

FILED

APR 08 2013

COURT OF APPEALS
DIVISION III
STATE OF WASHINGTON
By _____

NO. 312551

COURT OF APPEALS
DIVISION III
OF THE STATE OF WASHINGTON

PAVEL ALEKSENTSEV

Appellant/Defendant,

v.

DEPARTMENT OF SOCIAL and HEALTH SERVICES; ADULT
PROTECTIVE SERVICES,

Respondent.

BRIEF OF APPELLANT

Drew D. Dalton, WSBA No. 39306
Of Attorneys for Appellant Pavel Aleksentsev

FORD LAW OFFICES, P.S.

320 S. Sullivan Rd.
Spokane Valley, WA 99037
Tel. 509.924.2400

ORIGINAL

FILED

APR 08 2013

COURT OF APPEALS
DIVISION III
STATE OF WASHINGTON
By _____

NO. 312551

COURT OF APPEALS
DIVISION III
OF THE STATE OF WASHINGTON

PAVEL ALEKSENTSEV

Appellant/Defendant,

v.

DEPARTMENT OF SOCIAL and HEALTH SERVICES; ADULT
PROTECTIVE SERVICES,

Respondent.

BRIEF OF APPELLANT

Drew D. Dalton, WSBA No. 39306
Of Attorneys for Appellant Pavel Aleksentsev

FORD LAW OFFICES, P.S.

320 S. Sullivan Rd.
Spokane Valley, WA 99037
Tel. 509.924.2400

ORIGINAL

TABLE OF CONTENTS

TABLE OF CONTENTS	1
ASSIGNMENTS OF ERROR	4
Assignment of Error No. 1	4
A. The superior court erred as a matter of law when it found Mr. Aleksentsev willfully mentally abused Connie in accordance with RCW 74.34.020 and WAC 388-71-0105.	4
Assignment of Error No. 2	4
B. Board Judge Stewart did not afford Mr. Aleksentsev an opportunity to confront the Department's witness, investigator Curt Crusch.	4
Assignment of Error No. 3.	5
C. Claimant's due process rights were violated during the investigation process he was not provided an interpreter during his meeting with the investigator.	5
INTRODUCTION.....	5
PROCEDURAL STATEMENT OF THE CASE.....	6
APPLICABLE LAW.....	8
ERRORS IN FINDINGS OF FACT AND CONCLUSIONS OF LAW	9
STATEMENT OF FACTS.....	10
ARGUMENT.....	13
I. Mr. Aleksentsev did not willfully mentally abuse Connie as defined by RCW 74.34.020 and WAC 388-71-0105.....	15
A. Use of Offensive Language	18
B. Playing of the Cell phone/Baby Talk Audio.....	20
C. The Eye Appointment Trip.....	24
II. An Abuse Finding Should require Expert Testimony	26
III. Judge Stewart Prohibited Mr. Aleksentsev from Confronting Department Witness Curt Crusch.....	30

IV. Mr. Aleksentsev Was Discriminated Against Based on The Department's Refusal to Accommodate his Language Barriers	32
Conclusion.....	34
APPENDIX	37

TABLE OF AUTHORITIES

CASES

<u>Brown v. Dep't of Soc. & Health Servs.</u> , 145 Wn. App. 177 (2008).....	6, 16, 23, 35
<u>Spurrell v. Bloch</u> , 701 P.2d 529,535 (Wash.App. Div. 2 1985).....	16

STATUTES

RCW 4.84.350	36
RCW 74.34.020	15, 18, 23
RCW 74.34.020(15).....	10
RCW 74.34.020(2)(c)	8, 14, 15, 16
RCW Title 51.....	26

RULES

WAC 388-71-02155	8
Evidence Rule 702.....	27
WAC 388-02-0485	8
WAC 388-71-0105	8
WAC 388-71-020(2).....	14, 15, 23

APPELLATE RECORD

AR 2/15/11 Hearing Tr. (TR)	10, 11, 12, 13, 18, 20, 21, 25, 27, 28, 30, 31, 33
Certified Copy of the Original Agency Record	6, 7, 10, 11, 12, 13, 22, 31

REFERENCE MATERIALS

http://dictionary.reference.com	19
Tomison, Adam M and Joe Tucci. 1997. <u>Emotional Abuse: The Hidden Form of Maltreatment</u> . Issues in Child Abuse Prevention Number 8 Spring 1997	28
<u>Vachss, Andrew</u> . 1994. "You carry the Cure In your Own Heart." Parade, 28 August 1994.	29

ASSIGNMENTS OF ERROR

Assignment of Error No. 1

A. The superior court erred as a matter of law when it found Mr. Aleksentsev willfully mentally abused Connie in accordance with RCW 74.34.020 and WAC 388-71-0105.

