts on injuries may be unclear or inconsistent. Even with clear facts showing the presence of abuse or neglect, the source and perpetrator may remain uncertain. Victimization is severe or chronic. Families do not cooperate, or appear only marginally competent to participate in treatment. The prosecution of the offender or removal of children is contemplated, usually against family wishes. In these cases efforts to establish more certainty in the facts are made, often unsuccessfully. Thus, decision making is difficult, and usually involves several professionals in different agencies.

Research Questions

Decisions made by professionals in their processing of child abuse cases is the subject of this study. We seek to understand the processes by which decisions are made, by whom and on what basis. Three analytically distinct decision points in these cases are isolated: confirming that real abuse exists, identifying the best interests of the child (usually seen in a remove or return to family decision), and fashioning a service plan for the family.

Data Sources

There are three data sources used in this study. Statistics on cases of reported child abuse received by a large state child protection agency were reviewed. In-depth field interviews with all child protection workers in the intake unit of the same agency were conducted and analyzed. Observations and field notes from 16 case conferences involving over 45 children were studied. Informal observations and conversations with social workers,

attorneys, and court personnel were also helpful in understanding decision processes. These constitute the empirical basis of this report.

Results

The agency annual report describes 1,852 complaints of child abuse or neglect. Slightly less than half of these (47.3percent) were confirmed.

According to state law, all abuse complaints must be investigated and either confirmed or not confirmed. Both are entered into the data base and even non-confirmed complaints may affect decisions on the family if a subsequent complaint is received. According to the CPS workers and their supervisors:

Confirmed means, based on the evidence, that the abuse or neglect occurred. It confirms the report made. The allegations must be specific, that is, a child was hit with a stick or belt...with threatened harm a child may [also] be removed. The profile of the parents and the family history (drug abuse, leaves the children unsupervised, teenage mother) may influence decisions. A case is considered confirmed if parents admit to the abuse. A case can be confirmed on basis of statements of child [if old enough] or sources such as medical reports, psychologists reports, police records, military police records. (Field Interviews)

To confirm neglect, the social worker will look at the family history, talk to neighbors and relatives and try to get a pattern. Before making a decision to confirm, the social worker will consult with any medical doctors, therapist or school personnel who might have information about the case. The agency uses a multi-disciplinary team for social worker consultation about the facts of the case. The team consists of a psychologist, medical doctor, social worker, nurse and deputy attorney general. The team's recommendations are not binding.

Another social worker said in some cases she will bargain with the parents over the issue of confirmation. This was more frequent with military parents, primarily because active duty military personnel are closely supervised and are subject to punishment on such a complaint. Rather than confirm abuse, this social worker will designate the family as "high risk" if the family will cooperate and actively participate in a service plan. The social worker then monitors the case and works with the military liaison person.

Two Styles of Confirming Abuse

All agency workers stressed that in the small number of cases where there was willful abuse producing tangible injury or where there was evidence of clear danger to the child, they invariably confirmed the complaint. However, there appear to be *two* patterns among workers in deciding on whether or when to confirm in the more ambiguous cases. In the first pattern, if, upon investigation, abuse is strongly suspected but injury is minor and if the family is cooperative and caretakers indicate willingness to accept services on a voluntary basis, the social worker may decide not to confirm. If the family is uncooperative, the worker may confirm the case and take the case to court to impose an intervention. Explicit discussion of these two options with the family may result in a decision by the family to cooperate. In this pattern, confirmation is negotiated. In the second pattern, however, some social workers stated that they confirmed any case on the basis of evidence, regardless of family attitude. But if the family immediately complied with a written contract and treatment plan, the case could be reevaluated and closed. If the family voluntarily agrees to a service plan but then does not comply, the Department can take the case to Family Court and seek to get services court ordered. In the first pattern, confirmation is immediately negotiated; in the second pattern, confirmation is not negotiated, but the status of the case will be negotiated at a later time. In both cases, the child protective worker acts to increase their influence in negotiations with the family.

Removal of the Child

In about 25 percent of the confirmed abuse cases, and 20 percent of the confirmed neglect cases, children were removed from the home for some period. In about 7 percent of non-confirmed complaints, children were also removed, however, only 4 out of 55 removals were court ordered. The remaining were out-placements arranged with the "voluntary" consent of the family. The rate of court ordered removal was much higher for confirmed abuse or neglect cases, but overall about three times as many children are removed by "voluntary" actions as by court order.

