



# **Decision Making in Care and Protection: The Expert Assessment**

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## ABSTRACT

*The assessment of abuse in child and protection matters is a matter of great concern in forensic assessments. Apart from the fact that expert reports carry weight in such circumstances, there is still not a clear consensus about what variables should be assessed, or how, and what weight should be given to them. The outcomes of such assessments are not known, and as such, professionals get little feedback about what works, and does not. There are few follow up studies, and none of the kind found in other areas of forensic psychology assessing risk of recidivism in sex or violent offenders, or general criminal recidivism. Despite the complexity of child abuse assessments, it appears necessary to explore the issues and assessment strategies that psychologists and other experts use to promote both the effectiveness of reports, and their accuracy.*

## INTRODUCTION

Decision making is generally an uncertain process and in forensic practice is oriented towards identifying, assessing and quantifying risk. Risk can be defined as a social construct invented to cope with the changes and uncertainties of life, (Mellers, Schwartz & Cooke, 1998) and refers to both the likelihood or occurrence of a specific event, and the severity of that event.

Forensic assessment can proceed through either clinical or intuitive processes, actuarial or analytical reasoning processes, or ideally through a mix of both (Blackburn, 1993). Whatever process is used, professionals must be able to defend their process and conclusions in court.

At their most fundamental, expert reports in child protection cases are (hopefully) sophisticated inquiries into parenting behaviours. There are

no gold standards. Reports prepared for these kinds of matters are important and have implications. Jamieson, Tranah and Sheldrick (1999) present research from England that identifies multi-disciplinary team assessments have a considerable impact on court outcomes. In a study of 37 consecutive child care cases the recommendations in the report were followed entirely in 73% of the cases. This is despite the trenchant criticisms of expert reports found in the literature (Budd, 2001).

A recent survey of 190 expert reports in the United States, (Budd et al, 2001 cited in Budd, 2001) found numerous problems with expert child abuse assessments. Budd identifies the following as problems in assessments: reliance on single session assessments, little in the way of corroborating information other than the parents, rarely included parent-child observation, and, somewhat

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surprisingly, often failed to describe the parent's caregiving qualities or the child's relationship with the parent. A further issue is the extent to which such assessments represent extensions of white-middle-class expectations of what parenting is (Riddle & Aponte, 1999), especially as in many cases of child abuse identifiable harms to children are matters of debate and increasingly, adversarial court-room argument. Values about the quality of supervision, discipline standards and child care can become translated into prescriptive statements, without much in the way of research to substantiate the application of such standards when making child protection judgements.

Child abuse is distressingly frequent in Australia, as in most countries. In 1997 there were a total of 15,718 children on care and protection orders of one form or another across Australia (AIHW, 1998). In that year 65% of the children on care and protection orders (10,216 children) were living out of home. Of that number 89% were in foster or other home-based care settings, reflecting the increasing trend towards reducing institutional care for out-of-home children. Of all states in Australia, NSW has the highest proportions of children placed with kin (extended families) at 43% of all out-of-home children. National data ceases after 1997.

Indigenous children have a much higher rate of substantiation than non-indigenous children. Rates differ widely from state to state and figures are not available for NSW. In Victoria the rate of substantiation is 5.9 per 1000 of all non-indigenous children. The substantiation rate for indigenous children is 38.1 per 1000. In the Northern Territory, perhaps

surprisingly, the substantiation rate for non-indigenous children is 3.3 per 1000 and for indigenous children is 6.6 per 1000 (AIHW, 1998). The most common reason for substantiation in indigenous children is the complaint of neglect. In Western Australia Thorpe (1994) identified that an indigenous child was more likely to directly go into substitute care than a non-indigenous child.

Child abuse (initially termed maltreated children) is a relatively modern concept, arriving as a significant issue in Australia only in the 1960's. Child abuse occurs when a person '*entrusted with the care of a child inflicts or allows to be inflicted on a child physical injury or deprivation which may cause or create a substantial risk of death, disfigurement, impairment of physical or emotional health or development, or create or allow substantial risk of injury other than by accident.*' (Higgins & McCabe, 1998:54).