Issues pertaining to Assignment of Error No.1

1. Do Mr. Aleksentsev's actions meet the definition of "willful abuse" under WAC 388-71-0105?
2. Does there have to be more than simply a willful action to find mental abuse?
3. What kind of intent is required by RCW 74.34.020 to make a mental abuse determination?
4. Does the finding of abuse require expert testimony?

Assignment of Error No. 2

B. Board Judge Stewart did not afford Mr. Aleksentsev an opportunity to confront the Department's witness, investigator Curt Crusch.

Issues pertaining to Assignment of Error No.2

1. Was Mr. Aleksentsev denied the opportunity to confront a DSHS witness at the hearing?

2. Where Judge Stewart's actions sufficient enough to quell speech and violate due process?

Assignment of Error No. 3.

C. Claimant's due process rights were violated during the investigation process he was not provided an interpreter during his meeting with the investigator.

Issues pertaining to Assignment of Error No.3

1. Did Mr. Aleksentsev ask for an interpreter during the investigation?
2. Was the failure to provide an interpreter a violation of due process?

INTRODUCTION

Mr. Aleksentsev is a Ukrainian immigrant. He has lived in the United States for just over 10 years. He worked as an in-home care giver for the alleged victim "Connie" in this matter. He has worked for other DSHS clients and he also is the in home caregiver for his mother. The issue before the court deals with RCW 34.020(2) and the allegation of mental abuse. In my research I was unable to find a case in Washington dealing with mental abuse.

The issue of mental abuse under this statute may be one of first impression before this court. However, my research did turn up at least one case in Division III regarding this statute and physical abuse. See Brown v. Dep't of Soc. & Health Servs., 145 Wn. App. 177 (2008).. We will rely on that case and its parallel's to show that Mr. Aleksentsev did not mentally abuse Connie.

It is Mr. Aleksentsev's position that the Board of Appeals and superior court Triers of fact failed to find the requisite intent and/or harm required by the statute and rule. It appears the superior court relied on the fact that Mr. Aleksentsev willfully acted but not on the intent of those actions or the result of those actions. We will show Mr. Aleksentsev's actions did not include a willful action to inflict injury nor did they inflict actual harm. Id. at 183.

PROCEDURAL STATEMENT OF THE CASE

A hearing was originally heard on February 25, 2010 with Judge William Stewart. Certified Copy of the Original Agency Record (CAR) at 93. Judge Stewart issued an order on May 16, 2010 finding Mr. Aleksentsev had mentally abused Connie. CAR at 93-100. Mr. Aleksentsev filed a

request for review and an explanation of late filing on April 20, 2010. CAR at 88. On July 15, 2010, James Conant, review judge, required a new hearing be held because the February 25, 2010 audio recording and transcript had been lost. Id. at 81.

The hearing on remand was eventually heard on February 15, 2011 by Judge William Stewart. CAR at 36. He issued an order finding Mr. Aleksentsev guilty of mental abuse on March 9, 2011. Id. Mr. Aleksentsev filed a petition for review of the initial decision on or about March 30, 2011. CAR at 35. On May 4, 2012, Judge Diamanta Tornatore, Review Judge, issued a decision affirming Judge Stewart's order. Id. at 1-26. She found Mr. Aleksentsev's "actions, omissions and speech while in Connie's presence were willful and clearly meet the above definition of mental and verbal abuse." CAR. at 42. The May 4, 2012 order was timely appealed to Spokane County Superior Court. The appeal was heard before Judge Linda Tompkins. On October 8, 2012 Judge Tompkins affirmed the Board order. Mr. Aleksentsev timely appealed that order to the court of appeals.

APPLICABLE LAW

The burden of proof in this matter is this matter before the Board was the preponderance of the evidence. Despite the burden of proof, ALJ proceedings proceed under the same civil and/or criminal rules that would apply to those proceedings. See WAC 388-02-0485 & 388-71-02155.

The primary issues in this case center on the department's definitions of Mental Abuse. These definitions are found in RCW 74.34.020(2)(c) & WAC 388-71-0105:

RCW 74.34.020(2)(c) states:

(c) "Mental abuse" means any willful action or inaction of mental or verbal abuse. Mental abuse includes, but is not limited to, coercion, harassment, inappropriately isolating a vulnerable adult from family, friends, or regular activity, and verbal assault that includes ridiculing, intimidating, yelling or swearing.

WAC 388-71-0105 states: Willful means "the non-accidental action or inaction by an alleged perpetrator that he/she knew or reasonably should have known would cause harm, injury or a negative outcome."

The court of appeals reviews an agency order under RCW 34.05.570(3), which provides, in part, that we must

grant relief if the agency has erroneously interpreted or applied the law...or is not supported by substantial evidence. Brown v. DSHS, 145 Wn. App. at 182. The factual review is confined to the record before the administrative law judge and board. RCW 34.05.558; Port of Seattle v. Pollution Control Hearings Bd., 151 Wn. 2d 568, 587 (2004).