The seriousness of injury increases the likelihood of removal. For children with internal injuries, fractures, concussions, and severe psychological abuse, removal rates were 40 percent to 50 percent, compared with 8 percent for cases without such injuries. Older children (above 11 years, and especially those above 13) and children in "common law" or divorced households also are more likely to be removed.

The Decision to Remove the Child from the Home

The law empowers the child protection agency to remove a child if there is need for treatment, imminent threat, or probable cause to believe abuse will occur.

In a remove/not remove decision, the case worker will look at imminent harm...the child has been harmed and it is likely the child will be harmed again. Or, if the child hasn't been harmed but the profile is so risky that it appears the child will be harmed.

Items in a remove/not remove decision include: parents' expectations of the children (are they age appropriate?), characteristics of parents (particularly mental status), previous record. Information is gathered from neighbors, police, the person who made complaint, and social workers' observation of the parents' attitude toward the child. (Field Interviews)

Negotiation may occur when a worker seeks police assistance to remove a child. Sometimes the social worker can talk the parents into voluntary placement of the child and the social worker can then remove the child. According to one social worker, the judgment of the police officer often enters into the removal decision. During the day the social worker can phone the lieutenant in the police juvenile division to order an officer to remove a child. But at night, sometimes the police will not agree to remove the child. The social worker is told to "talk as fast as you can" to convince the officer to remove the child. If the worker fails to convince the police, they can talk to the parents to try to get them to release the child. A court order is the worker's last option and gets such a hearing within 48 hours. With military families, M.P.'s can remove and place the child in a Federal hospital for a workup. The agency worker can get a court order to take the child from the hospital when abuse is confirmed.

Return after removal also may involve negotiation. Our interviews indicate case workers used the option of return in connection with family cooperation with the service plan. The social worker sometimes bargains with the parents' attorney to get the family to "stipulate" in order to avoid a contested hearing. The leverage the social worker often uses is that if the family will cooperate with the services, the child can go home.

Bargaining sometimes takes place with regard to criminal charges, especially where the evidence is known to be weak. If the family will cooperate, criminal charges may be dropped. This happens most often in cases of

sexual abuse, and is justified as "more effective protection" (Field interviews). While there were approximately 200 children removed during the research year, only about 50 were removed by court order. The child protective workers negotiate with families under a shadow of potential court ordered removal. Of course, the court does not always remove a child when the worker requests it. But the threat is credible.

The Case Conference

Much of the information gathering and decision making in child abuse work is done on the telephone between pairs of people. Sometimes informal face-to-face conferences occur over cases. Most of this work seems to be handled routinely. But cases in which the facts and interventions are not clear are processed in a more formal case conference. It is the setting in which the "factual" basis for an assessment is developed and a course of action may be determined.

We observed sixteen conferences, each lasting about 2 hours and usually dealing with three cases. They were routinely scheduled each week and were usually held in a hospital meeting room. The pediatrician (P) presided, and the typical attendees were a pediatric nurse (PN) with training in child abuse, a mental health professional, usually a psychologist (PSY), the CPS worker (W) who presented the case, the worker's supervisor (S), a lawyer (L) retained to advise the conference, and a psychology student note taker. Frequently, there were other social workers who had contact with the family, public health nurses, school counselors, and special education teachers.

In a typical conference, the case worker would begin by describing the abuse or neglect report, the information which was gathered to date and the actions that had been taken. They would identify one or more uncertainties in the case which was the reason for the conference. Usually the pediatrician would follow with a very short description of the medical history and diagnosis of any injuries. Frequently, the lawyer would be questioning the pediatrician about any injuries and exchanges among the group would follow. A typical example follows:

- L "Any previous injuries?"
 P "No."
 L "None?"
 P "None on the pictures (x rays) or in our records."
 L "What caused the arm?" (A fractured bone in the upper arm of a 4-year-old boy.)

