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We are becoming increasingly aware of the serious problems of child abuse and neglect. Professors Arnold and Hurd believe that because of the complex nature of these problems, the solution lies in a multidisciplinary approach. The legal profession is one of the necessary disciplines. Professor Arnold suggests that members of the legal profession in Wyoming are in a unique position to lead the way to a solution.

CHILD PROTECTION: A SUGGESTED ROLE FOR MEMBERS OF THE WYOMING STATE BAR

*George L. Arnold**

*Jeanne L. Hurd***

One important principle seems to be agreed upon. The study, understanding, and development of programs to deal effectively with child abuse and neglect are beyond the professional competence of any one of the related disciplines—law, medicine, social work, psychiatry, psychology, and others—and beyond the capacity of any single community resource—law enforcement, welfare programs, courts, hospitals, private family agencies, and so forth. Thus, effective programs will require interdisciplinary efforts and coordination of community resources. Such cooperation and coordination have always been difficult to achieve.¹

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1. Thomas, *Child Abuse and Neglect*, 50 N. CAROLINA L. REV. 293, 392 (1972).

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The Legal Framework in Wyoming for Child Protection

IF you stop off at Stuckey's on Interstate 80 between Laramie and Arlington and browse among the curios that are reflective of the modern traveller you will find a shellacked piece of plywood fashioned in the form of a mother's hand, with the inscription blazened across it, "Mother's Little Helper." It sells for the ridiculously low price of \$1.75 and may be used by mother, father, and older sibling alike. It is a gentle reminder of a deeper and barbaric code. Children are the property of their parents; society and the law will not intervene to protect the child; the business of raising and "disciplining" is the concern and duty of the family alone.²

Every year 65,000 American children are seriously abused by their parents or by parent surrogates. At least 25% turn out to be seriously, often permanently, injured. Approximately 6,000 of these children die from their injuries. Disturbing as these statistics are, even more disturbing is the fact that, until very recently, child abuse was a secret crime in an America that once believed that the parent's right to discipline his child was inviolable.³

Within the past decade, however, thanks largely to the leadership of Drs. C. Henry Kempe and Ray Helfer at the University of Colorado Medical Center and to Dr. Vincent De Francis, Director of the Children's Division of the American Humane Association in Denver, national attention has begun to focus upon the magnitude of the so-called "battered child syndrome" and upon its vastly larger cousin, the syndrome of child neglect. Now in the '70's, the establishment across the nation of multidisciplinary team approaches to the two-headed problem of abuse and neglect is a vivid illustration of an "idea whose time has come."

Wyoming cannot afford to close its eyes to the problems of child abuse and neglect, as they are by no means limited to the nation's urban areas. John Marros, State Director of the Department of Public Assistance and Social Services, stated

2. Wheeler, *THE NEW ERA* (Sunday News) (Lancaster, Penn.) April 1, 1973, at 4a, co. 2.

3. Thomas, *supra* note 1.

recently that child abuse reporting has tripled in Wyoming during the past year, indicating a growing public awareness of both the problem itself and of the need for reporting it. But unless coordinated services are available to help both the battered child and his family, reporting alone is of small value. Until now, no such coordinated services have been proposed.⁴

Our cultural heritage of permitting, and even sanctioning, violence against our children is under attack throughout the United States.⁵ All 50 states, the District of Columbia, and the Virgin Islands now require mandatory reporting of child abuse to a designated agency such as the Department of Social Welfare, police or sheriff, municipal or county peace office, county or juvenile probation division, family court of the county in which the victim resides, the appropriate juvenile judge, the county attorney, or a medical investigator.⁶

Child abuse in the state of Wyoming is presently under the supervision of the Department of Public Assistance and Social Services (D-PASS), located in Cheyenne, Wyoming. As provided by statute⁷ all cases of child abuse must be reported by the county officer of public assistance to the control office in Cheyenne. The purpose of this reporting procedure is not to remove responsibility from the local centers but, rather, to provide a central registry for a coordinated effort treatment of cases and suggestions for the prevention of future incidents of a similar nature.

The problem of defining what constitutes child abuse is also dealt with by statute⁸ in Wyoming. Many conditions are listed but all require that where a suspicious physical condition exists or a death occurs such condition or death is not justifiably explained, or where the history given concerning such condition or death is at variance with the degree or type of condition or death, or circumstances which indicate that such condition may not be the product of an accidental occurrence.

4. Interview with John Marros, statewide Director of the Department of Public Assistance and Social Services of Wyoming in Cheyenne, Wyoming, February 21, 1973.