Research in the United States show that of a sample of 11,000 births in Washington State, children entered onto that State's abuse register were three times more likely to die at some later point as children not entered onto the abuse register. Additional research in that country suggests that somewhere between 1/3<sup>rd</sup> and 1/6<sup>th</sup> of children referred for abuse once will be likely to be referred at least one more time (Barth, 1996).

Review of the issues and problems involved in the assessment of victimisation experiences is provided by Hamby & Finkelhor (2000) and Riddle & Aponte, (1999). The need for child abuse assessment batteries of one type or another has been recommended to deal with the problems of assessment in this area.

The sheer complexity and inter-relatedness of lived experience will always provide a fertile field for the criticism of any study that purports to identify the long term sequelae of events in childhood. None the less, such studies exist (see Arad, 2001; Benedict, Zuravin, Brandt & Abbey, 1991; Browne & Finkelhor, 1986), although some have conceptualised the impacts of child abuse on subsequent functioning as a non-specific risk factor for a wide range of adverse psychosocial outcomes. Mediators of impacts include factors such as poor parental mental health, poverty, and attachments and relationships with parents (Romans, Martin & Mullen, 1997).

Methodological problems always create problems in evaluation of 'real life' research in which research activities are not the primary object. In the case of child protection research, the most common real life problems include the fact that much research occurs through the use of the case file, which is at best an imperfect document (Thorpe, 1994). An example of this can be found in the oft-noted entry into a file 'case closed'.

An analysis of what 'cased closed' means can identify one of at least 5 possible outcomes, which must in most cases be inferred since little additional description is usually provided. Inference, however, is an imperfect tool in evaluation research. The possible outcomes are:

- The agency has fulfilled all of its unstated contractual obligations;
- The problems exhibited by the case lie outside the remit or resources of the agency;
- The client refuses service;
- The client wants service, but cannot be given it;
- The client disappears.

Child protection assessments can result in one of a mix of 5 recommendations. These are:

1. Case not substantiated after investigation.
2. Substantiated case, but closed without service and no further action.
3. Child and/or family to receive specialist home based services.
4. Child/family may receive home based services but admission to care becomes necessary (e.g. undertakings may be requested, which, if not met leads to care).
5. Child enters care either during or shortly after investigation.

In the main, expert reports become involved when cases have gone past the first and second option. The crucial test of the value of a report is the decisions that flow from it. Given the apparent influence such reports have it seems important to identify what, if any, outcomes there may be on Court decisions.

Research on outcomes is rather scant (Hardin, 1996; Thorpe, 1994) and confuses evaluation of the judicial and systemic processes (e.g. time taken to resolve a case) with clinical outcomes (e.g. number of re-notifications of abuse). Experience shows that a failure to remove children who are suffering abuse can result in significant psychosocial problems, and in some cases, even death (Barth, 1996). Research indicates that appropriate interventions, especially family based interventions when children are young, can improve outcomes (Tomison & Wise, 1999). However, the improvements noted in the Perry Pre-School Program and the Home Nursing Interventions (Olds, 1997) occur in the absence of specific assessments of and specific families identified as maltreating. Outcomes of

family support programs for families who have been identified as abusive or maltreating are less easy to quantify and confounded by the effects of poverty in many such families (Eamon, 1994; Dore & Alexander, 1996; Wolfe & Wekerle, 1993).

Barth (1996) quotes research that shows that whilst family support services are seen as helpful, they do not have much long term impact on subsequent fostering of the children. Barth reports data that reveal that 39% of families receiving support under the United States Families First program reported a further notification for abuse, and that 32% of the families had at least one child removed from their care within 2 years of receiving such support. For families in which care proceedings were dismissed, that is the children are returned to the parents, 29% receive a subsequent notification of abuse (Jellinek, Murphy, Poitras & Quinn, 1992). Barth (1996) points out that at least part of the reason for the apparent high re-notification rate may be that services are provided for too short a period. Dore and Alexander (1996) argue that the success of such programs is linked to the resources supplied to such a program and the intensity with which it is delivered. We need to be aware of Daniel's (2000) finding that some social workers made decisions about removal of a child based on their judgement of whether senior officers of the department would allocate resources to such a family rather than their judgement that the child had been abused.

