

24 April 2011

Submission to the Protecting Victoria's Vulnerable Children inquiry

I commend the Victorian Government on its initiative to establish a committee with broad terms of reference to complete a comprehensive review of Victoria's child protection system.

I am grateful to have been invited to forward a submission for consideration. I wish to present a case study concerning the predicament a young family endured. The circumstances of the parents and their children illuminate what could be a serious systemic problem in the area of child protection.

If efforts to protect children are based in incorrect medical assessments and a presumption of guilt by DHS workers, irreparable harm occurs to parents, their social standing, and their children when appropriate medical care is delayed.

I have discovered that this Case Study is far removed from being an isolated occurrence.

Introduction

I am providing this submission in response to a suggestion to do so by Christina Asquina, Executive Director, Children, Youth and Families, in her reply to my communication of concern to the relevant Minister, the Hon Mary Wooldridge MP.

I had independently communicated extreme concern that the current system of Child Protection was causing harm to Victorian children and their families when it acted in error, accusing innocent parents of child abuse, and responding in a forceful, adversarial manner.

Background

I am a layperson. As the founder of the organisation, Rotary Overseas Medical Aid for Children (ROMAC), I have 20 years of experience in bringing third world children to Australia, for life saving complicated surgery, such as the separation of Siamese twins. In this role I have extensively dealt with eminent medical and surgical specialists and children's hospitals.

The case that has alarmed me, concerns two daughters, from a family of 4 children. The father is of ethnic background and the mother Caucasian.

I have no hesitation in stating that both parents display consistently, all virtues pertaining to parenthood. Their love, patience and care for each other and each of their children are equal to any.

The sad experience, to which they have been subjected to, was one of a prolonged attack upon their character.

Facts relating to this case

1. The parents presented one of their babies to Hospital A due to their concerns.
2. This child was subsequently assessed as having multiple fractures, leading to an opinion that they were caused by physical abuse from the parents.
3. DHS's Disposition clearly stated that the Protection Application Order by Safe Custody was based solely, upon the babies unexplained injuries for which the parents did not have a plausible answer.
4. This information was presented before the Magistrate.
5. It is with interest that the Magistrate stated: "There are none of the normal characteristics of child abuse nor was there any of the expected evidence supporting child abuse in this case."
6. Medical opinions that were wrong in fact were prematurely tendered to the legal process before full medical reports were completed and the corrected opinion was never presented to the Magistrate.
7. The sole purpose of the Protection Order was proven false within days, yet this matter dragged on for months.
8. The parents were accused of neglect by not responding to pain assumed to have been present.
9. The initial assessing doctors failed to assess whether the fractures were pathological. This means the bones are unhealthy and can break without force and not always cause pain.
10. There was also a failure to consider and or explore the possibility of metabolic/genetic disorders, some of which take 2-3 years to manifest.
11. Subsequent problems were attributed to physical trauma, specifically shaking which was never witnessed and denied by the parents.
12. The initial assumption of guilt was maintained in part by misdiagnosis by multiple doctors at both Hospital (A) and Hospital (B).
13. Heads of Departments within Hospital (B) signed off on inadequate reports containing errant opinions.
14. Requests to have the babies reviewed by specialists, expert in the relevant fields were denied.
15. Senior Orthopaedic and Radiology experts were approached to provide private independent opinions. All refused, fearing repercussions.
16. Eventually the opinion and advice of an internationally recognised interstate specialist shed light on the correct diagnosis.

17. DHS Social Workers were permitted to ring the professor to obtain information, but even then they misrepresented or misinterpreted what they were told and tendered an error-filled report to the court.
18. The consistent effect of this selective reporting was to place the parents in the false light as perpetrators of child abuse. This caused immeasurable distress and psychological harm.
19. There was a systemic failure to meaningfully investigate the social circumstances of this family and identify the status and repute of parents.
20. DHS Social Workers were aggressive and accusing.