5. Donovan, *The Legal Response to Child Abuse*, 11 WM. & MARY L. REV., 968-981 (1970). For an excellent historical overview of our legal and social attitudes, see Thomas, *supra* note 1; Cooksey, *The Battered Child, Louisiana's Response to the Cry*, 17 LOYOLA L. REV. 373 (1970-71).

6. Donovan, *supra* note 5.

7. WYO. STAT. § 14-28.13 (Supp. 1973).

8. WYO. STAT. § 14-28.7 (Supp. 1973).

Included in the list of conditions are bruising, bleeding, swelling of soft tissue fractures, sexual molestation, malnutrition or failure to thrive and burns. It is clear from the broad approach that what is contemplated by the statute is not only physical abuse but psychological abuse as well.

Reporting observed abuses is mandatory in Wyoming for most professionals who come into contact with children for activities such as treatment, examination care, aid, or schooling. It is provided that when a child under 18 years of age is brought for examination, care, treatment, aid or assistance before a physician, dentist, chiropractor, intern, nurse, school teacher or administrator or social worker⁹ and if there is evidence giving reasonable cause to suspect child abuse, these persons *shall* notify the person in charge of the institution who *shall* report the incident to D-PASS.

When a case is observed there must be an immediate reporting by telephone or otherwise followed by a reporting in writing if requested by D-PASS in the county where the abuse or evidence thereof was observed.¹⁰ Upon receiving a report of child abuse, an office of D-PASS shall immediately investigate the incident and offer such services as may be necessary to protect the child.¹¹ If legal action is necessary to protect the child, the county attorney shall be contacted by D-PASS. Children may be taken into custody if they appear to be abandoned or it appears necessary for their protection.¹²

Parental rights may be terminated if, in district court, the evidence shows that the child has been abandoned, or that the parents have failed to support and maintain the child for a period of one year or that the parent is unfit by reason of physically abusing a child or neglecting him.¹³

The question is often raised pertaining to civil liability for reporting. The Wyoming legislature has provided that

9. WYO. STAT. § 14-28.8 (Supp. 1973). The list of persons who must report these incidents also includes surgeons, osteopaths, podiatrists, residents, druggists, pharmacists, and laboratory technicians.

10. WYO. STAT. § 14-28.9 (Supp. 1973).

11. WYO. STAT. § 14-28.10 (Supp. 1973).

12. WYO. STAT. § 14-115.6 (Supp. 1973).

13. WYO. STAT. § 14-53 (1957).

anyone acting in good faith¹⁴ in the making of a report or performing his official duties in response to a report or participating in a judicial proceeding resulting from a report shall be immune from any liability, civil or criminal.¹⁵ Also, it is to be noted that use of physician-patient and husband-wife evidentiary privileges concerning child abuse testimony is no longer grounds for excluding evidence when it involves a report to the D-PASS office.¹⁶

A greater flexibility in the treatment of the battered child and his parents is provided in the Juvenile Court Act of 1971.¹⁷ The Act defines a neglected child in terms of physical abuse or unreasonable exercise of parental authority, or a child who has been abandoned or lacks necessary supervision because of acts, omissions, conduct or habits of his parents or guardian or because of other inability of his parents or guardian to care for him. Excepted from these provisions are children who are being treated by spiritual methods or prayer when practiced in accordance with the tenets of a recognized religious denomination. Thus defined, a neglected child includes both physical abuse and serious neglect.

When an appropriate child abuse case is referred to the county attorney, he has three options. The first is punitive and seeks a criminal conviction. The second is to use the juvenile code and seek protection of the child through a court order such as moving the child from home and placing it in temporary or permanent custody or leaving the child in the home or to leave it in the home upon the condition to take appropriate steps designed to prevent a re-occurrence of child abuse. The third is to refer the case to a local child support team which will make recommendations as to the treatment needed with respect to both the parents and the child. This is the so-called team approach, drawing upon all of the

14. This requirement refers to the "reasonable cause" requirements of reporting and is aimed at eliminating malicious reporting by bickering neighbors. No immunity is afforded those who act in a malicious manner toward others which means that one who reports a case of child abuse without reasonable cause is in danger of incurring liability for his trouble.

15. WYO. STAT. § 14-28.11 (Supp. 1973).

16. WYO. STAT. § 14-28.12 (Supp. 1973).

17. WYO. STAT. § 14-115.1 to 14-115.44. See Comment, *The Wyoming Juvenile Court Act of 1971*, 8 LAND & WATER L. REV. 237 (1973), which contains a detailed analysis of the Juvenile Court Act of 1971.

disciplines in the local community which have resources available.

