

TESTIMONY RE HB 826

PENNSYLVANIA STATE HOUSE OF REPRESENTATIVES
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The puzzling association of chronic subdural hematoma and multiple limb fractures of different ages in young children was first described by Dr. J. Caffey in an article published in the American Journal of Roentgenology in 1946. Dr. Caffey was unable to correlate these findings with any known disease and was searching for some heretofore undiagnosed, exotic, new pathological process that would explain the cause of such significant abnormalities. It was not until 1961, at an American Academy of Pediatrics symposium, that Dr. C. Henry Kempe first introduced the phrase "battered child syndrome". The following year, this phrase became the title of an article by Dr. Kempe and four co-authors, published in the Journal of the American Medical Association. This article literally opened the floodgates to a new medical concept which became the subject of innumerable newspaper reports, popular and professional magazine articles, and eventually books, over the next several years.

Since the early 1960's, one could say that the entity of child abuse has become a major area of interest and concern, not only for physicians and other health care practitioners, but also for social workers, law enforcement officials, courts, attorneys, and a variety of other groups and organizations, both lay and

professional. Quite literally, it can be stated that a "child abuse industry" has evolved in American over the past 30 years.

Between 1962 and 1965, 47 states passed so-called "child protection laws", calling for either compulsory or voluntary reporting of suspected child abuse. Pennsylvania's law, amended in 1975, is fairly typical of such legislation.

At this time, approximately 1.5 million cases of suspected child abuse are reported to various government agencies and other authorities in the United States each year. Just three decades ago, there were only 150,000 such cases reported. Did this medical problem burgeon into epidemic proportions in 30 years at a tenfold rate, or is it much more probable and logical to assume that the adoption by every jurisdiction since the 1960's of legislation that mandates the reporting of suspected child abuse led to this approximately 1000 percent increase?

There can be no question about the existence and widespread incidence of various forms of child abuse throughout the United States. These consist not only of actual physical injury,, but emotional and psychological injury as well. Forensic pathologists are also aware of the "nutritional variant" of the child abuse syndrome, in which infants and children are sometimes literally starved to death. We even refer to the "battering child syndrome", in which an older sibling sometimes is permitted, encouraged, or even instructed to injure a younger child in the family.

There can also be no legitimate argument advanced about the need for mandatory reporting in order to ferret out and identify cases of child abuse. Without mandatory reporting laws, which essentially grant immunity to responsible health care officials and other individuals officially involved in the social welfare, law enforcement, and health care fields, there would be many cases of child abuse that would go undetected.

Regrettably, we have now seen the pendulum move too far in the opposite direction in numerous instances. In my opinion, we have now reached a point of individual, group, and societal hysteria, in which many unjustified, unproven, completely spurious cases of child abuse are alleged. These allegations are made to child and social welfare agencies, law enforcement officials, attorneys and judges, and various other authorities.

Corroboration of the above statement can be readily ascertained by referencing two recent events, both of which will be reflected upon and written about for many years to come. They both illustrate great human tragedies and horrible travesties of justice.

One was the McMartin case in California which went on for more than three years from 1987 to 1990. Raymond Buckey and his mother, Peggy McMartin Buckey, were defendants in the longest criminal trial in American history. The pair were charged with some 100 child molestations at their pre-school facility in Manhattan Beach, California. Five teachers had also been arrested

on more than 200 similar charges, but the charges against them were dismissed for lack of evidence. At the first trial, only the two Buckeys remained as defendants, facing 65 charges. In January, 1990, they were acquitted of 52 of the charges; the jury remained deadlocked on the rest. The case could have ended there, but it did not. Raymond Buckey, who had spent five of the last seven years in jail, stood trial alone on the 13 remaining charges, later trimmed to eight. On July 27, 1990, a mistrial finally ended the Buckey matter. In the meantime, the government had spent millions of dollars, accumulating almost 60,000 pages of official court transcript!

More recently, we have witnessed the ^{SNW}(sage) of Margaret Kelly Michaels, a former Pittsburgher, who was tried and convicted of bizarre sexual crimes (115 in all) against four and five year olds at the Wee Care Day Nursery in New Jersey. The prosecutors had charged that Ms. Michaels had regularly raped these very small children with knives, forks, large wooden cooking spoons, and Lego blocks. Magically, none of these assaults had ever left a trace of physical injury that had been noted by any of the parents who presumably dressed, undressed, and bathed their children each day that they attended this nursery. The judge and prosecutors proceeded in such a biased fashion that the New Jersey appellate court overturned the verdict and ordered the immediate release from jail of Ms. Michaels. Some of the pseudoscientific and quasi-

medical testimony given in that case was so absurd as to make one laugh or cry.

In 1692, the Salem Witch Trials in Massachusetts reportedly resulted in the deaths of 20 women. The hearings conducted by the infamous Senator Joseph McCarthy in the post-World War II era resulted in public disgrace and personal ruin for hundreds of people.

The new wave of "child abuse" and "child sex abuse" hysteria has been evolving and growing for the past 10 to 15 years, and shows no signs of abating.

People who abuse and injure children in any way should be identified and punished to the full extent of the law. I hold no brief for such individuals. I have testified in dozens of child abuse homicide cases and am proud to state that my testimony has resulted in many convictions. I have also written extensively on this subject and have had several articles and book chapters published dealing with various aspects of child abuse.

At the same time, I have also been involved as a forensic pathology and medicolegal consultant in an increasing number of cases in recent years, in which I have been absolutely convinced, based upon concrete evidence and scientific concepts, that the allegations of child abuse were totally spurious. Many of these cases have involved the deaths of children, and hence, there were murder charges brought against a parent or some other adult, usually functioning "in loco parentis". Although my testimony has

succeeded in the exoneration of many of these individuals, I have been greatly pained by the fact that in other instances, the emotional and visceral reaction of the jury had been stirred to such a level of venomous hatred for the defendant that no medical testimony proffered by the defense would have succeeded in changing the jurors' minds.

False allegations of any kind are to be strongly condemned and should also be punished by law. There is no justifiable reason why mandatory reporting laws cannot function alongside the kind of amendment that has been set forth in House Bill No. 826. I firmly believe that adults who "intentionally and knowingly" cause or persuade a child to make a false allegation of child abuse should be punished pursuant to a criminal statute. It logically follows that if such an orchestrated event is the result of "malicious intent", the person who has so manipulated a child should be subject to an even harsher penalty.

I strongly support and endorse the intent, philosophy, and objective of HB 826. I do not believe that good faith reporting will be compromised, or that ferreting out and investigating alleged cases of child abuse will be diminished in the slightest by adoption of this amendment. What is likely to happen will be more careful attention, unbiased professional scrutiny, and the diminution (if not the elimination) of false allegations brought for various malevolent purposes by individuals involved in marital

conflict, other domestic crises, or for purely malicious personal reasons.

This bill should also permit law enforcement officers to direct their attention toward justified cases of child abuse, and thereby save a substantial amount of money for various governmental agencies by removing from their agenda cases which have no merit.

Abused children must be protected. However, innocent adults also have a right to be protected in our society from claims of a defamatory, derogatory, humiliating, and embarrassing nature. Once an allegation of "child abuser" has been leveled against somebody, it is highly likely that no matter what the outcome of the investigation eventually may be, that individual will have a black mark against his or her name for the remainder of their life. The law can and must protect innocent people - adults as well as children.

In my opinion, HB 826 moves in the right direction in accomplishing this necessary and commendable goal.