We apply de novo review to statutory interpretation questions. W. Telepage, Inc. v. City of Tacoma, 140 Wash.2d 599, 607 (2000). Our primary goal is "to ascertain and give effect to legislative intent." State v. Pac. Health Ctr., Inc., 135 Wash.App. 149, 158-59 (2006) . Legislative intent is determined primarily from the statutory language, viewed "in the context of the overall legislative scheme." Subcontractors and Suppliers Collection Servs. v. McConnachie, 106 Wash.App. 738, 741, (2001). If the statute's meaning is plain on its face, we give effect to that plain meaning. Dep't of Ecology v. Campbell & Gwinn, L.L.C., 146 Wash.2d 1, 9-10, (2002).

ERRORS IN FINDINGS OF FACT AND CONCLUSIONS OF LAW

Mr. Aleksentsev takes issue with Finding of Facts numbered: 1.3, 1.5, 1.6, 1.7, 1.8, 1.9, 1.11, & 1.12 in so far as the find he willfully abused Connie or they relied on hearsay evidence to establish said facts.

STATEMENT OF FACTS

The relevant facts are as follows: In October 2008 Mr. Aleksentsev was hired to work with Connie. Connie is classified as a vulnerable adult as she receives home care under RCW 74.34.020(15). CAR at 24. No one disputes that Mr. Aleksentsev was a good care worker for the first five or so months of his work with Connie. On March 19, 2009, a complaint was filed against Mr. Aleksentsev regarding his conduct with Connie. CAR at 4.

The court's determination that Mr. Aleksentsev mentally abused Connie centers on three specific events. The primary event was an audio recording on his phone that had racist and curse words. Mr. Aleksentsev testified he did not play the tape for Connie. AR 2/15/11 Hearing Tr. (TR) 20:11-13. Connie's testimony corroborates Mr.

Aleksentsev's in that she states she was in the same room but never that he actually played it for her. AR. Hr. Tr. 47:9-10 & 53:21-25.

The testimony shows that if Mr. Aleksentsev was asked to not do something, he stopped doing it. Connie testified there was only one day Mr. Aleksentsev used the word "bitches," he was confronted and never said the word again to her. AR. Hr. Tr. 57:9-25. She testified he was "not a foul mouthed man." Id.

At the first hearing Cathy, the co-worker, testified she played the baby talk audio (audio) for Connie. CAR at 102. Mr. Aleksentsev confirmed that Connie told him Cathy had played it for her several times. AR. Hr. Tr. 23:23-25. Mr. Aleksentsev consistently denied playing the audio for Connie. He does not deny that the audio got sent to Cathy. AR. Hr. Tr. 23:20-22. (In the transcript he called her Katy). He stated that he often played videos with a similar voice and she found them funny. AR. Hr. Tr. 98:1-15. He testified he did it to help alleviate her mood. Id. He testified if she did

not like them, and she told him to stop, and he understood her, he would stop immediately. . Id. 16-21.

The final incident involved a visit to the optometrist. Mr. Aleksentsev took Connie home from the Optometrist. AR. Hr. Tr. 99:1-21. In the first hearing she testified she agreed to stop at Arby's CAR at 102. As we do not have the first Board record we do not know if she was asked the question as to whether she agreed to go. She also acknowledged through her testimony that Mr. Aleksentsev was excited after stopping at Arby's to take her to see something at Lowe's. AR. Hr. Tr. 49:1. Mr. Aleksentsev testified he wanted to get her the flowers she wanted for her room. AR. Hr. Tr. 99:1-21. She said she wanted to go home he said ok lets go home, then she said no lets go in so they went in and then home. Id. Connie testified Mr. Aleksentsev joked a lot, was immature and childish but that she never felt abused by him. AR. Hr. Tr. 49 & 50. This is important as Mr. Crusch testified she had no cognitive difficulties. AR. Hr. Tr. 69:20.

Mr. Aleksentsev is an immigrant from the Ukraine. His native language is Russian. He has two weeks formal education in the English language. He required an interpreter at both hearings with Judge Stewart. Curt Crusch, the investigator refused to provide an interpreter for Mr. Aleksentsev. AR. Hr. Tr. 27:3-5. Mr. Aleksentsev asked three times for an interpreter. Mr. Crusch admitted Mr. Aleksentsev had difficulty with at least one definition while talking to him during the investigation. AR. Hr. Tr. 75: 6-7. When questioned about his investigative techniques Judge Stewart prevented counsel from confronting Mr. Crusch. Judge Stewart stated, "I am not going to put the APS investigator on trial here. They're supposed to find fault, that's what their job is...we are not talking about any defects in the investigation." AR. Hr. Tr. P. 86:1-5. However, this is especially troubling as in the previous hearing it is clear there were issues with the investigative techniques of Mr. Crusch and Ms. Lou. CAR at 103-104.