Criminal Prosecution Outmoded

If one starts by analyzing the grim variety of methods employed in the perpetration of child abuse he cannot help but initially conclude that abusers should be handled within the framework of the criminal justice system. "There is no act so violent or sadistic that it has not been carried out on some child, somewhere," stated one emergency room physician.¹⁸ Beating (both with hands and weapons), kicking, torturing, strangling, suffocation, drowning, shooting, stabbing, scalding, burning, poisoning, dismemberment, starving, imprisonment, freezing and crushing—all belong within the abuser's grisly arsenal.¹⁹

But in spite of the "criminal" nature of the above acts, tried and true police procedures, primarily oriented toward criminal prosecution, are now changing in favor of a less punitive approach. Pragmatism dictates that criminal prosecution cannot be justified for cases of child abuse on the grounds of community protection, since abusive parents are seldom a threat to anyone outside the family.²⁰ Neither can it be justified for its deterrence value because of the highly charged emotional climate normally associated with an incident of abuse. Incarceration of a convicted abusive parent achieves only a temporary period of safety for a child victim at best, and prisons cannot be expected to improve parental caretaking abilities. At worst, this respite for the child is gained at the cost of the family's means of support or the potential for adequate future child care within the family.²¹

Furthermore, research has uncovered compelling evidence that most child abusers have themselves suffered severe abuse as children.²² In studies done of convicted murderers a common history of violence in childhood has been ascertained. Duncan *et al* interviewed six white, intelligent, first-

18. Wheeler, *supra* note 2.

19. V. DEFRANCIS, CHILD ABUSE—A NATIONAL SURVEY; DENVER: AMERICAN HUMANE ASSOCIATION, CHILDREN'S DIVISION (1968).

20. C. KEMPE & R. HELFER, HELPING THE BATTERED CHILD AND HIS FAMILY 242 (1972).

21. *Id.*

22. *Id.* at 104.

degree murderers and their families, finding that remorseless physical brutality at the hands of the parents had been a constant experience for four of them.²³ Curtis²⁴ reviewed the early literature on this subject and pointed out the tendency for the child to identify with aggressive parents and pattern after their behavior. Easson and Steinhilber²⁵ saw eight boys, ages eight to sixteen, in psychiatric consultation who had attempted murder, one successfully. In all cases, the parents had been a model for aggression and violence. In an as yet unvalidated report from an eastern city, a consecutive series of 100 juvenile offenders who had assaulted others were interviewed. Eighty percent gave a history of physical abuse by their parents during childhood, forty percent to the extent of having been rendered unconscious by beatings.²⁶

This evidence strongly supports the theory that violence is a self-perpetuating style of life.²⁷ Child abuse has not infrequently been traced back through three or four generations. It thus follows that effective handling of the problem can come about only by learning to break the vicious cycle of abuse.

II. Child Protection in Wyoming

A Pioneering Approach

Currently there are 180 child abuse teams in the U.S.A., all based in large cities. In January of 1973, the National Center for the Study of Child Abuse and Neglect was opened at the University of Colorado Medical Center. Proposed federal laws regarding child abuse are not pending.²⁸ But to date, all efforts have been geared toward urban areas, in spite of the fact that child abuse and neglect occur universally, whether the child's environment is an urban or a rural one.²⁹

23. Duncan, *Etiological Factors in First-Degree Murder*, 168 JOURNAL OF AMERICAN MEDICAL ASSOCIATION 1755-1758 (1958).

24. Curtis, *Violence Breeds Violence—Perhaps?*, 120 AMERICAN JOURNAL PSYCHIATRY 386-387 (1963).

25. Easson, Sheinhaber, *Murderous Aggression by Children and Adolescents*, 4 ARCHIVES OF GENERAL PSYCHIATRY 27-35 (1961).

26. Steele, *Violence in Our Society*, 33 PHAROS OF ALPHA OMEGA 42-48 (1970).

27. *Supra* note 20, at 105.

28. H. R. 6421, United States House of Representatives, proposed by the Honorable Teno Roncalio.

29. *Supra* note 20, at 30.

Wyoming has a unique opportunity to pioneer in the development of a predominantly rural program—an area so far untouched elsewhere. By so doing it can serve as a model for other states with similar populations. Traditionally, university-based physicians have assumed the leadership in child protection efforts.³⁰ Wyoming, however, has no medical school. But it does have a College of Law, and every community in Wyoming, no matter how small, has access to police protection. It would thus appear that leadership in this state should logically come from law in cooperation with the Department of Public Assistance and Social Services which is charged with the legal responsibility for the investigation of all suspected cases of child abuse.

