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X ABUSED CHILDREN: THE INFORMATION DIMENSION

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by

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ABUSED CHILDREN: THE INFORMATION DIMENSION 1/

Incidents of the abused and neglected child present a special dilemma for society and its institutions. There are distinct philosophical issues regarding the role of the family and the responsibilities of the State. While the concern for the victims of abuse and neglect reflects a humanitarian reflex, the considerations regarding the role of government and the formulation of programs to cope with the phenomena are complex. Confronted with an ambiguous framework of existing requirements and restrictive procedures, the task of determining a cohesive policy is extremely difficult. Unclear and inconsistent definitions of what constitutes abuse or neglect, lack of relevant information on the subject, and little agreement on the approach to be taken has hampered coming to grips with this sensitive subject.

In the United States the political and institutional jurisdictional constraints also contribute to the complexity of the problems and hamper formulation of direct or easy solutions. Adequately protecting the child while providing appropriate remedies to the family presents a special dilemma. Therefore, achieving a balance becomes an important part of the task of reaching equitable solutions. These factors seem especially important in light of technological and administrative innovations that

1/ The views expressed in this paper are those of Louise Giovane Becker, the author and do not necessarily reflect those of the Library of Congress or the Congressional Research Service.

assure changes in a system which is bound by traditions and other constraints.

Modern information and data handling processes have also assisted in coping with some of the child abuse and neglect problems. With the advent of computer-communication assisted systems, which allow remote user access, some problems have arisen. Delicate human considerations and the concern for privacy and confidentiality have rendered this area sensitive.

Recent changes in administrative practices have raised important questions that have special implications for an information intensive society. This paper attempts to outline some of the special problems associated with information handling in this arena. Some of the significant legislative measures which assist in coping with the phenomena of child abuse are reviewed. Special emphasis has been placed on those statutory and administrative requirements that stimulated the collection and dissemination of information. In addition, the privacy and confidentiality issues of child abuse and neglect records are highlighted.

I. INTRODUCTION

A fundamental understanding of the issues relating to child abuse and neglect requires a definition of the terms and an accurate measurement of the scope of the problem. Philosophical and emotional concerns contribute to the difficulty in coming to grips with the problems and issues.

In this decade, there has been a concerted effort to understand and deal with the problem of child abuse and neglect in the United States. Legislative measures have stimulated new reporting requirements and intensive examination of the problems. Some of these initiatives have triggered a secondary set of concerns regarding disclosure and confidentiality of sensitive information.

A. SCOPE of the PROBLEM

The U. S. Department of Health, Education, and Welfare, National Center on Child Abuse and Neglect estimates that each year over 1,000,000 children are abused, neglected, sexually exploited, or otherwise maltreated in the United States. More than 150,000 children will be physically abused, about 100,000 will be sexually mistreated, and the remainder will be neglected. 1/

1/ U.S. Congress. House. Committee on Science and Technology. Subcommittee on Domestic and International Scientific Planning, Analysis, and Cooperation. Research into Violent Behavior: Domestic Violence. 95th Congress, 2nd Session. Washington, U.S. Govt. Print. Off., 1978. p. 23

Accurate data on the maltreated child are often difficult to obtain and not all occurrences are reported. There is a consensus that data as reported in official statistics rarely reflect the total number of abuse cases. State reporting laws, a relatively new phenomena, provide for data collection and improved information handling on reported incidents of child abuse and neglect.

A key difficulty in dealing with the problem and achieving uniformity in reporting is agreement on a definition of the term "child abuse and neglect." Federal legislation, the Child Abuse Prevention and Treatment Act (P.L. 93-247), defines the term as meaning "the physical or mental injury, sexual abuse, negligent treatment, or maltreatment of a child under eighteen by a person who is responsible for the child's welfare under circumstances which indicate that the child's health or welfare is harmed or threatened." This definition of child abuse and neglect determines the scope and nature of programs and affects the collection of data required by the act. More recent Federal legislation on sexual exploitation of children provides a slightly broader approach.

B. Characteristics of Child Abuse and Neglect

The American Humane Association (AHA), a private organization, with support from the U.S. Department of Health, Education, and Welfare (HEW), has conducted several national surveys 1/ which provide a summary of data

1/ These surveys have been in part facilitated through the establishment of central registers in the States which provided data on reported incidents of child abuse to AHA.

on child abuse and neglect. Two recent American Humane Association surveys, conducted in 1976 and 1977, highlight the reported cases of abuse and neglect by participating States and territories.

In 1976 the total number of reports, indicated by the AHA survey, was 412,198 and for 1977 the total number was 496,000. 1/ While there was an increase of 20.3 percent in reports since 1976, this increase is believed to reflect more comprehensive reporting coverage rather than a greater occurrence of child abuse and neglect. 2/

1. Summary of the 1976 AHA Survey.

The AHA 1976 survey included 31 fully participating States and territories, those that utilized a prescribed (universal) form, and others.