ARGUMENT

Mr. Aleksentsev takes issues with Findings of Facts 1.3, 1.5 -1.9, 1.11 & 1.12 because they are not supported by the law and the facts. The primary problem with this litigation is the Trier of fact believes or has been lead to believe that if there is a willful action that annoys another person, then there must be a finding of mental abuse under RCW 74.34.020(c). This is not the standard put forth by the statute.

Reading RCW 74.34.020 (c) in conjunction with WAC 388-71-020(2) the standard for a finding of mental abuse should be: Any willful action or inaction that the actor knows or should have known would cause harm in an individual. Examples include but are not limited to coercion, harassment, inappropriate isolation and/or verbal assault. Coercion is defined as the use of force/threat of harm to get someone to do something you want, harassment is the repeated pestering or disturbing of an individual more than mere annoyance and verbal assault includes ridiculing, intimidating, yelling or swearing at another individual. If none of this exists, then there is no mental abuse.

We will show that the three events before Judge Tompkins did not rise to the level of mental abuse. These events are : (1) Mr. Aleksetnsev's actions do not meet the definition of mental abuse under the applicable statute and rules; (2) Mr. Aleksentsev was prevented from confronting Departmental witness Curt Crusch; and (3) Mr. Aleksentsev was not afforded due process by the investigator Curt Crusch's refusal to provide Mr. Aleksentsev with an interpreter when asked.

I. Mr. Aleksentsev did not willfully mentally abuse Connie as defined by RCW 74.34.020 and WAC 388-71-0105.

Mr. Aleksentsev's actions do not constitute abuse under RCW 74.34.020(2)(c). RCW 74.34.020 defines mental abuse as "any willful action or inaction of mental or verbal abuse." WAC 388-71-020(2) defines willful as: "the non-accidental action or inaction by an alleged perpetrator that h/she knew or reasonably should have known could cause harm, injury or a negative outcome." We assert a mental abuse claim is similar to a tortuous claim for outrage

or intentional infliction of emotional distress. The accuser must prove the activity rises to the level of abuse and not a mere annoyance, inconvenience or embarrassment. See: Spurrell v. Bloch, 701 P.2d 529,535 (Wash.App. Div. 2 1985) (discussing the torts of outrage and intentional affliction of emotional distress.)

Our position is supported by RCW 74.34.020(2) that requires a finding of harassment, coercion, inappropriately isolating or verbal assault (which includes intimidating, ridiculing, swearing, or yelling) to make a finding of mental abuse. It is also supported by this division's findings in Brown v. DSHS.

In Brown the court was asked to address the issue of a physical abuse finding. That case differs in that it dealt with a caregiver tackling an individual to the ground to protect her and the people around her. Brown v. DSHS, 145 Wn. App. 177 (2008). However, the analysis does not. In that case the court, relying on an Alaska Supreme Court decision found: "[i]f the harm results from improper action, we label the action abuse." Id. at 183 see. R.J.M. v. State, 946 P.2d 855, 863 n. 9 (Alaska 1997). The key to determine if

Mr. Aleksentsev's actions constitute abuse are to look at what he knew or should have known at the time he acted, whether harm occurred at that time and how he acted after the isolated incident and what he did to remedy the situation. In this case there are no facts showing Connie was harmed or that Mr. Aleksentsev willfully and repeatedly acted in such a way that he knew or should have known his actions would or were causing harm.

The testimony discloses three separate incidents without much detail as to what actually happened. Part of the problem with the record is that the transcript from the first hearing was lost and not all the same witnesses were called at the second hearing. From the record available we ascertain the following events are the focus of this appeal. (1.) Mr. Aleksentsev's use of the word bitches on only one day when he came to work; (2) Mr. Aleksentsev's use of the baby talk audio on his phone; and (3) Mr. Aleksentsev's interaction with Connie after an eye appointment. Each will be addressed in order.

A. Use of Offensive Language

Connie testified Mr. Aleksentsev used the word bitches one day when he came to work. Her recollection of the event was that "It was almost comical...a bit juvenile." AR. Hr. Tr. 50:3 & 14. Her recollection of the event is that he came into work and she overheard him saying "those bitches—those bitches." AR. Hr. Tr. 50:16. When Connie overheard him she told Mr. Aleksentsev not to say that word and he stopped. Id. In the transcript and in the exhibits there is no other testimony that he willfully swore or directed the term bitches at Connie in order to harass, intimidate, harm or otherwise. Connie said she overheard him using the language and that he stopped immediately and never personally swore again. Id.

Applying the law the Department must show that Mr. Aleksentsev tried to coerce, harass, verbally assault or isolate Connie consistent with RCW 74.34.020(c). The facts do not meet the requirements of RCW 74.34.020(c). As soon as Mr. Aleksentsev knew his language affected Connie, though not directed at her personally, he stopped

using the language. Mr. Aleksentsev actions to correct his behavior and the fact that he never swore again show that he did not have the requisite intent to abuse Connie under the statute. Where there is no intent there cannot be coercion, harassment, intent to isolate or verbal assault. These terms are not defined by the statute therefore we must look to the dictionary to help define these terms.