The Thorpe (1994) study allows an examination of the kinds of outcomes that occur for children notified and substantiated as having suffered child

abuse. His study involved a total sample of 655 children notified for abuse, of which 325 were confirmed as abused. Of the 325 confirmed abuse cases, 25% were designated as substantiated but with no further action occurring. Of this group, within a 12 month period 7.3% were re-notified. Forty-three percent of the abused children received home based care only, with a further 12% beginning with home based care but going on to removal from the home. Twenty percent of children went directly into care. Over the 12 month period of this study 15.7% of children were re-notified, with almost half these cases made up of the group that initially received home based services but ended up with the children being removed. This study used a 52 week tracking period. Of this total group of 655 families, 544 cases were closed within a 12 month period. Of those 'closed' cases, 11% were subsequently re-notified within the 12 month period. Included in this 'closed' group were 7 children from the 64 children taken directly into care on the first notification. Interestingly enough one of those cases was notified as incurring trauma as a result of a protracted court hearing about their placement. It is also important to note that of these 7 children 4 were re-notified after they had been placed back with their biological parent(s).

### **Decisions to Remove Assessments**

As yet, no validated expert system exists that provides for a 'gold standard' to assess when to remove and when not to remove a child. To date attempts to establish risk assessments (e.g. see Goddard, Saunders, Stanley & Tuccie, 1999 for a review) and expert decision systems (Little & Rixon, 1998) offer little confidence (Dalglish, 1998).

DePanfilis & Zuravin (1999) investigated the recurrence of child abuse in 1,181 families referred for child abuse or neglect and followed up over a 5 year period. This study coded a number of potential variables that might predict recurrence of abuse. Variables were grouped into classes, and logistic regression used to

identify the extent to which both individual variables and classes of variables predicted re-abuse. Inclusion of a variable was based on the support for each variable derived from the literature. These variables and their odds ratios are shown in the following table.

**Table 1: Variables Predicting Risk of Re-Abuse in Children In Need of Care**

Variable	Definition	Sig	Risk ratio
Placement status	Whether child has been placed out of home during follow-up period.	.0004	1.93
Maltreatment index	1. number of prior abuse notifications 2. type of abuse (0=abuse, 1=neglect) 3. severity of abuse for most abused child (if more than one)	n.s n.s n.s	1.01 0.88 0.99
Child Vulnerability	1. child mental health problem 2. child developmental problem 3. child under age 6 years in household.	P=.016	1.37
Caregiver Problems	1. drug problems 2. alcohol problems 3. problem solving deficits.	n.s	1.04
Family conflict	Domestic violence.	P=.03	1.51
Family Stress	1. Family has 2 or less children 2. Mother over/under 18 years at birth of first child 3. Child bearing years span more/less than 6 years	P=.01	1.22
Survival Stress	1. Lack of resources for basic needs 2. Lack of shelter 3. Housing in poor repair 4. Overcrowded housing 5. Lack/poor use of health care resources	n.s	1.09
Social support Deficits	1. no support system in extended family 2. no support system in friends and neighbours 3. ineffective use of informal helping systems	n.s	1.44

**Source:** DePanfilis & Zuravin, 1999. Risk ratio refers to the relative risk of each variable when adjustments are made for other variables. Thus partner abuse, if present, increases the risk by 1.5 times in the above model. Initially Family conflict was coded as four variables - conflict in parent child relationships, marital/partner conflict, inadequate communication skills, domestic violence - but was collapsed into a single class variable in the final analysis.

DePanfilis and Zuravin (1999) identified some limitations to their study, such as missing data and missing variables that might have been important but were not studied. However, their results are broadly in line with research that identifies the risks of re-abuse of children. Some paradoxical findings are apparent. For instance, the relative lack of significance of survival stress does not fit with either clinical experience, or other research which has shown accommodation an important risk factor for a range of dysfunctional behaviours and criminal recidivism (Gates, Dowden & Brown, 1998). DePanfilis and Zuravin make the point that their analysis suggests that conditions that affect future adjustment ('dynamic needs' - such as domestic violence and social support) rather than past events (such as prior mistreatment) seem most important in predicting re-abuse. Thus, these dynamic needs should have most weight placed upon them in assessments. This would necessitate needs assessment as opposed to concentrating on static risk factors in child abuse assessments (see Andrews & Bonta, 1994).