- P "He said his brother."
 S "The father says he fell."
 L "Could he have fallen?"
 P "It's a fracture that comes from twisting, not likely in a fall, usually a strong person has to do it."
 L "For sure?"
 P "75 percent"
 L "That's good enough for me, but maybe not for Judge _____, he used to defend these people."
 PN "Is he hearing the petitions this month?"
 P "I don't think we are at that point yet. (To the PSY) Have you done your work-up yet?"
 PSY "Sort of. The family is borderline. Mom is real needy but is hanging in there. A few scores are pretty good."
 S "How's father?"
 PSY "Doesn't like all the attention, but I don't see anything serious... drinks a fair amount."
 W "He hasn't cooperated much."
 L "Anyone know who did it? Brother or father?"
 OBSERVATION: No response to L's question. Shrugging of shoulders, raising of eyebrows.
 L "Well, we could get 'em on neglect. They let someone do it."
 P "What are the other options?"
 W "Mom is willing to do almost anything."
 PN "What about temporary placement?"
 S "Low priority. We could do it but not immediately. I don't think it's indicated yet."
 P "If it was, how soon could you get him in?"
 S "Immediately, if he was in danger. Four months to get him into a good one."
 PN "I'm worried about this kid. Is he safe if we leave him?"
 L "If it's Dad, can Mom stop it?"

After approximately 40 minutes of similar dialogue, the pediatrician summarized what he described as a "tentative consensus" that the child would remain in the family with close supervision by the CPS worker until both the father and mother were involved in one of several potential counseling services. No one dissented, and there was resigned agreement with such phrases as "nothing else looks practical."

At this and other case conferences, the pediatrician performed the role of mediator by calling on different people, diverting premature decision making, checking the quality of factual assessments, and the practicality of

interventions. The pediatrician also modeled brevity and grounded explanations in his discourse.

The lawyer was usually active early in the discussions on the factual basis for any legal action, and on the practical problems presented by the reputations of judges who would hear the case and lawyers who represented the parents. While less involved in discussion of the types of intervention, the lawyer was knowledgeable on entitlements and insurance benefits which she often contributed to the frequent discussions of how various counseling services could be financed.

The CPS supervisor often resisted the removal of children to foster homes more than most others at the conference. He articulated the philosophy of keeping a home intact and sometimes stated that getting and keeping foster parents was very difficult. During one conference over a pair of early teenage girls who were running away from home, he states, "These are the kinds of kids who use up foster homes. After they run away several times or try to burn down the garage, we have a helluva time keeping the foster parents."

If the conference seemed to move toward a consensus to remove a child, they would often return to the typical early discussion in which the information base for the abuse or neglect was discussed. When tangible and observable injuries were not available, the discussion would try to ferret out other bases for a justification to intervene.

PSY "Has anyone seen any bonding?"

PHN "Not recently, but last year I was working with them on managing ear infections and I noticed the little girl go to her mother voluntarily several times.

These conferences are one important venue for interagency decision making about the nature and quality of facts present in a case, the desirability and practicality of invoking a legal intervention, and the availability and financing of interventions in child abuse cases. These conferences are a form of mediated negotiations between various professionals with access to different forms of information and influenced by different organizational and philosophic interests. They also collectivize responsibility for decisions for which there is a high level of uncertainty and potentially serious consequences.

Summary

Two types of negotiation were commonly observed:

1. negotiating a working conception of the facts of the case from fallible or contested sources;

2. negotiating a course of action between opposed interests of the parties to the dispute, including the State.

These varieties of negotiation are brought into play at three phases of case disposition:

1. to confirm the complaint of abuse and determine if an abusive risk exists;
2. to identify if the risk and the best interests of the child justify removal of the child from the home;
3. to achieve an effective disposition or resolution of the case, including an adequate, acceptable, and enforceable service plan, and long-term placement of the victim within or outside the original family.