Webster's dictionary defines these terms as follows:

(1) Coercion: use of force or intimidation to obtain compliance; <http://dictionary.reference.com> (2) Harassment: the act of disturbing, pestering or troubling repeatedly; <http://dictionary.reference.com> (3) Verbal Assault/abuse: the use of words to cause harm. <http://dictionary.reference.com>. All of these actions require an intent to control and/or harm. There is no proof in the record that Mr. Aleksentsev had the intent to control or harm Connie.

The testimony shows he lacked the intent and knowledge that are required by the statute to show his actions would harm Connie, once he was informed his actions bothered her, he stopped. There was no willful action or inaction that

qualifies for abuse under the statute and administrative code. The facts of this incident are not disputed. This was an isolated event that was corrected as soon as it was addressed. Further, there was no harm. Connie overheard him, told him to stop, and now says she finds it funny. Applying Brown if there is no harm there cannot be abuse.

B. Playing of the Cell phone/Baby Talk Audio

The testimony on this issue is contradictory. Mr. Aleksentsev states he never played the audio in the presence of Connie. Connie states she was in the same room but does not state he actually told her to listen to it. From her testimony it appears she saw him playing with his phone and overheard the audio. In fact her testimony was "He was right there in my bedroom." She was sitting in her own bathroom of the bedroom and she said "What are you doing? Put that away? Why are you playing with the phone?" AR. Hr. Tr. 53-54:23-4. This is not clear testimony that the audio bothered Connie, only that she did not want Mr. Aleksentsev to play with his phone while at work.

After asking him an alleged three times he put the phone away he did. Then she testified that he never personally showed the baby talk audio to her again. AR. Hr. Tr. 54:14-17. This was one incident. The testimony from Mr. Aleksentsev appears jumbled as to the events. He believes he never played it to Connie, that he accidentally sent it to Katy (Cathy), and Cathy came up stairs and played it for Connie because Connie was upset. AR. Hr. Tr. 23:3-25 & 24:1-2.

We have two versions of the story. Similar in that Connie heard the video in her bedroom after she was in the bathroom. Different as to who played the video. In both scenarios he did not show the video to Connie. He did not ask her to listen to this video. If he did not play the video for Connie, he could have not intent to abuse and the mental abuse finding fails. Also, if he thought the audio was funny, and he was playing it for himself, there is no intent to harm Connie, and the claim fails.

There is no testimony by her or any party that he asked Connie to listen to it, only that she overheard it. Her

statements affirm he did not play the tape for her. He did not try to play the tape for her. She came over and inquired as to what he was doing. She states "she found Pavel playing with his cell phone." CAR at 163. Mental abuse cannot be ascribed to actions that are not directed at nor intended to be directed at the alleged victim.

Furthermore, foreign language speakers often find swear words in another language enticing or funny. They do not have the same impact as words in one's own tongue. If Mr. Aleksentsev found these funny based on his cultural differences, it would stand to reason he did not know they would stress another individual out. While he willfully acted he could not have the requisite intent required by the statute.

Another issue is that Connie testified she told Mr. Aleksentsev to put the audio away three times. She never said if he heard her the first two requests. This is important. One of the first rules of communication is to make sure the person to whom you are talking is not distracted. See. http://www.ucdmc.ucdavis.edu/hr/hrdepts/asap/Documents/Communication_Skills.pdf. (USC Pamphlet on

communication skills). Most people know this and deal with it daily in their lives. If someone is engrossed doing something they often do not hear when someone is trying to talk to them. Even if her version of events is 100% accurate, there is nothing in her testimony that shows Mr. Aleksentsev intentionally ignored Connie with the intent to cause her harm. She did not say he heard her the first two times. She may have been annoyed or stressed but that happens in all job fields and in most relationships.

Additionally, when he acknowledged her request Mr. Aleksentsev never showed it to her again. This again fails to meet the definition of a willful action with the intent to harm as required by WAC 388-71-020. Connie provided no evidence that he intended to harass or abuse her. The exhibits also provide no evidence of intent to harm during this incident. Absent evidence of intent to harm there can be no violation of RCW 74.34.020; see Brown v. DSHS, 145. Wn.App. at 183. This is what we the Board and superior court judges missed. They focused only on the willful action not Mr. Aleksentsev's intent or knowledge and not the actual harm.

As to Cathy (Katy), the co-worker's involvement, it is irrelevant. If he sent her the text intentionally or mistakenly it has nothing to do with his interaction with Connie. Connie asked him to send music. He did send Cathy Russian music. She testified to this fact in the first hearing. She also testified that she showed the clip to Connie. Any actions by Cathy are not the actions of the Mr. Aleksentsev. In fact, in all of the testimony, the only Caregiver that admitted to playing the audio for Connie was Cathy, during the first hearing. Cathy's feelings on the matter and anger are irrelevant and have no basis on the action before the court.