Dagleish and Drew (1989) investigated 152 cases of substantiated child abuse in Queensland. They assessed each case via a chart review for risk of abuse (even though all 152 cases had been notified) and then assessed outcome (e.g. family separation or not). This study identifies the kinds of factors that are most likely to predict separation of a child from a family in an Australian jurisdiction. It does not, unfortunately, assess the success of separation (which could only be done by following up such families). They found that the severity of abuse, the

family's lack of cooperation with mandated services, aspects of the marital relationship and aspects of parenting appeared most likely to predict separation. 'Aspects of the marital relationship' refer to the stress due to marital conflict, inability to communicate, and marital violence. Unexpectedly, aspects of the parenting relationship loaded in the negative direction (that is, surprisingly, a loading of low risk on this variable) predicted separation. 'Aspects of parenting' refer to the inability of the parents to meet the child's needs (physical and emotional), inability to provide a stable and nurturing environment, and parental inability to understand normal child development (unrealistic expectations of child's behaviour).

At least one other study found that the single most critical variable predicting whether a court would separate a child from its family, or whether it would recommend family support was the degree to which the family was perceived to comply with court-ordered services (Jellinek et al., 1992). This is despite the fact that there is no readily available research evaluating whether cooperation with mandated services has any predictive value.

### **Fostering Outcomes**

There is little in the way of guiding research about the long-term outcomes of 'out of home' care. Out of home care relates to three main strategies. The most common is that of fostering, with an increasing trend towards fostering arrangements with extended family members (kin placements). Children may also be placed within institutional settings, such as group homes or orphanages.

Finally, out of home care may result in adoption, although changes in community attitudes and legislative practices has reduced the incidence of adoption, and is not a matter considered here.

Overall statistics on the likelihood of continuing maltreatment of children after removal from their homes are hard to find. Estimates of re-abuse range from 0.2% to 7% (Berrick, 1998), although small-scale studies reveal much higher incidence rates of re-victimisation by substitute carers. Barth (1996) reports that in the United States on an annual basis 1% of foster families are investigated for notifications of abuse, and 2% of residential facility staff are investigated. Revictimisation is much more likely to occur if the young person is placed in a group home or residential facility than with a family. Revictimisation in institutional settings is strongly associated with 'unexplained absences' (running away). Biehal and Wade (1999) found that the rates of unexplained absences from residential care for young people ranged from 25% to 75% depending on the authority examined.

Studies of the characteristics of foster homes that lead to further reports of abuse suggest that in as many as 1 in 6 of foster homes, maltreatment allegations are confirmed (Zuravin, Benedict and Somerfield, 1997, cited in Berrick, 1998). Characteristics of maltreating foster homes included the fact that foster placements are more likely to report maltreatment than extended (kin) family placements (2:1 ratio), and that children in non-extended family homes tend to have more behavioural and developmental problems. The suggestion is that victim characteristics might indicate

the probability of increased rates of maltreatment.

Berrick (1998) identifies that changes in community and judicial attitudes have increased the likelihood of placement with extended family members, although systematic differences exist that differentiate between children who are placed in foster situations and those placed with extended family. Children placed in kin placements tended to be less disturbed or impaired. It needs to be remembered that for most out-of-home placements (fostering or kinship), the child returns home. Barth (1996) identifies this occurs in about 2/3rds of children with about a quarter of children in foster care for only brief periods of time (less than 5 months).

Studies in the United States reveal that extended (kin) family placements tend to be with older adults who receive less support and fewer services from the relevant protection authorities. Extended family placements tend to be less financially stable, more likely to be single parents, have less education and to have poorer health. On the other hand, children placed in extended family homes tend to remain more often with the one carer (Barth, 1996) in comparison to foster homes. Barth quotes figures that show 34% of children placed in foster homes but only 4% of children placed in extended family settings had 5 or more placements. I am unaware of any Australian studies that provide a comparison to these trends identified in this research.