The 31 States and Territories were: 3/

<u>STATES</u>			<u>TERRITORIES</u>
Alabama	Maine	North Dakota	Guam
Alaska	Minnesota	Ohio	Puerto Rico
Arizona	Mississippi	South Carolina	Virgin Islands
Colorado	Nebraska	South Dakota	
Delaware	Nevada	Tennessee	
Hawaii	New Hampshire	Texas	
Idaho	New Mexico		
Indiana	New York	Vermont	
Louisiana	North Carolina	West Virginia	
		Wyoming	

1/ American Humane Association. The National Study on Child Neglect and Abuse Reporting. Highlights of 1977 National Reporting Data. Englewood, Colorado, 1978 p. 1. (Hereafter referred to as AHA 1977 Survey)

2/ Ibid.

3/ American Humane Association. National Analysis of Official Child Neglect and Abuse Reporting. Englewood, Colorado, 1977. p. 7 (Hereafter referred to as AHA 1976 Survey.)

A summary of the data from these jurisdictions, which used a universal form to report incidences of child abuse and neglect, appear below: 1/

TOTAL NUMBER OF REPORTS OF NEGLECT AND ABUSE (99,576) a/

<u>Source of the Reports</u>	<u>Percentage</u>
Friends and neighbors	17
Relative	15
Law enforcement agency	12
Educational	11
Medical	11
Parent/parent substitute	05
Other	19
<u>Alleged Perpetrators</u>	
Natural parents	87
Other parents (foster, step, adoptive)	07
Relatives	02
Others	04

a/ Validated reports of fully participating States and territories.

<u>Types of Validated Abuse Reported b/</u>	<u>Percentage</u>
Minor physical injury	73
Major physical injury	09
Burns, scalding	05
Sexual abuse	12
<u>Types of Validated Neglect Reported b/</u>	
Physical neglect	64
Emotional neglect	19
Medical neglect	10
Educational neglect	07

b/ May include more than one category per case.

1/ Ibid., p. 30.

Among the partially participating States there were over 257,000 reported cases of abuse. The data were not complete in some instances partially due to the fact that some States do not include cases of neglect. Another finding of the 1976 survey is that social service agencies frequently received the initial contact. Law enforcement agencies, the report noted, less frequently received the initial contact. This is partially due to policies in most of the States that "child protection agencies can best serve as the source of initial contact in the vast majority of cases." 1/

One of the key characteristics of involved families is that they are consistently below the national average in family income. Generally these families had a medium income in 1976, of \$5,051 while the median family income of all U.S. families in 1976 was over \$13,500. 2/

Family factors that are prevalent in cases of abuse and neglect include broken family situations, insufficient income, family discord, continuous child care responsibilities, lack of tolerance, alcohol dependence of some family members, social isolation, history of abuse as a child, recent relocation, mental health problems, inadequate housing, authoritarian methods of discipline, police or court record, mental retardation, and drug dependence. 3/

1/ Ibid., p. 13.

2/ Ibid.

3/ Ibid., p. 17.

Child abuse and neglect perpetrators are often natural parents, under 30 years old, and generally female. This is consistent with the data gathered over a three years period in which 80 percent of the perpetrators were the natural parents. 1/

Data indicate that abuse and neglect seem prevalent at all ages of childhood, but reporting limitations, set by State statutes in some instances on children 15 to 17, indicate a decrease in this age group. The statistical distribution seems consistent from birth to age eight and a slight change in pattern is apparent in ages 9 to 15. The data seem to refute the accepted notion that abuse and neglect are limited to the very young. 2/

The consequence of the trauma of child abuse and neglect cannot always be fully assessed. Clinical observations present the only substantive information on this subject. While it is not known exactly how many children suffer from maltreatment, it is known that death frequently occurs in very young children, with 60 percent of all fatalities occurring in children under two years old. Severity of abuse and neglect and insight into the treatment or fatalities among affected are summarized below: 3/

1/ Ibid., p. 22.

2/ Ibid.

3/ A final completed report is to be issued in late 1979.

**Severity of Abuse and Neglect
(N=34,900)**

	Abuse Only		Neglect Only		Abuse and Neglect		All Cases	
No Treatment	6596	65%	16,449	76%	2007	66%	25,052	72%
Moderate Injury	2492	24%	4268	20%	716	24%	7476	21%
Serious/ Hospitalization	1000	10%	841	4%	274	9%	2115	6%
Permanent Disability	32	0.3%	21	0.1%	21	0.7%	74	0.2%
Fatal	93	0.9%	76	0.4%	14	0.5%	183	0.5%

2. Highlights of the 1977 AHA Survey. 1/

An overview of the 1977 child abuse and neglect reports survey, prepared by the American Humane Association, while providing only summary statistics on child abuse and neglect highlights some significant findings. The 1977 statistics, similar to the 1976 AHA survey, consisted of two classes of participants, namely, those that submitted individual case data on a universal form and those that provided aggregated statistics. The survey participants did not always report uniformly, nor were all reports complete, therefore discrepancies in the data distribution can be expected.

Highlights of the 1977 survey indicated that over 500,000 reports were examined by the American Humane Association in this national study.

Over 45 percent of these reports were made by friends, neighbors or relatives while just over 35 percent of the occurrences were reported by agencies (social service or welfare agencies, protective services, and law enforcement) and 11 percent of the reports were made by medical personnel. 2/ This breakdown seems consistent with the 1976 survey.

As in the 1976 survey family income level seems to be an important factor in reported child abuse and neglect cases as noted above.

1/ AHA 1977 Survey. op. cit., p. 3.

2/ Ibid., p. 4.