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21. Eventually it was concluded that these children were not victims of child abuse, rather they suffered a genetic disorder that made them vulnerable to fractures.
22. The likely cause of the baby's fractures was the routine nurse check of their hips.
23. Skin marks assessed by doctors as "bruising" were misdiagnosed Mongolian Spots.
24. The baby's subsequent problem that was initially assumed to be caused by parental shaking was subsequently found to be due to a degenerative process which is part of the condition.
25. No objective evidence of abuse was ever tendered.
26. The parents protested their innocence at every stage, bewildered by the accusations and distressed by their children's condition.
27. In defending their innocence, 10 months elapsed and \$45,000.00 was spent in legal fees.
28. Ultimately it was the solicited intervention of the Directors and Minister of DHS that brought this process to an end.
29. Both girls are progressing well under expert medical guidance.

Summary

An uncommon genetic disorder caused "pathological" fractures in these children.

As a result of seeking appropriate medical assistance at the first sign of the problem this family suffered severe psychological harm. The diagnosis and management of the children's condition was delayed as a result of sustained medical error and a response from junior DHS staff that was

blinkered, officious, and unable to operate from any balanced perspective other than the presumption of guilt.

This predicament only came to be rectified after the family were forced to obtain expert medical opinion from interstate, expend \$45 000 that they could not afford and should have been spent on their children and home, and finally petition the senior echelons of DHS including the Minister. This stole many months of their lives.

They suffer residual social stigma including loss of privacy in that the father's employer came to be informed of the initial accusations against him.

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Specific failures in this case of the Child Protection system within Victoria

- Medical misdiagnosis - conclusions were mistaken and assessments flawed
- Presumption of parental guilt
- Selective, hasty and biased reporting to the court

- Absence of checks and balances such as an independent second opinion
- Senior doctors signing off on wrong diagnosis
- Inadequate assessment of families and their social context
- Current mandatory reporting legislation lacks checks and balances
- Reluctance by Paediatric specialists to provide independent opinions
- There appears to be a severe shortage of forensic experts and even fewer with the knowledge and experience to examine paediatric forensic cases or to provide the culture of peer review on which quality depends
- The adversarial nature denies families support, understanding, advocacy or counselling

Suggested remedial action.

- Better training for mandated professionals
- Introduce in house hospital protocols to support junior medical staff establish the bona fide of complaints before bringing such to the attention of DHS - cases could be categorised from the most obvious to the more obscure before being progressed
- Support junior medical staff with access to senior colleagues prior to notification
- Use of second opinion or the requirement of two independent medical opinions including at least one relevant qualified specialist
- Setting up an expert committee to oversee and direct in difficult cases to allow for adequate oversight and accountability
- In light of DHS difficulty maintaining staff in the area of Child Protection, improved training to enable inexperienced staff to have better informed and balanced work practises would improve morale and protect families from inept interventions
- This case suggests a role for “medical liaison” to support DHS workers interpret clinical details that can be complex, rare, difficult to understand

Conclusion

In conclusion, I believe it important to recognise the fact that those entrusted with Mandatory reporting are often (a) ill equipped (b) not professionally or adequately qualified, and (c) are pressured by Legislative requirements that can at times lack balance.

Emotional abuse has been found to be the greatest component of child abuse. Within medical circles understanding of the exact nature and cause of such abuse is considered to be a highly specialised field.

The role of junior DHS staff in assessing such abuse needs to be seen in this light.

In my particular case study, a domino effect is obvious. Beginning with a careless/indifferent or even incompetent approach, the entire matter spiralled out of control.

Without diminishing the importance of all facets of child abuse, greater care is required at the initial assessment.

Those designated in recognising and progressing the matter should be subject to protocols with inherent checks and balances designed to eliminate as far as possible, tragic mistakes.

Parents, falsely accused, have no process, other than the legal route, which no young couple can afford.

There has been a report by Canadian Commissioner Stephen Goudge (October 1, 2008) that may be of assistance to the committee

Thanking you for the opportunity to share and I am confident that the end result of this study will prove beneficial to all concerned.

Yours sincerely,

Barrie R. Cooper OAM