C. The Eye Appointment Trip

The final event was the eye appointment trip. Connie testified she was tired and hungry. She testified she asked to go home but Mr. Aleksentsev took her to lunch at Arby's. During the first hearing she testified she agreed to lunch at Arby's. Mr. Aleksentsev testified he took her, paid for her and let her choose what she wanted.

She testified the whole time that Mr. Aleksentsev was excited and wanted to take her to Lowes. He wanted to show her something. After lunch they did not go to Lowes because she told him no. He stated he wanted to go to Lowes to get her the flowers she wanted for her room.

Again, there was no intent to harm. Mr. Aleksentsev was trying to do a good deed for Connie. Connie was tired; they talked it out and went home. There is no rational basis upon which this event can be seen as mental abuse. Both testified his intent was to do something nice for her. His actions do not fall within the statutory guidelines for mental abuse. Connie also testified she never felt frightened around Mr. Aleksentsev. AR. Hr. Tr. 59:9-10. She said she was never intimidated in anyway. Id. at 11-12. She also testified she was nothing more than annoyed at his behavior. Id. at 13-20. She admitted his behavior improved with mild correction and she wanted nothing bad to happen to him. AR. Hr. Tr. 60:6-18. The testimony does not create the facts or intent required by the statute for a finding of mental abuse. In accordance with Brown, if the victim was not harmed, there can be no abuse.

II. An Abuse Finding Should require Expert Testimony

Mental abuse is different than physical abuse and should require expert testimony. Judge Tompkins found expert testimony is not required. She stated the statute gave sufficient direction for the Trier of fact to come to an abuse determination. The statute provides a definition of mental abuse however; it provides no explanation as to who can make a finding of mental abuse or whether one or a series of events is required to create mental abuse. In the medical field, only a psychologist or psychiatrist can make a finding of a mental diagnosis. This is most prominent in the Worker's Compensation arena under RCW Title 51. Title 51 requires medical evidence to support a finding of harm/injury. Absent this testimony, anybody can allege anything and we can call it abuse. However, if there is no harm, there cannot be abuse. The statute does not define stress or annoyance as harm. It specifically provides the examples of coercion, harassment, isolation, verbal assault. No expert testified in this hearing as to whether Mr. Aleksentsev's actions could be considered abusive. Under

Evidence Rule 702 this matter would require an expert to testify. The subject matter, i.e. mental abuse, is beyond the skill and experience of the common individual. While we may be able to see physical abuse, mental abuse has to amount to more than mere annoyance. To prove someone was mentally abused it requires a showing that they knew their actions could cause harm, and that the actions did cause harm. There is no testimony that supports a finding that Mr. Aleksentsev's actions caused harm the requisite harm, let alone that he knew or should have known they would cause harm.

This is not a case where he belittled, yelled at or harassed the victim. In each case he stopped his behavior when approached and never repeated it. This does not meet the definition of abuse in the statute.

No foundation was laid to show any of the Department's witnesses had the type of experience necessary to diagnosis mental abuse. While Mr. Crusch had a degree in psychology, he was not a psychologist. AR. Hr. Tr. 83:1-4. He did not testify he was allowed to make a final

determination as to whether mental abuse occurred. His findings were reviewed by a panel and the panel voted. No one on the panel was identified as an expert in mental abuse. Therefore, the panels vote that there was mental abuse is immaterial because there was no finding by an expert. AR. Hr. Tr. 82:8-18. These events are consistent with the Department's lack of care for the rights of the accused in this case but not consistent with a finding of abuse.

Furthermore, in the psychological field, Mental abuse is defined by leading experts Tomison and Tucci: as "characterized by a climate or pattern of behavior(s) occurring over time [...] Thus, 'sustained' and 'repetitive' are the crucial components of any definition of emotional abuse." See page 6 of this attachment, Tomison, Adam M and Joe Tucci. 1997. Emotional Abuse: The Hidden Form of Maltreatment. Issues in Child Abuse Prevention Number 8 Spring 1997. Another expert, Andrew Vachss, an author, attorney and former sex crimes investigator, defines emotional abuse as "the systematic diminishment of another. It may be intentional or subconscious (or both), but it is

always a course of conduct, not a single event." Vachss, Andrew. 1994. "*You carry the Cure In your Own Heart.*" Parade, 28 August 1994. See page 1.

To establish a finding of mental abuse it requires both intent on the part of the actor and a pattern of behavior. This is consistent with the use of the word harassment or coercion in the statute. In this case we do not have the requisite intent to harm and we do not have a pattern of diminishing behavior. Worst case scenario with these facts, we have a showing of a disagreement between two adults on what to do or how to act in three different scenarios. When confronted, Mr. Aleksentsev, as this was his job, always conceded to Connie's desires. Abuse is established by those seeking control, not those willing to give it up. The Department provided no expert testimony establishing Mr. Aleksentsev's actions constituted abuse, there is no pattern of abusive behavior and Mr. Aleksentsev did not have the requisite intent to harm Connie that is required for a Mental abuse determination. For these reasons the October 8, 2012 decision and all previous decisions should be overturned.