Interestingly, the median income for U.S. families in 1977 is approximately \$16,000 while for child abuse and neglect families, median income was reported at \$5,361; with cases of "abuse only" having a median income of about \$7,000 while cases of "neglect only," median income of \$4,633 was reported. 1/

Both the 1976 and 1977 AHA surveys indicate that a high percentage (80 percent) of all abused or neglected children return to their home and less than ten percent are ordered by the court to be placed elsewhere.

C. PRIVACY AND CONFIDENTIALITY OF RECORDS

The concern with privacy and confidentiality of child maltreatment reports is a critical factor in data handling and recordkeeping in this area. In recent years a concerted effort has been made to improve the child abuse and neglect record handling operations in State agencies, especially in the operation of central registers. 2/

Douglas J. Besharov, Director of the HEW National Center on Child Abuse and Neglect, expressed concern for protecting the rights of the child in the framework of American values. He commented that the stressful investigation arising out of the incident, and the stigma and calamity that arise from the administrative and judicial procedures, require a sensitive approach. 3/

1/ Ibid., p. 25.

2/ A central depository of reported child abuse and neglect incidents.

3/ Besharov, Douglas J. The Legal Aspects of Reporting Known and Suspected Child Abuse and Neglect. Villanova law review, v. 23 n. 3, 1977-1978: 458-520.

Protecting individual rights and limiting the intrusiveness of the States is an essential goal. Mr. Besharov goes on to note that: 1/

Implicit in most recent child protective legislation is the legislative finding that the balance between children's rights and parent's rights must be weighted in favor of protecting the children. Yet, it is important to protect traditional American values of freedom and legality when trying to protect endangered children. If society is to intrude into family life without the free consent of parents, it must do with due regard to parental rights, as well as to the needs of children. Thus, even though the experience of all States shows that only a handful of reports are not made in good faith, as states seek to improve and upgrade their child protective systems generally, they should also seek to improve the provisions they make to protect the rights of all involved. Legal safeguards can be provided to protect parental rights without unreasonable endangering of children.

The development of central registers and mandated reporting requirements have all contributed to the growth of record collections. Privacy problems arise due to incomplete or inaccurate information on child abuse and neglect reporting records. The danger regarding inaccurate records seems clear but incomplete records may often be misleading and provide a false representation of the nature and scope of the specific incident.

The handling of child abuse and neglect records has traditionally been in the control of the concerned agency or institution. Modern information technology with improved access and controls presents an administrative challenge.

Vulnerabilities and limitations of manual systems are also present in automated systems. Information technology improves access and may, if proper safeguards are instituted provide additional protection. 2/

1/ Ibid. p. 461.

2/ See Section III C. Privacy Management.

Privacy and right-to-access concerns have been raised in a recent court case heard in Federal District Court in Texas. The case, Sims v. State Department of Welfare, concerned, in part, the right-to-access and the safeguarding of privacy of the involved child abuse family. The State of Texas, in response to a mandated central register requirement (Texas Family Code Section 34.06 (1975), established the Child Abuse and Neglect Report and Inquiry System (CANIS). The computerized system restricts access to child abuse and neglect case workers and a section of the Texas Department of Public Welfare. The Federal District Court ruled that denying the family access to the information was a contravention of due process. 1/

The court further noted that the "statute, as applied, constituted an impermissible infringement on parent's right to privacy and due process and the lack of judicial determination was an unconstitutional infringement on the rights of the parent's. 2/ The case was subsequently reviewed by the Supreme Court in 1979 which ruled that the lower Federal Court should not have ruled while the case was pending before the State Court. 3/

These recent court decisions and administrative regulations have provided a focus on the privacy concerns related to child abuse and neglect. The nature of the records in which labels may be placed on

1/ U.S. Department of Health, Education, and Welfare. Children's Bureau. Child Abuse and Neglect Information Management Systems. Washington, 1978. p. 22 (Hereafter referred to as HEW Information Management Systems.)

2/ 47 Law Week, 4693-4701.

3/ Ibid.

"perpetrator" without judicial determination as well as the social stigma on the child and the family is a real hazard in a democratic and open society.

II. FEDERAL AND STATE LEGISLATIVE INITIATIVES

Congress over the years has held a number of hearings on child abuse and neglect and sexual exploitation of children. These hearings have aimed at understanding the problems and have been concerned with the establishment of new programs and support to cope with the situation.

A Federal statute, enacted in 1912, created the United States Children's Bureau whose prime responsibility was to do research and provide information about children. Under the Social Security Act passed in 1935, support was provided for the "protection and care of homeless, dependent and neglected children and children in danger of becoming delinquent." 1/

Amendments to the Social Security Act in 1962 provided that each State make child welfare services available to all children. The 1962 amendment specifically included references to the prevention of child abuse. 2/

A. CHILD ABUSE PREVENTION AND TREATMENT ACT

In 1974 the "Child Abuse Prevention and Treatment Act" (P.L. 93-247) was enacted by the Congress. The Act provides financial assistance for demonstration programs for the prevention, identification, and treatment of child abuse and neglect and created the National Center on Child Abuse and Neglect. The act specifically provides for: 3/

1/ U.S. Library of Congress. Congressional Research Service. Child Abuse: History, Legislation and Issues. Author by Jean Yavis Jones. [Washington, 1978] p. 7. (Report no. 78-ED)

2/ Ibid.