The Wyoming Child Protection Center

In the fall of 1972 the Wyoming Child Protection Center was founded. Operating under the aegis of the University of Wyoming College of Law the Center coordinates the expertise of professionals from social service, health and law enforcement agencies, medicine, law, the clergy, the public schools and the University. With a three-pronged goal of education, therapy and research, the objective of the Child Protection Center is to initiate, stimulate and coordinate the activities and efforts of Child Protection Councils and Child Protection Teams in communities throughout the state. Essential to the Center's program is the concept of a multidisciplinary, inter-agency effort by which the expertise of a variety of professionals is brought together in a coordinated approach to what is in the last analysis a total family problem. The continuous study of methods of preventing child abuse is an integral part of the overall effort.

Suggested Local Guidelines

Because the Center functions primarily in a coordinating and advisory capacity, the structure and composition of each local team is largely dependent, not only upon the services available in that locale, but also upon the interests and energies of the local citizenry. The successful implementation of each

30. Carl Pollack, M.D., and B. F. Steele, M.D., of the University of Colorado Medical Center are examples of the most widely known physicians in the area.

local child abuse prevention and treatment program depends upon the availability of a number of people of a variety of backgrounds and experience who can be helpful both to the abused child and to his family. No single approach will be effective in every community. Because of the usual unavailability of psychiatrists in Wyoming, an effective therapeutic program must be developed which is not dependent upon long-term psychiatric treatment. The large majority (approximately 80%) of abusive parents are not mentally ill; thus an intensive psychiatric approach is not necessary.³¹

After the establishment of workable reporting procedures, every community should be prepared to provide follow-up services to abused children and their families. Such services must include:

1. Thorough investigation of each report. (The responsibility of the Department of Public Assistance and Social Services, with the collaboration of the police in emergencies.)
2. Decision regarding immediate protection needs of the children.
3. Joint evaluation of the problem.
4. Development of a treatment plan.
5. Establishment of a therapeutic relationship with both parents and children.
6. Continuous evaluation of progress.

Each step following the initial report is a vital one. In the past, children and their families have too often received no assistance from the community because of professional disagreement as to whether or not abuse did actually occur and, if so, who was responsible for it. Successful therapists have discovered, however, that it is best to drop the "who-done-it" approach and get on with helping the child and his troubled family.³² Thus the implementation of a meaningful preventive therapy program must often occur long before any firm determination of child abuse has been made.

31. Kempe, 51 *PEDIATRICS*, Number 4, Part II, 806 (1973).

32. *Supra* note 20, at 22.

Individuals from a variety of professional and civic groups can be mobilized and molded into effective Child Protection Councils and Teams. The following services will be discussed below:

1. Health (including counselling services)
2. Social services
3. Lay therapy
4. Education
5. Law
6. Student Training

1. *Health*

Most child abuse case reports generate from health facilities. Medical and nursing professionals and hospital emergency personnel are the first to be involved in 60% to 80% of abuse cases.³³

These specialists must develop the ability to gather appropriate historical data, interpret physical findings and laboratory results, maintain meaningful communication with social and other community agency workers, understand their own feelings about parents who physically injure small children, meet their responsibilities to the courts, and participate in long-term followup as part of the therapeutic plan for the child and his parents.³⁴

Although many practicing physicians have the ability to become excellent child abuse consultants, the pressures of time frequently prevent their handling the many details of each case. It is thus highly desirable that every locality have available to the medical community an individual or office that can give immediate guidance in the managing of a battered child.

It should be emphasized that the physician is mandated by law to report even his *suspicion* of child abuse;³⁵ thus he should not limit his reporting only to those cases regarding which he believes there is conclusive evidence. Many studies

33. *Id.* at 161.

34. *Id.* at 163.

35. WYO. STAT. § 14-28.8 (Supp. 1973).

include repeated examples of physicians who have been reluctant to report cases of suspected abuse because they could not produce adequate proof or because they felt that the act of reporting would damage their relationship with the abusing parents or because of mistaken fears of civil or criminal liability.³⁶ Experts now believe, however, that child abuse may be frequently viewed as a "cry for help." Often it is a tremendous relief to the parents to have the matter brought out in the open. Needless to say, there are few situations in which the physicians' compassion and interviewing skills are more important.