Discussion

Decision Making

As of 1985, Michael Wald et al. could still write:

The terms abuse and neglect have no agreed upon definition. (See also Ziegler 1980.) Child protection agencies become involved in abuse cases ranging from brutally beaten children with broken bones to children who suffered spankings by hand without visible injuries. Neglect cases are even more diverse. Adding to the complexities many cases involve a mixture of abuse and neglect.... Moreover...one [may] take into account a variety of factors which may be related to how seriously we should view the need for intervention, such as the actual or potential severity of injuries, the parents' mental state at the time of the incident, the presence or absence of a history of abuse or neglect and the receptiveness to intervention of the parent.... Giovannoni and Beccera (1979) found professionals from different disciplines which deal with abuse and neglect cases differ substantially when rating the seriousness of various forms of abuse and neglect. (Wald 1985, 37-40)

In the Stanford study, Wald et al. observe that

determining re-abuse or continued neglect is difficult. While some conduct clearly constitutes either abuse or neglect, nor all physical harm to the child or parental inattention equals abuse

or neglect, at least for purposes of permitting state intervention.... We must draw some fine lines. (1985, 87).

In a study of English, multi-agency responsibilities in child abuse cases raises questions of coordination and decision making, Dingwall, Eekelaar, and Murray (1983) concluded that agencies face major difficulties in reviewing case handling, enforcing standards and implementing policies. Careful descriptions show how agency personnel deal with factual uncertainty and inconsistent agency mandates. Their detailed analysis of a case conference concerning an injured child is illustrative of the negotiated basis of child protective decisions, which they describe as a

clash between the medical model of the conference as an occasion for information to be collected and decisions delegated under a doctor's orchestration, and social services' view of the conference as an occasion for them to listen to discussion and take advice in the course of forming their decision. (Dingwall et al. 1983, 153)

Public Concerns and Decision Making

The decisions made by agencies and courts in cases of child abuse have been criticized from the three perspectives— justice, clinical, and child saving—described at the beginning of this article. Hageman (1985) reports similar distinctions in work with child sexual abuse.

There are elements of casework, child saving and prosecution models in case disposition, but as overall characterizations each of these is incomplete if applied to the way organizations process child abuse cases to a final disposition. Thinking of the process as clinical casework exaggerates the degree to which a client-professional relationship can be maintained in contested situations. Thinking of it as child saving, overestimates the frequency with which families are reconstituted or children permanently relocated. Thinking of it as law enforcement ignores the small proportion of cases which result in prosecution or conviction. Each is a partial view from a different professional perspective. We found elements of all models in each case, but with variable emphasis. As a normative model each may appeal to the predispositions of advocates and theorists. As a descriptive model of the process, none were adequate. They did not help us to understand the

processes we observed, the basis of the decisions and the behavior of the participants.

No model satisfies public expectations of straightforward social control. This makes it difficult to mobilize public support for a realistic approach to services, to legislate realistic policies and explicitly train staff in some of the skills they will actually need to do their job. Moreover, it results in record systems which do not document important steps in case disposition. This in turn inhibits evaluation of the effects of various intervention strategies on the short or long term status of the victim (Chiles 1979; Conte & Berliner 1985; Fanschel and Shinn 1978; Mnookin 1973; Runyan, Gould, Tost, & Loda 1981; Stein & Rzepnicki 1983; Taw 1979; Wald 1980).

Knowledge of the complexities in the consequence of removing children from abusive homes is increasing. Some find that foster care is generally beneficial. Wald et al. (1985) presents data demonstrating that foster care can protect children from further abuse in most instances (see Bolton, Laner, & Gia 1981). Lemmon's research shows that children in foster care do not have especially low self esteem or an unfavorable self concept (Wald et al. 1985). Others have found that children in foster care fared better than they had with their parents.

The work of Block and Libowitz (1983) establishes the second side of the remove-return decision: many children who are returned to their family are subsequently removed again either by authorities or parents because of resurgence of the original abuse or problem, or because of a new problem. Others report that foster children do not have a high repeat return rate after they are returned to the family, nor a high delinquency rate (Runyan 1985). In very serious cases in which parental rights are terminated, Borgman reports that involuntary termination caused more serious problems for the child than it solved (1981, 402).

Research Issues in Negotiation

Negotiation is a ubiquitous part of social life. Some even say that social order itself is a negotiated phenomenon. Yet the study of negotiation as an actual discourse activity, occurring between people who have substantial interests and tasks in the real social world, is in its infancy. (Maynard 1984, vii)

Maynard was writing of prosecutors and public defenders in criminal cases, but his ideas may apply to many inter-agency case-based decisions.