3/ Ibid., p. 9

- (1) The collection and dissemination of information including incidence of child abuse and neglect;
- (2) A source of funding through grants or contracts to public and non-public agencies involved in the area of child abuse and neglect;
- (3) A source of funds for innovative demonstration projects which would be designed to prevent and/or treat child abuse and neglect;
- (4) An Advisory Board on Child Abuse and Neglect to assist the Secretary of HEW [Department of Health, Education, and Welfare.] in coordinating new programs and in the development of Federal standards for those programs and projects; and
- (5) Encouragement to the States by way of a grant for the payment of expenses involved in developing, strengthening and carrying out child abuse and neglect prevention and treatment programs.

The National Center for Child Abuse and Neglect (NCCAN), established by the act and located in the U.S. Department of Health, Education, and Welfare, Children's Bureau, has primary responsibility to provide identification of problems and issues. Specifically the Center is mandated to conduct research and maintain an information clearinghouse on the subject.

B. 95TH CONGRESS (1977-1978)

Recent congressional hearings have centered around two basic topics: the extension and implementation of the Child Abuse Prevention and Treatment Act and the protection of children against sexual exploitation. In the 95th Congress a series of bills was introduced and two were enacted into law that addressed the problems of sexual exploitation and child abuse.

1. Sexual Exploitation

The Senate and House hearings on sexual exploitation of children focused on the nature and scope of abusive practices, whether existing Federal and State laws were comprehensive enough to cope with the problem and whether such laws are enforced. Witnesses at the hearings

indicated that child pornography was "clearly a form of child abuse." 1/

The Congress enacted P.L. 95-225 2/, "Protection of Children Against Sexual Exploitation Act," which prohibits the sexual exploitation of children by making it unlawful for any person to knowingly use or cause any minor to engage in or assist in any sexual act for the purpose of promoting any film, photograph, or other visual medium.

2. Extension of Child Abuse Prevention and Treatment Act

Hearings were held on the extension of the Child Abuse Prevention and Treatment Act at which an authorization extension was discussed which would permit continuation of the National Center on Child Abuse and provide a modest increase in the authorization. The Center would continue to conduct research and compile and disseminate information including information on the training of personnel engaged in child abuse prevention programs. Significantly, the definition of child abuse was expanded to include sexual exploitation. The Senate and House deliberations resulted in the passage of the "Child Abuse Prevention and Treatment Amendments of 1977" (P.L. 95-266).

In the enactment of P.L. 95-225 and P.L. 95-266 the basic protection to children was extended and provisions for dissemination of information and training for child abuse prevention programs was expanded.

1/ U.S. Congress. Senate. Committee on the Judiciary. Subcommittee to Investigate Juvenile Delinquency. Protection of Children Against Sexual Exploitation. Hearings, 95th Congress, 1st session. Washington, U.S. Govt. Print. Off., 1978. p. 5.

2/ Amends Title 18, United States Code, to prohibit the transportation.

C. 96th CONGRESS (1979-1980)

In the first session of the 96th Congress, a bill (H.R. 1711) was introduced to amend the Social Security Act to authorize payments to the States for the cost of emergency shelter and services provided to individuals who are in danger of physical or mental injury, neglect, maltreatment, or exploitation. Other legislation has been introduced that would specifically protect children who are being adopted.

In addition, early in the session Congressman Edward Beard introduced a resolution (H.Con.Res. 109) which "expressed the sense of Congress that (1) each child possesses fundamental human rights and rights based on the needs of the child, including the right to be free from abuse, right to be treated without discrimination due to illegitimacy, the right to obtain an education, the right to health care, and the right to counsel; and (2) States should implement such rights and ensure that children's rights are equivalent to those possessed by adults."

Although Federal legislation and proposals would provide additional protection for the child, concerns have been raised regarding the appropriateness of Federal intrusion into these areas that traditionally have been the responsibility of State governments or the individual family.

D. CHARACTERISTICS OF STATE LAWS

In the 1960s, the first child abuse and neglect reporting statutes were enacted by a few States. Subsequently, most jurisdictions have passed new legislation or amended existing laws. Some of these changes in State legislation on child abuse and neglect have been prompted by Federal legislation and associated regulatory requirements.

At the present time all 50 States and the District of Columbia have enacted laws for mandatory reports of non-accidental injury and neglect of children. While the reporting requirements have contributed to an understanding of the incidents of child abuse, questions have been raised regarding the effectiveness and appropriateness of central registers, reporting procedures, data collection, and the accessibility of the data. In addition, some critics believe that the reporting requirements may take most of the allocated resources, thereby leaving many associated child service programs depleted.

Three distinct aspects contained in State legislation affect the flow of information: (1) the reportable conditions; (2) persons required to make the report; and (3) the development of central registers. In addition, informational characteristics are inherent in the public education requirements mandated in the legislation. The scope of the associated public education and awareness programs will determine the quality of the reports and may prove helpful to the child abuse involved family.