The public health nurse is often a key professional in the identification and treatment of the battered child and his family. She is usually readily admitted to family homes and in her capacity as a nonthreatening health worker, she can often develop a meaningful therapeutic relationship with parents and children. In her role as a helping professional, the public health nurse must be careful not to be critical of a slovenly home or an inadequate mother. She must resist the temptation to give advice and do a great deal more sympathetic listening than talking. She must be patient, take plenty of time and she must not obviously appear to teach. A weekly or twice-weekly nursing visit to the home carried out in an informal, friendly way is often an adequate method of providing treatment for many families. If professional counseling services are available in the community, these can become an invaluable component of the treatment program.

2. *Social Services*

The social worker's major role, in addition to investigating reports of child abuse, is to contribute an assessment of the social situation as it relates to the overall medical/social problem. She (or he) must develop an understanding of the abusive parents and obtain and assess the pertinent social information. She must collaborate with and provide consultation to those making an attempt to understand and work with the child and his family.

The social worker faces one of her most challenging clients when she meets a suspected abusive parent. Her initial

36. Note, *The Battered Child*, 8 SAN DIEGO L. REV., 370-371 (1971).

role is to gather information, but in so doing she can begin a very important therapeutic relationship. The gratifications received from working with parents who abuse their children are of a different nature than those received from other clients. The limitation of these parents, both in communication and in establishing a relationship with others, bring the social worker face to face with extreme degrees of testing, demands, anger and hostility. These parents are imbued with the idea that they are going to be rejected. They are deeply suspicious of the motives of others and are preoccupied with the feelings that advantage will be taken of them. They must be reached, and trust must be established, if they are to be helped. Having someone who is sincerely interested in listening, and who is not critical of what she hears, can be of extreme importance in the development of a therapeutic relationship.³⁷

The social worker must recognize abuse as a symptom rather than as the core of the problem. She must realize abusing parents have characteristically found throughout their lives that those to whom they have turned for help usually hurt or disappoint them. As the relationship develops these parents must be encouraged to look to the worker as a source of help in a crisis as a constructive substitute for taking out their frustrations on their children. Crises comprise the life style of most of these families, thus they must be provided with an "escape" at the time of crisis. It is helpful if the worker can be available by telephone on a 24-hour basis.³⁸

3. *Lay Therapy*

In less than 10% of all cases of child abuse it has been found that one of the parents is suffering from a major psychosis or that the attacking parent is an aggressive psychopath. Successful handling of the problem in such cases depends upon early diagnosis and immediate removal of the child from the home, as such parents are beyond the reach of ordinary therapeutic measures. In 90% of abuse cases, however, effective treatment can be carried out without termination of parental rights.³⁹ The Child Abuse Team at the Colo-

37. *Supra* note 20, at 22-23.

38. *Id.* at 26-27.

39. *Id.* INTRODUCTION at XII.

rado General Hospital has achieved excellent therapeutic results through the use of lay therapists. These men and women, from all walks of life, received good parenting themselves and have functioned in turn as successful parents of their own children. They can thus relate in a parenting role to abusive parents who themselves lacked good parenting as children. Communities desiring to provide help for abusive parents could well use the services of skilled and motivated lay workers, who work under the professional supervision of mental health or social service personnel. The task of such individuals is to focus on the parents rather than the children, on the premise that if the parents are helped to feel secure in the role, the children will be protected.

In Laramie, Wyoming, the Laramie Child Protection Council contracted with the Mental Health Center to help recruit, train and supervise parent aides. Of the nine persons participating in the parent aide training program, five completed training. The qualifications needed for parent aides were:

1. Had children in school or grown.
2. Ability to respond in a warm, nurturing manner.
3. Able to make a long-term commitment.
4. Had a reasonably happy childhood and were not abused.
5. Were reasonably free from stresses at home and able to give of themselves.

The orientation and training sessions involved 15 hours of meetings. These covered the following areas:

1. Orientation to the program.
2. Didactic presentation of characteristics of abusing and neglecting parents and potential modalities of intervention.
3. Developing listening skills and other elements of a health relationship.
4. Trip to Denver to observe and hear from the staff at the Child Abuse Center.
5. Information about services of community agencies.

To date three parent aides have already been assigned to families.

In the report of the Albany Branch Southeast Mental Health Center, dated October 5, 1973, it was concluded:

It is too early to label the program a success because we, the parents, and the parent aides all need more experience. However, we feel heartened by several factors:

1. Willing and effective parent aides are available in the community.
2. It appears that their helping skills can be enhanced through a training program.
3. Since the kinds of cases to whom they have been assigned are persons who are in need of long-term, supportive assistance, results will not be known for some time. However, it has decreased the amount of time which Mental Health and Public Welfare staff members would have needed to devote to the client.