III. Judge Stewart Prohibited Mr. Aleksentsev from Confronting Department Witness Curt Crusch

Judge Tompkin notes in Findings of Fact 1.11 that Mr. Aleksentsev's opportunity to confront witnesses and rebut witnesses at the hearing was not unduly abridged. However, a careful review of the transcript shows that Judge Stewart forbade Mr. Aleksentsev's counsel from effectively cross-examining the investigator. AR. Hr. Tr. 86:1-5.

The comments in question by Judge Stewart are:

I am not going to put the APS investigator on trial here. They're supposed to find fault, that's what their job is. And we're talking about Mr. Aleksentsev and what he did or didn't do, not what, uh – any defects in the investigation. Id.

There are several things wrong with Judge Stewart's statement. Judge Stewart blatantly misstated the law. It is not the investigator's job to find fault but to establish whether the allegations are substantiated. WAC 388-71-0110. In other words, look at both sides of the issue, this is not a witch hunt.

The comment by the Judge was in response to a relevance objection by the Department. AR. Hr. Tr. 85:19-

25. The Judge's comments effectively quashed any inquiry into the investigator's conduct. Yet, the conduct and motivations of the investigator are clearly relevant. If the investigator is bias, then his investigation is flawed.

There were substantial questions as to the reliability of the investigator. Mr. Aleksentsev testified he asked the investigator three times for a translator. Mr. Crusch said he was never asked, yet acknowledged the Mr. Aleksentsev did not understand him at times. In the first hearing Mr. Stevens, Mr. Aleksentsev's first counsel was allowed to cross the investigator. There was substantial evidence that he had a bone to pick with Mr. Aleksentsev based on conversations with Ms. Lee. As the Judge prohibited any relevant cross of the investigator, the Mr. Aleksentsev's right to confront his witnesses at hearing under RCW 34.05.461(4) was effectively quashed. This is especially alarming since Mr. Stevens, Mr. Aleksentsev's first attorney, noted that the investigator could have been biased by conversations with Ms. Lee. The investigator's report was also refuted in the first hearing by the testimony of Connie and Mr. Aleksentsev. CAR at 103. However, as the

transcript was lost this evidence was lost based on Judge Stewart's handling of this objection. Mr. Aleksentsev's due process rights were violated and the testimony of Mr. Crusch should be stricken from the record along with any exhibits prepared by him and the October 18, 2012 order reversed. Alternatively, and at a minimum Mr. Aleksentsev should be provided a new hearing and chance to cross Mr. Crusch.

IV. Mr. Aleksentsev Was Discriminated Against Based on The Department's Refusal to Accommodate his Language Barriers

Mr. Crusch's refusal to provide an interpreter to Mr. Aleksentsev is appalling. Mr. Aleksentsev understands some English but does not comprehend it on the level of the average American. Mr. Aleksentsev's right to be heard and understood was severely infringed by Mr. Crusch actions. Then when Mr. Aleksentsev had an interpreter at the hearing the used the difference between his testimony and the non-interpreted investigation as a basis for finding Mr. Aleksentsev was lying and not credible. CAR at 98. This is

discrimination and bias based on ethnic and cultural language barriers.

It is obvious, to anyone who talks to Mr. Aleksentsev that he needed an interpreter to discuss the issues before the court. If the court believed he needed an interpreter for the hearing then he definitely needed one to talk to Mr. Crusch.

A lot has been made over the inconsistencies between what Mr. Aleksentsev told Mr. Crusch and how he testified. The problem with this rationale is Mr. Aleksentsev did not completely understand Mr. Crusch. Mr. Crusch even testified there was at least one incident where he had to repeat himself. AR. Hr. Tr. The Board, in these hearings, can only rely on hearsay evidence if a reasonable person would rely on that evidence. No reasonable person would rely on evidence gained from a conversation where the two individuals could not fully understand each other.

In this case a reasonable person is anyone who has experience speaking another language or trying to communicate with a non-English speaker. They are the only people that would understand the dynamic involved in these

types of conversations. I speak some Russian. Mr. Aleksentsev speaks some English. In our conversations, more than two years after the first trial, he still does not understand completely what is going on in this trial process. It will continue to be a problem for him because he does not get the nuances of the English language. A reasonable person would look at Mr. Crusch's testimony and report and say it is not the type of evidence they would rely upon. There are no grounds upon which to find Mr. Aleksentsev abused Connie, especially when no one tried to make sure he was understood. It is easy to phrase a question so you get the answer you want when the other person does not completely understand you.