A recent study by the National Center on Child Abuse and Neglect on "State Reporting Laws" focuses on the "purpose of the State's reporting laws, the definition of abuse and neglect, age limits of children, the required state of mind of the reporter, and who must and may report." 1/ Variations in the definitions of child abuse and neglect and other factors raise problems that some observers believe leads to non-uniform reporting. 2/

1/ U.S. Department of Health, Education, and Welfare. National Center on Child Abuse and Neglect. State Reporting Laws. Washington, 1976. p.3.

2/ Ibid. p. 4.

In its review of the laws in this area, the Education Commission of the States report, "Trends in Child Protection Laws--1977," outlined three essential elements in child abuse and neglect reporting statutes. 1/

- (1) Workable, understandable definitions of reportable conditions of abuse and neglect;
- (2) A class of persons required to make reports of the existence of those conditions when they "reasonable believe" or have "reasonable cause" to believe that those conditions were caused by non-accidental means (i.e. abuse or neglect); and
- (3) A required public response to offer services to the child so identified.

Two outstanding characteristics of recent State laws which influence information aspects of child abuse and neglect reports are the scope of the reporting requirements and the development of central registers.

1. Reporting Requirements and Penalties

Recent changes in the language in some State statutes specifically identify types of persons who are required to report. Some States require the following professionals to report, namely: physicians, nurses, surgeons, osteopaths, dentists, residents, interns, hospital and institutional personnel, practitioners of the healing arts, chiropractors, optometrists, podiatrists, pharmacists, mental health professionals, coroners and medical examiners, teachers and other school personnel, social service workers, law enforcement officers, religious healing practitioners, child care workers, clergy, attorneys and any other person. In some instances, States may require all professionals who come in contact with the child to report. In over 20 States "any person" having "reasonable

1/ Education Commission of the States. Trends in Child Protection Laws -- 1977. Report No. 106. From the ECS Child Abuse Project. Denver, Colorado, 1978. p. 1.

cause to believe" that child abuse has occurred are encouraged to report. 1/

While most States require reporting of incidents, about 40 States reinforce this with penalties which may include fines or imprisonment. Civil penalties include State-sanctioned "rights of action" — that is, the mandated reporter may be sued for "compensation for damages or additional injuries to the child caused by willful failure to make reports as required by the statute."2/ The action is based on the common law of negligence, a nonstatutory body of law created by the decisions of courts when faced with similar cases. The Education Commission of the States report notes that: 3/

The negligent conduct in a child abuse case would be failure to report suspected child abuse when the reporter reasonably felt that it had occurred. The failure to report is negligent because it is logical to expect such abuse, if allowed to go unreported, will continue.

2. Mandated Central Registers

Almost all States, except for New Mexico and Utah, have enacted legislative provisions or have administrative requirements that establish a central register 4/ of child abuse and neglect reports.

The registers primarily provide information of a statistical or record-keeping nature, but in some instances the central register is used as a diagnostic aid. The general trend in State legislation is to include a statutory authorization for existing central registers. 5/

1/ Ibid., p. 6.

2/ Ibid., p. 7.

3/ Ibid.

4/ See Section III B. for additional details on central registers.

III. INFORMATION AND RECORDKEEPING CONCERNS

Recent legislative and administrative innovations have stimulated, in part, the extensive development of State child abuse and neglect reporting systems. While these reporting systems provide a more comprehensive understanding of the incidents of child abuse, their development have also given rise to a wide range of concerns. This section primarily focuses on some of the issues related to data collection and management of information systems to support child abuse and neglect programs.

Rendering appropriate assistance and services to the abused child and his family requires an adequate flow of information. Availability of data and the appropriate exchange of information is often the framework for meeting program objectives. In addition, information is essential for proper management, oversight, and support of child abuse assistance programs. Policy formulation, either for immediate or long-term goals, also is dependent on the exchange of information. In addition, associated issues of privacy and confidentiality are important considerations in the information and reporting schemes associated with child abuse and neglect programs.

A. DATA COLLECTION FACTORS

Since 1973 the U.S. Department of Health, Education, and Welfare, Children's Bureau has encouraged the development and operation of clearinghouses for national reporting on child abuse and neglect. The National Center on Child Abuse and Neglect, created by the Child Abuse Prevention

and Treatment Act of 1974 (P.L. 93-247), has continued this effort.

Since the late 1940s researchers have recorded the physical trauma of willfully induced injury. The early studies, with their focus on physical injuries, provided insight into some of the problems but they did not provide perspective into the associated problems. While these limited studies called attention to a set of problems that had not been previously addressed, it was not until the 1960s that relationships and causality factors were examined in some depth. 1/

The American Humane Association (AHA), as previously noted, has conducted surveys and compiled statistics on child abuse and neglect. For example, a study conducted in 1962 by AHA, from reported newspaper accounts, revealed that natural parents were responsible for 662 child abuse incidents for over 70 percent of the reported cases. 2/

From at least the 1960s it was evident that the lack of concise data impeded an understanding and assessment of the problem. Subsequently, many the recommendations to draft model legislation for "child abuse reporting" included data collection and information gathering provisions. By the 1970s most States had a child abuse reporting law that could provide information on reported incidents. The National Center on Child Abuse and Neglect is responsible for research in this area and has supported studies on the nature, incidence, and characteristics of child abuse and neglect.

1/ AHA 1976 Survey, op. cit., p. 1

2/ Ibid.