Henry (1999) conducted a review of 545 court files (all cases) in two counties filed between 1990 and 1995. Of these, kin or extended family

orders were made in 85% of the time (1/3<sup>rd</sup> of these placements with grandmothers). Child abuse and neglect accounted for the majority. For some reason, 91 adjudicated cases had no recorded reason for the adjudication and 47 children were before the court due to death of the parents.

Of this 545, 61% had been returned by the courts at a later date. The major reasons for return were parents successfully appealing the decision or petitioning the court (40%), child turning 18 (37%), guardian unfit (accused of neglect or abuse) in 2%, and in a further 7% a guardian who can no longer care.

In only 51% of guardianship cases was there permanency established with the first guardian. Of the 85% of cases that went to family members, an unknown percentage were then fostered out as the guardianship order broke down. In addition, of the children returned to parents after a successful appeal, an unknown percentage were subsequently removed and placed into foster homes. (The reason why the percentages are unknown is due to problems of recording information in the court files).

This study has a number of problems with it, one at least being the unclear meaning of the word 'guardian'. In Henry's study it appears to apply to permanency expectations and not to include fostering which is presumably defined as a short term accommodation option as opposed to guardianship.

Some warnings are available from the United States research. If fostering results in a withdrawal of social services (because of the assumption

that 'normal' family processes will take over), then outcomes are likely to be poor. Clinical experience supports this warning. There is a need to maintain the financial and other involvement provided by social services if long term fostering is to work. Dagenais and Bouchard, 1996 (cited in MacLeod & Nelson, 2000) report that 'concrete interventions' such as parenting services and money are more successful in reducing out of home placements than emotional support and educational support.

## **CONCLUSION**

What does the research tell us should be the gold standard for making assessments, and what outcomes can we expect from our assessments? Not a lot, at this stage. We can identify perhaps some critical factors that need to be examined.

- Clearly, the nature, extent and severity of the abuse and neglect of a child is an important factor. Neglect is harder to establish but regarded as a more critical variable than physical abuse (Blackburn, 1993; Heidi, 1995).
- Interestingly, the extent to which a parent can cooperate with the Department and Court outcomes appears to be a factor that assumes considerable weight, although there is no outcome data to suggest why we should place weight upon it. It appears there is an urgent need to undertake the research necessary to establish the validity of this factor.
- The commitment of the relevant Department to provide long term supervision and financial support to a family is also a critical factor but generally unknown at the time of the assessment. Experience suggests that such a commitment is often not possible in current circumstances.

- Children placed with kin appear to have a better outcome than children placed in foster homes, however child characteristics interact with this hypothesis. Children placed with kin, tend, on the whole, to have fewer markers of disturbance than children placed with foster parents.

We also know from the research some factors that do not appear associated in and of themselves with poor outcomes. A child entering adolescence does not appear associated with negative outcomes nor does family structure appear to be a critical factor (Tomison, 1996). The intersection of family structure and poverty, is, however, a significant risk factor for successful outcome. Poverty increases stresses acting upon a family, and is often involved with increased conflict and reduced problem solving skills (Eamon, 1994).

Risk assessment is still a function of 'damned if you do, and damned if you don't'. Despite the exhortation of experts in forensic psychology to develop structured and preferably actuarial assessment models (Andrews & Bonta, 1994) decision making in the care and protection area is yet to develop the research base and statistical activity necessary to develop such approaches. Assessments in child protection carry a huge weight. In a society which prioritises our duty of care to children, 'getting it right' is important. As this paper has argued, at the moment, we have no way of knowing whether we do 'get it right'.

There is a formidable array of factors, variables and contexts that the assessing expert needs to consider (James, 2000; Higgins & McCabe, 1998). It is now necessary to refine this formidable array in a way that provides both consensus among the various stakeholders, and is meaningfully related to outcome studies. At the moment, clinical decision-making and the adversarial process of the Court largely determines the outcome. Although the guiding ethos in Children's Courts is 'the best interests of the child', we have little research indicating what are the best assessment strategies to maximise the best interests of the child. Whether it is possible to develop a suitable actuarial or expert system that can take into account the myriad complexities of the dilemmas faced in care and protection remains to be seen.

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