4. *Education*

For the older child who is abused, the school may be the major source of assistance. Yet it is this very institution that so often ignores his problem and permits him to return to his home day after day to be the victim of continued abuse. School personnel must learn to accept their legal and moral responsibility to the abused children who are the most needy members of their pupil population. The early involvement of the school can be the first step in the establishment of an effective therapeutic program. A suggested operating procedure might include the following:⁴⁰

1. Special training program for teachers to enable them to recognize cases of possible physical abuse.
2. Specific instructions for the teacher encouraging him to report *all* suspected cases to a stated individual in his school.
3. Medical examination of the child to determine the extent of injury.

40. *Id.* at 122.

4. Reporting of the case to the Department of Public Assistance and Social Service and to the local Child Protection Team.
5. Follow-through on each case to determine the school's effectiveness in its part of the therapeutic program worked out as the result of the above.

5. *Law*

The role played by the police, lawyers and the courts is often thought of as punitive and authoritarian in relation to cases of child abuse. This, however, is now an outmoded concept which is not only contrary to the new thinking in judicial process but is also inconsistent with empirical experience in the establishment of a helping relationship with abused children and their families.

The assumption of a positive role enables legal and law enforcement professionals to become important adjuncts to a therapeutic child protection program moving them away from the old adversary concept of dealing with abusive parents and their children.⁴¹

Prosecutors have considerable latitude in determining whether or not to prosecute an alleged offender for child abuse, and in whether to charge him with a felony or a misdemeanor. Hence, in terms of the customs and culture of a community, variations may occur in deciding where an exercise of reasonable parental authority stops and child abuse begins. Community attitudes toward different racial and ethnic groups may also create variable standards in the law's application. In critically examining criminal prosecution of an abusive parent, "we need to look at the methods by which the law exacts its toll and at their effect on those most directly concerned, the parent and the child. Second, we must assess the results obtained in terms of lasting benefits or detriments to these same parents and children."⁴² A criminal proceeding is designed to be punitive rather than therapeutic.⁴³ If the accused parent denies the charge, the state must be well buttressed with evidence if it is to obtain a conviction.

41. *Id.* at 187-207; Cooksey, *The Battered Child, Louisiana's Response to the Cry*, 17 *LOYOLA L. REV.* 382-383 (1970-71).

42. *Supra* note 20, at 189.

43. *Id.*

If a parent accused of the crime of child abuse is acquitted in court, he usually feels that he has been vindicated, thus that his parental behavior is acceptable to society.⁴⁴ A parent's battering tendencies may therefore be reinforced, although the subsequent methods he chooses may become more cunning and subtle. Upon a plea of guilty or in the event of a conviction, probation may be granted. It is rare, however, that a probation period results in any therapeutic gains. Thus, if the criminal prosecution route is chosen in handling child abuse, the true causes of the battering parent's conduct are not sought out and therefore go untreated. The repetitive cycle then continues.⁴⁵

Juvenile and family courts can be effective agents in both the prevention and treatment of child abuse. Both judges and lawyers, however, must be willing to modify traditional legal processes in order to achieve this status, which means that they must view the battered child as more than a legal problem. To approach the problem intelligently, the judge must understand the pathology of child abuse and the family dynamics which produce it. He needs the help of health and social service specialists. In all cases of suspected child abuse and neglect, a referral must be made to the Department of Public Assistance and Social Services. The parents should be directed to a source of treatment, preferably by way of the local Child Protection Team.

Today, there is considerable uncertainty as to the role legal counsel has in family litigation.⁴⁶ Nowhere is this confusion more evident than in the handling of child abuse and neglect cases. The lawyer often approaches these cases with trepidation, his dilemma being compounded by the fact that strict adherence to traditional ethical concepts of advocacy might ultimately result in exposing a child to further and more serious injury. However, excessive rejection of traditional legal safeguards and procedures carries with it the potential for serious abuse of individual rights.

44. *Id.* at 190-191.

45. *Id.*

46. *Id.* at 193-194, 225-239.