As previously noted, collection of the data on child abuse and neglect represents a special problem from a national perspective. Variations in the reporting requirements and differences in handling the information among the States and U.S. Territories leads to some discrepancies. For example, lack of uniformity, different levels of information collected, and different definitional standards contribute to an inconsistency of the data among the several jurisdictions.

One of the issues that has not been successfully addressed is the evaluation of the data collection in terms of services rendered and the implications to the child and his family. For example, the American Humane Association reported that the use of day care or homemaker services may be of some value. AHA noted that these services have proven useful but there is very little evidence that they are being used adequately. It is not known whether these services are not being used because they are not desired or because they are not available.

The source of reporting also presents a special problem. While State legislation seems to have increased the numbers of mandated reporters, friends and neighbors, who have a low validity report rate, are most likely to initiate a report. Interestingly, health professionals as child abuse reporters are on the rise, by most indications, but private physicians only report 1.6 percent of the cases. 1/

The concern with definitional issues, incompatibility of types or categories within reports, reporter variations, and some difficulties in correlation of the data present difficulties in evaluating and using the information.

1/ Ibid., p.

B. EXISTING SOURCES OF DATA

Over the last few years some State governments have attempted to develop "comprehensive management information systems" in support of social programs. In the child abuse and neglect area there has been considerable effort in improving data collection through the establishment of information systems. In many instances the development of a central register on child abuse reporting has provided a much needed focus. The existence of a central register has also stimulated the development of associated systems to provide assistance in child abuse casework management, an overview of agency and program operational effectiveness; and assistance in the allocation of resources in child abuse programs. 1/

The conferences, sponsored by the National Center on Child Abuse and Neglect, on associated information systems have provided insight into some of the critical data collection and management problems. The Second National Conference on Data Aspects of Child Protective Services, held in Washington, D.C. in early 1978, highlighted the range of State child abuse data activities and included workshops and demonstrations of several State data management systems. 2/

The Conference focused on three data applications, namely: management information systems, central registers, and client tracking and case

1/ U.S. Department of Health, Education, and Welfare. Children's Bureau Child Abuse and Neglect Information Management Systems: A Report from the 2nd National Conference on Data Aspects of Child Protective Services. DHEW Pub. No. (OHDS) 79-30165. Washington, 1978. p. 1. (Hereafter referred to as HEW - MIS Report.)

2/ Ibid., p. i.

management. These applications represent key sources of data on child abuse and neglect at the State level. The development, use, and function of these systems in child abuse programs varied considerably. The level of sophistication and usage of these systems represent a broad spectrum from manual card files to computer-communication information systems.

1. Management Information Systems

Management information systems may provide statistical overviews and aid not only the local child abuse caseworker supervisors but also in regional and state planning activities. Monitoring and evaluating the effectiveness of local programs at the State level and assisting in the planning and budgeting functions are important uses of such systems.

There are some inherent problems with present child abuse and associated management information systems. One of the major difficulties is the development, in conjunction with the management information system, of a common data base. Since different levels of program managers and administrators have distinct information needs, developing an appropriate data base to serve these different needs remains a challenge.

Unfortunately, in many instances the management information systems were not necessarily designed to support or monitor the interaction of various social programs. The different information systems operating in a single jurisdiction often lack compatibility and rarely will they be designed to permit information exchanges between social programs. Therefore, many States have distinct foster care, welfare, and other case information systems with few interconnective mechanisms to permit a comprehensive overview of social services rendered to a client. 1/

1/ Ibid.

2. Central Registers

Central registers, as noted above, are a depository at the State level of reported cases of child abuse and neglect. The purpose of the register is to provide a statewide index of reported instances of child abuse and neglect. States use this data to: 1/

- Facilitate management planning;
- Assist in the assessment of danger to children; and
- Assist in the assessment of child protective services functions.

The diversity of State reporting requirements is reflected in the variety of types of information found in the central registers. Although the variation from one jurisdiction to another makes it difficult to generalize about central registers, there seems to be consensus that the function has some value. As mentioned, systems range from manual systems -- cards or log sheets -to automated computerized systems with supportive communication links that permit direct access.

A number of issues regarding the operation and maintenance of central registers have been identified. These include: 2/

- Problems related to defining the purpose of the central register;
- Problems related to quality and quantity of data; and
- Problems related to legal issues regarding confidentiality, access and expunction, (sealing or purging) of records.

The rapid increase in the development of central register systems, while reflecting the increase in awareness of the problem, is often a direct result of the legislatively mandated reporting requirements. Often

1/ Ibid.

2/ Ibid., p. 5

these systems were rapidly developed within a short time span and therefore planning time was not always adequate. 1/ Federal regulations and State programs affect the central register operation. Differences in approaches of State child protective services also affect the central register operation and may influence compliance with Federal regulations. 2/

A continuing problem in the management of a central register is providing complete, accurate, and valid data. Since the data collection is dependent on reportings from a variety of sources, often including subjective information, the quality of the data is questionable in some instances. 3/

These factors and others present a problem in evaluating central registers. Nevertheless, these systems have been useful in providing an overview of incidents of child abuse and neglect. As a source of data on this subject, the central register concept has an important role in assisting the caseworker and the policymaker in understanding the problems.

3. Client Tracking and Case Management Functions

Most child abuse and neglect programs require some tracking of clients to assure that the response by the agency has been appropriate. In addition, the management of the individual social workers caseload and the development of overall resource allocation may be assisted by the client tracking and case management application.