The reconceptualization of the model of case disposition as a type of dispute negotiation is useful but may be controversial. Negotiation is conventionally viewed as a norm-free process involving power, bluff, and an imperative to compromise. This image is appropriate for business transactions but hardly for deciding the fate of a helpless child.

Negotiation is sometimes viewed as an unfortunate but necessary accommodation to practical problems. In Maynard's path breaking study of plea bargaining in a misdemeanor court he says

Plea bargaining is often depicted as a response to such outside factors as overcrowding in the courts...[but he]...views plea bargaining not as reaction but as participants enactment of taken-for-granted discourse and negotiation skills...derived from practitioners own cultural knowledge and praxis rather than from outside social pressures. (1984, 2)

Negotiation research reveals a wide variety of negotiation types. Eisenberg's "norm centered model of dispute negotiation," which emphasizes that negotiation outcomes are heavily influenced by the principles, rules, and ethics that are invoked by the negotiating parties, is a useful conception of what we saw in child abuse processing (Eisenberg 1976).

To be sure in the agency we studied, practical questions were part of child abuse negotiated decision making. Does the factual evidence reach the level of "probable cause"? How will interventions be financed? Does this child need a scarce foster home placement more than some others? These concerns were discussed openly but not to the exclusion of safety and best interest. These two principles were the omnipresent shadow under which negotiations were conducted.

Our observations on how child abuse cases are negotiated in reality fit with research on disposition and settlement in regulatory agencies and in criminal prosecution. The process of working with child abuse cases as negotiation is essentially an empirical, descriptive judgment. As in studies of plea bargaining in criminal cases, there are policy questions to be raised. While research may establish that plea bargaining is a common feature in criminal court processing of cases, it is an evaluation question to what extent and under what conditions plea bargaining is consistent with the interests of justice, the protection of the community, and the constitutional rights of a defendant. Winter, in his analysis of the day-to-day enforcement of Federal Environmental Protection laws by the E.P.A., has described agency work as "barter" with the manufacturers, but wonders if "newly articulated justifications for bartering rationality may...tend to legitimate

and promote a longstanding disguise for thwarting the popular will" (Winter 1985, 248).

This research is similar in findings and implications. Professionals seem to use negotiation to cope with cognitive uncertainty, program resource limitations, conflicting mandates, and clashes between opposing interests of parties to the case. There are analytic and practical advantages to explicitly conceptualizing it in this way rather than as clinical or justice decision making. One is to promote a more searching and realistic evaluation of the consequences of intervention and the extension of protection and services to an important type of victim.

Studying the disposition of child abuse cases from the standpoint of negotiation may promote better understanding of the issues faced by agencies and could facilitate the development of information systems and evaluations to better assess the effects of agency intervention.

Law and business schools have recently begun teaching negotiation. They recognized that while negotiation had been a major activity in these fields, it had never been legitimized, researched, and developed into a formal academic area. They now teach students to be critical, analytic, reflective, and skillful in negotiation. This was only possible when a body of empirical research and theory on negotiation was developed. The same professional development could be fostered in the complex and important work of controlling child abuse.

The research and analytic perspective of sociology is particularly compatible with a negotiation model of multi-profession and cross-organization decision making. We believe sociological research can provide an empirical base for the critical evaluation of negotiation processes and outcomes.

Conclusions

In addition to a research agenda, focused on evaluating a negotiation perspective of child abuse case processing, there is an immediate practice agenda. If much of interagency decision making is truly negotiation, and perhaps informally mediated negotiation as well, are there benefits to recognizing it as such and doing it well. Many social workers and other agency personnel are not prepared to negotiate effectively. There is an emerging literature on designing systems and organizations to facilitate negotiated resolution of differences. Record keeping systems can be designed to capture salient features of negotiation so that assessment and monitoring is relevant to actual organizational practice. Education and training in the theory and practice of negotiation and mediation could

strengthen the practice of negotiation in the shadow of children's best interest.

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The authors gratefully acknowledge the skillful interviewing assistance of Jean Sharp in gathering data for this project. We are very grateful to the many people working in child protection who gave us candid accounts of the way they make day-to-day decisions in the court and social service agencies. We are grateful to the case conference team members who allowed the observation of their decision making processes. The comments of Sociological Practice reviewers were also very helpful.

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