The counsel for the child⁴⁷ must see that all relevant facts bearing on the nature and extent of the injury sustained by the child are presented to the court. He can then participate meaningfully in the formulation of the ultimate plan for disposition of the case if properly supported by available consultative services. This approach imposes a burden of specialized competence and capacity far beyond that normally required of the practicing attorney; but it may also present him with an unprecedented challenge.⁴⁸

The counsel for the parent has at least eight separate functions.⁴⁹ As in the case of the child's lawyer, he can insure impartiality by acting as a counterbalance to the hostility and emotionalism engendered in court by the very nature of the issues. He can assure that the basic elements of due process are preserved, such as the right to be heard and the right to test the facts upon which the disposition is to be made. He can make certain the disposition is based upon complete and accurate facts and that all the circumstances which shed light upon the conduct of his client are adduced. He can test expert opinion to make certain that it is not based on errors either arising from the factual premises on which it rests or from the conclusions derived from these facts. He can give the frequently inarticulate parent a voice in the proceedings by acting as his spokesman. His relation with the parents may even enable him to give the probation department or other auxiliary staff of the court new and meaningful insights into

47. Wyo. STAT. § 14-115.23 (Supp. 1973) provides:

At their first appearance before the court the child and his parents, guardian or custodian shall be advised by the court that they have a right to be represented by counsel at every stage of the proceedings, including appeal, that they may employ counsel of their own choice; and, in all cases, the court will upon request appoint counsel to represent the child if the child and his parents, guardian, custodian or other person responsible for the child's support are unable to obtain counsel. If appointment of counsel is requested, the court shall require the child and his parents, guardian, custodian or other person legally responsible for the child's support to verify their financial condition under oath, either by written affidavit signed and sworn to by said parties or by sworn testimony made a part of the record of the proceedings, stating that they are without sufficient money, property, assets or credit to employ counsel in their own behalf. The court may require such further verification of financial condition as it may deem necessary.

The court may appoint counsel for any party when necessary in the interest of justice.

48. *Supra* note 20, at 231.

49. *Id.* at 233-237.

the family situation. Finally, and equally important, he can interpret the court and its processes to the parent and thus assist him to the court's disposition.

Because police departments provide around-the-clock services, they can respond to crisis situations in a manner unequaled by other public service agencies. Furthermore, of all such agencies the police are the most visible in and familiar to local communities. Perhaps their greatest contribution to a combined community child protection program is in the area of case finding, a function enhanced by their authority to enter a home when the situation so demands.⁵⁰

Law enforcement agencies have a particular interest in the social problem posed by families in which children are victims of physical aggression, thus joint investigations of serious cases of child abuse by the police and the social worker capitalize on the strengths of both professions. Careful selection of police officers for assignment to such cases is essential, as the officers' attitudes toward abuse and abusers is as important as is their competence and experience.

It is important to determine at the time of the initial investigation whether or not there is a need for emergency removal of the child from the home. If there are no observable physical signs of abuse, the decision as to emergency removal must rest with the child protective agency caseworker.

An important means of maximizing police effectiveness is to make certain that law enforcement agencies are informed of all reported child abuse cases within their geographical jurisdictions, regardless of whether or not such cases are serious enough to warrant active police involvement. Forearmed with this information, the uniformed patrol officer can be watchful for indications of child maltreatment in the families so designated in his area during the performance of his regular day-to-day duties.

The Wyoming State Bar Association

The Wyoming lawyer, county prosecutor, and judge are in a unique position to establish local community child sup-

50. WYO. STAT. § 14-115.6 (III) (Supp. 1973).

port teams. The legal profession possesses high skills and experience in negotiating, coordinating and mediating all types of disputes. It also has the respect of the community. These of course are somewhat intangible assets, but they can be made powerful forces in establishing local multi-disciplinary teams. The lawyer, prosecutor or a judge usually personally knows the representatives in the community of the other disciplines which can aid in treating the battered child and his family. It is he who can best serve as the catalyst to the formation of local teams.

This is certainly a function which should be sponsored by the Wyoming State Bar Association. No other state has attacked the problem of child abuse under the leadership of the state bar association. With one lawyer in each community, Wyoming should have a state wide program of child protection teams within one year. Already we have local attorneys working in Laramie, Casper, Rock Springs, Lander and Sheridan.

Student Training

Another highly important function of the state bar would be to encourage student training in child protection at the College of Law, University of Wyoming. Last year the law school had approximately 37 volunteer students and a student director of the program. The amount of work and dedication these students gave was a pleasant surprise. Written research reports were prepared on such topics as the overall child protection laws in Wyoming, the strength and deficiencies of child reporting laws and the state central registry, the potential liability of the person required by Wyoming Statutes § 14-28.8 to report child abuse for failure to make such a report, the case law immunity for a person not required by the statute who makes the report, analysis of the various methods presently being used in other states for the treatment of the battered child and family, and the concept of confidentiality of the Department of Public Assistance and Social Services records.