1/ Ibid.

2/ Ibid.

3/ Ibid., p. 4.

The client tracking system permits social workers to review what services have been rendered. In addition, these systems permit, the caseworker to review any past history of abuse and neglect and to determine whether previous assistance was rendered by the social service system. 1/ Generally, abusive and neglectful parents tend to move from one locality to another. The mobility of these individuals often stems from their desire to escape an investigation or to prevent continuation of treatment or services. 2/ Therefore, in some States, where there is a statewide central register that permits access, the systems is invaluable to the case worker who is required to suggest treatment or services.

Other important uses of these systems include the tracking of reimbursible activities from one program to another and notification to the caseworker when specific services are required or when court-ordered reviews are needed.

Client tracking systems, while useful in many respects, have some associated problems. One criticism has been that the records may not always be complete or accurate. The low reliability of the data may cause caseworkers to ignore or misuse the information.

1/ Ibid.

2/ Ibid.

3/ Ibid.

C. RECORDS PRIVACY MANAGEMENT

The problems of providing the appropriate level of privacy and of limiting unwarranted disclosures represents a problem in many child abuse information systems. Questions have been raised regarding the confidentiality of records, protection of client rights, access to the system, and procedures for sealing and purging records in this area.

The HEW "Child Abuse and Neglect Information Management Systems" report summarizes some of the factors that affect certain critical issues regarding confidentiality in information systems, especially regarding the management of computerized data bases. The report states that: 1/

A prerequisite for ensuring the confidentiality of information contained within a central register is maintenance of a secure physical system. Some states felt that computerized systems were superior to manual ones in this respect. Manual systems require that written records be kept in offices which are usually accessible to many people, some of who should not have access to such information. Files and records are often left open on desk tops, kept in unlocked cabinets, or otherwise unsecured, leaving the potential for unauthorized access to them. Computerized systems can cut down on amount of hard copy paper records that need to be maintained. Some states have begun to limit the amount of information that is actually printed out of the system. Others have transferred case records to microfiche which can only be read with a special reader. Built in safeguards such as confidentiality user codes can limit access through computer terminals, and security of microfiche records and readers may be easier to maintain than that of paper records.

Federal regulations require that child abuse and neglect records, including the information contained in the central register, must be protected. Specifically, the Federal regulation, issued by the Department

1/ Ibid. p. 6

of Health, Education and Welfare, states: 1/

The State must provide for methods to preserve the confidentiality of all records concerning reports of child abuse and neglect in order to protect the rights of the child, his parent or guardians. This section shall be satisfied only if a State has a law which makes such records confidential and which makes any person who permits or encourages the unauthorized dissemination of their contents guilty of a crime.

In order to qualify for funds from the HEW National Center on Child Abuse and Neglect requires that States must meet certain standards regarding confidentiality of the records. In 1978, 42 States had met the criteria. 2/ However, there still remains a great variation among the States in coping with the confidentiality problems. This is partially due to the differences in the State statutes on this subject. Some States have specific legislative or regulatory provisions regarding confidentiality of the records, including requirements involving access, sealing, and purging.

The statutory requirements for data confidentiality are summarized in the table that follows: 3/

1/ 45 C.F.R. 1340.3 - 3(d)(5)

2/ HEW-MIS op. cit., p. 6

3/ Ibid. p. 19

CONFIDENTIALITY OF INFORMATION IN STATUTORY
CENTRAL REGISTERS AND EXCEPTIONS TO THE RULE*

States and Territories	CENTRAL REGISTER INFORMATION MAY BE RELEASED:													
	Law Provides Specific Exceptions to Confidentiality	To a Child Protective Agency Investigating a Report Treating a Child/Family	To Police or Law Enforcement Agency Investigating a Report	To a Physician Who Has a Child Before Him	To a Person With Authority to Take a Child into Protective Custody	To an Agency Which is Authorized to Treat or Supervise a Child or Parent/Guardian	To Any Person Named in a Report; If He is a Minor or Incarcerated, to His Guardian Ad Litem	To Any Person Responsible for a Child, With Protection for the Identity of Appropriate Persons	To a Court for In Camera Inspection Unless It Determines Public Disclosure is Necessary	To a Grand Jury	To Any State or Local Official Responsible for Child Protection or Legislation	To Any Person Engaged in Beta File Research With No Identifying Information of Subjects Given Unless a State Official Gives Approval	To Other Persons as a Court May Order	To a State or County Attorney
Alabama	X		X	X			X ¹		X ²	X	X			
Alaska	X	X								X				
Arizona	X ¹	X	X	X	X	X			X ²					X
Arkansas	X			X	X	X	X		X ²					
California	X	X	X	X					X ²		X		X	
Colorado	X	X	X	X		X	X	X	X				X	
Connecticut	4													
Delaware	4													
District of Columbia	X	X	X	X			X	X			X ³		X	
Florida	X	X									X			
Georgia														
Hawaii	X	X				X				X				
Idaho														X
Illinois	4													
Indiana														
Iowa	X	X		X	X	X ⁵	X ⁶		X ^{2,7}	X	X			
Kansas														
Kentucky														
Louisiana	X									X				
Maine														
Maryland	X ³	X		X		X				X				
Massachusetts														X
Michigan	X	X	X	X	X	X	X ⁴		X ²	X	X			
Minnesota														
Mississippi														X
Missouri	X	X		X			X		X ²	X	X			
Montana														X
Nebaska	X	X							X ²	X	X		X	
Nevada	X		X	X	X	X	X	X	X	X	X		X	
New Hampshire	4													
New Jersey	X	X	X	X	X	X			X	X	X ⁸	X	X	
New Mexico														
New York	X			X	X	X	X ⁷		X ²	X	X ⁸	X		
North Carolina	4													
North Dakota														
Ohio														
Oklahoma	X	X	X										X	
Oregon	X		X	X										
Pennsylvania	X	X ⁹		X								X		
Rhode Island														X
South Carolina	X	X	X				X ⁹		X ²		X		X	
South Dakota	X								X ²			X	X	
Tennessee	4													
Texas	4													
Utah														
Vermont	X	X ¹⁰					X ⁶			X			X	
Virginia	4													
Washington	X	X	X	X			X					X	X	
West Virginia														
Wisconsin														
Wyoming	X	X	X	X	X	X	X	X	X	X				
American Samoa	X			X	X	X	X ⁶		X ²		X			
Guam	X		X ¹¹											
Puerto Rico														
Virgin Islands														