In addition, during their spring vacation law students returned to their local communities and gave written reports

on the resources available in their community. We received reports from Rock Springs, Kemmerer, Cody, Sheridan, Lander, Riverton, and Rawlins, and Casper. These reports laid the ground work for efforts by the center to follow-up and establish local teams.

Most importantly those students graduating and taking legal positions in Wyoming have been trained in our child protection concept and are in an excellent position to implement that concept in their local communities.

Since a multi-disciplinary approach is needed, the law school's program should be expanded to include the school of nursing, the social work program, and psychology.

III. *Laramie Pilot Program*

While other communities in Wyoming are doing some excellent initial work in child protection, the Laramie program will be described here, partly because it is this program with which the Center has been most closely involved and about which it is thus best informed, and partly because Laramie's program has been designed as a pilot, with the intention that its experimental methods and its results, both positive and negative, may be shared with other communities throughout the state.

A multidisciplinary approach to child protection began in Laramie in the summer of 1972 when a case of child abuse in the local Head Start program prompted representatives from several community agencies, the public schools and the University of Wyoming to sit down together and plan a coordinated therapeutic approach to this child and his family. Out of this initial effort grew the Laramie Child Protection Council with representation from medicine, social service, law, mental health, the police, public health nursing, family planning, the public schools, and the clergy. One of the state senators from Albany County is also a charter member. The Council initially studied possible approaches to a coordinated community child protection effort, and in November 1972, it brought two outstanding leaders in the field to Laramie. Dr. Harry Umlauf, Jr., associate chief of pediatrics and director of child abuse program at the Denver General Hospital and

the Honorable James Delaney, juvenile judge of the Brighton District Court, Brighton, Colorado, met with several professional community groups, providing valuable guidelines for the implementation of an effective team approach.

In February 1973, the Laramie Child Protection Team began to function. Initially it consisted of four members: A physician, an attorney, a social worker and a psychiatric nurse, with the director and coordinator of the Wyoming Child Protection Center as *ex officio* members. The team originally met once a month. It soon became apparent that the team's effectiveness was being hampered by too limited a membership and too infrequent meetings; thus in May of 1973, the team membership was expanded to include representatives from public health nursing, Family Planning, the police department, the public schools, Head Start and the Association for Retarded Children. Meeting weekly in the Public Health-Mental Health Complex at the Iverson Memorial Hospital, the team assesses cases presented by representatives from the Department of Public Assistance and Social Service, planning and implementing a therapeutic regimen for each family. In addition to the presentation and follow-up of abuse and neglect cases, the team devotes a part of its efforts to such projects as the writing of a proposal recommending a coordinated community approach to the multifaceted problem of crib death (Sudden Infant Death Syndrome) with its devastating effect upon the families involved. The team has also been asked to serve in an advisory capacity to Mental Health in said agency's new lay therapy program by means of which highly motivated, capable volunteers are being trained to work in a therapeutic capacity with abusive parents.

While Laramie's child protection program has been in operation for less than a year, it is not too early to point to several positive gains resulting from its functioning. First, while many problems regarding effective treatment still remain to be worked out, abusing and neglecting families are now under community surveillance, and the team is learning constructive ways in which to help them cope with their many problems. As a result, the team feels that a fair degree of

prevention of further abuse and neglect has been achieved. Second, as a result of the council's activities and the Team's ongoing casework, the community has developed a much greater awareness of the problem of child abuse and neglect, its etiology and available methods of treatment as opposed to a strictly punitive approach. Third, and especially important, thanks to the multidisciplinary nature of both the Council and the Team, Laramie's agency, school and university representatives are developing a habit of sitting down together and using a problem-solving approach to community problems—a technique which has already carried over to areas other than that of child abuse and neglect.⁵¹

On the basis of Laramie's experience, therefore, it can at this point be concluded that a multidisciplinary approach to child protection and family therapy can work in a Wyoming community with benefit to both the families and the professionals involved.

51. The fact that the College of Law, in its capacity as sponsor of this multidisciplinary effort, has identified itself professionally with a total approach to this problem is a significant step in the direction of true community responsibility in the area of the battered child. It can also be stated that active participation by the legal profession is of proven value and that Wyoming's unique model, *i.e.*, a coordinated child protection program under the aegis of law, is a viable one with compelling implications for other states.