*This table was developed solely from statutory provisions dealing with child abuse and register central registers in effect January 1, 1978. These returns are listed on pages 28-32. Numbers in the table refer to explanatory notes that appear on page 28.

Among the 28 States that have statutory central registers, all have included confidentiality provisions and exceptions regarding who shall have access to the data. In some instances all control over access is given to the department operating and maintaining the central register.

Some State statutes also provide for purging and sealing or modification of records. Again elimination of child abuse records from the registers varies greatly from one jurisdiction to another. These actions, although not required by all States, may be undertaken under the following conditions: 1/

- When a child reaches the age of 18;
- No later than when the child reaches age 28;
- When seven years have elapsed since the last report;
- When ten years have elapsed since the last report; and
- If a report is unfounded.

The destruction or expunction of a record may become necessary and procedures that limit access to the record may also be necessary to protect the child and his family. 2/ While destruction limits future access, sealing means that the record is removed from the register and is held in a secure, segregated area. By 1978, 18 jurisdictions had established, by statute, processes to permit purging, sealing, and modification of central register records. In some instances "initial reports" of abuse and neglect are entered for a limited time period and eventually classified as founded or unfounded. 3/

1/ Ibid., p. 20.

2/ Ibid., p. 18.

3/ Ibid., p. 21.

IV. THE FUTURE: TRENDS AND CHALLENGES

In the past decade the enactment of Federal and State legislation to protect children from maltreatment has contributed to a general understanding of the problem. Both legislative reporting requirements and public awareness programs have provided a grasp of the problem and have prompted the development of valuable information resources. While the contribution of the reporting systems and other efforts have been significant, the data collection systems are not without some problems.

Appropriate data handling and safeguarding of information to protect the victim and others from unwarranted abuse has been a continuing goal. Questions have been raised regarding the appropriateness of some data collections, specifically in instances where the reports are unvalidated. In addition, the question of the individual's right of access to, and challenge of the information has also been raised.

In the future it seems likely that factors affecting parenting will change, especially as more pressure is placed on the family in a complex society. Therefore, traditional methods of handling the problem of child abuse and neglect may require innovative approaches.

Protecting the right to privacy of individuals who are part of a child abuse or neglect investigation remains a critical problem. The legal safeguards of confidentiality of records, right to inspect and challenge record contents, and controls over dissemination and disclosure of these records must be defined within the context of traditional American values and the U.S. judicial system.

Currently, Federal regulations provide some protection, but new security and confidentiality safeguards may be required to further protect the child and his family. Since many of the causes of child abuse and neglect are inherently rooted in the society, existing legal remedies may not be adequate. There may be a need to provide "comprehensive support" to the involved individuals.

Recent innovations in reporting and data collection have highlighted the need for additional examination of causes of abuse. Certain areas require further study and may need legislative or administrative action to ensure their compatibility with societal values.

Some significant concerns that may require further attention include:

- Assessment of Federal intervention into child abuse and related matters;
- Appropriate controls on information systems;
- Provisions for standards on sealing and purging of records;
- Evaluation of the identification-investigation-intervention process in child abuse.

Extension and intrusion of Federal controls in the area of child abuse and neglect have been questioned. The philosophical problem of Federal versus State controls in the instance of child abuse and neglect presents a very special dilemma. There may be a need to assess fully the impact of further Federal intrusion in this sensitive area.

A major problem that affects most information systems, and that has special implications for child abuse and neglect systems, is achieving both effectiveness and appropriateness.

In addition, questions of privacy and confidentiality, and the issue of disclosure and access, also must be considered. An extension

of this concept of access relates to purging and sealing records in this area. Some critics have pointed out that there is a lack of explicit Federal guidelines to assist States and other jurisdictions in coping with the removal of records from child information systems.

The evaluation and support of child abuse programs must ultimately be measured in terms of human requirements and available resources. Both judicial and legislative actions must be considered in the development of child abuse information programs and the requirements of the child and the society also must influence the development criteria.

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