Conclusion

Judge Tompkin found that Mr. Aleksentsev's actions and words were willful because he did them. See finding of fact 1.3, 1.4 & 1.7 in the October 8, 2012 order. A finding of willfulness is not enough. All actions, except reactions, are willful. The key to the abuse finding is did Mr. Aleksentsev know or should he have known his actions could cause

Connie harm and did they cause harm. If there is no harm, then there is no abuse. See. Brown v. DSHS, 145 Wn.App 177. The victim testified she was not afraid, she was not intimidated she even found some of the events comical. This is not harm. Even if she was harmed, you should be required to have an expert testify that the harm was related to the event. Absent expert testimony, there is no causal link between alleged harm and mechanism of injury.

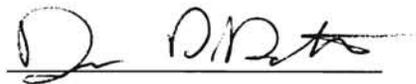
There is no showing in the record that Mr. Aleksentsev knew or should have known his actions would cause harm. Each time he acted it was either not directed at Connie or believing he was doing something nice for her. Each action was a different type of event. Each event happened on one day, he was told to stop, and then he stopped. This also shows a desire not to harm the "victim."

Ultimately, Connie was willing to keep Mr. Aleksentsev on until Mr. Crusch and Ms. Lee persuaded her otherwise. If Connie was not that concerned about the incidents then no mental abuse could have happened. Mental abuse requires an intent and actual harm. No pattern is established by

these facts or overt actions that show a clear intent to harm. Mental abuse is a psychological diagnosis. No certified psychological professional testified Connie was abused, Connie herself denied being frightened or intimidate. There are no facts to support a finding that Mr. Aleksentsev's actions, where in fact, considered mental abuse. We respectfully request the October 8, 2012 order be overturned. We also request attorney fees under RCW 4.84.350.

Date: 4/8/13

Respectfully Submitted

A handwritten signature in black ink, appearing to read "Drew D. Dalton", written over a horizontal line.

Drew D. Dalton, WSBA No 39306
Attorney for Appellant.

APPENDIX

Articles Cited:

1. Vachss, Andrew. 1994. "You carry the Cure In your Own Heart." Parade, 28 August 1994 6 pages. Attached
2. Tomison, Adam M and Joe Tucci. 1997. Emotional Abuse: The Hidden Form of Maltreatment. Issues in Child Abuse Prevention Number 8 Spring 1997 25 pages. Attached.
3. USC Communication skills pamphlet. 2 pages.



Australian Government
Australian Institute of Family Studies
Child Family Community Australia

You are in an archived section of the Child Family Community Australia (CFCA) site. Publications in this section were produced by the former National Child Protection Clearinghouse which is now part of CFCA. This archived section will no longer be updated and may not meet the latest accessibility standards. If you are unable to access content in this archive please contact us and we will endeavour to provide it in a format that you can use. **Please visit Child Family Community Australia Publications by topic for a full list of our publications.**

Issues in Child Abuse Prevention Number 8 Spring 1997

Emotional Abuse: the hidden form of maltreatment

Adam M Tomison and Joe Tucci

Contents

- Broad Characteristics
- Terminology
- Defining Emotional Abuse
 - Legal Definitions
 - Australian Definitions
- Prevalence
- Causes
- Types of Emotional Abuse
 - Verbal Abuse
 - Non-organic Failure to Thrive
- Witnessing Domestic Violence
- Redefining Physical Abuse as Emotional Abuse or Neglect
- Systems Abuse
 - Schools
 - Media Reporting
 - Implications
- Prevention
 - Family Support
 - Community Education
 - Support Networks for Children
 - Support Networks for Parents and Caregivers
 - Child and Family Centres - The 'One Stop Shop'
- Future Research Directions

Conclusion

References

The foundations for good mental health are laid down in the emotional development that occurs in infancy and later childhood and appears to be dependent upon the quality and frequency of response to an infant or child from a parent or primary caregiver (O'Hagan 1993; Oates 1996). The parental response to the infant's emotions or expressive behaviours usually results in the formation of an attachment bond between the two. This bond develops in the early months and years of life, and is closely linked to the behavioural response of the parent and the ongoing cycle of parent-child interaction.

Bowlby (1969) proposed that for humans, and for infants in particular, survival depends to some extent on having access to such an attachment figure, usually a parent and most commonly the mother. Such attachment experiences have a profound influence on the development of other interpersonal relationships that form in later childhood or adult life, and have implications for the way in which adults subsequently relate to their own children (Oates 1996).

Where a child experiences a warm, intimate and continuous relationship with her or his mother or other care-giver, that child would thrive. Conversely, an unresponsive parent, or one who responds inappropriately to a child's needs, would increase the likelihood of the child becoming anxious and insecure in its attachment.

If a parent inadvertently or deliberately engages in a pattern of inappropriate emotional responses, the child can be said to have experienced *emotional abuse* (O'Hagan 1993). Emotional abuse is the least studied of all the forms of child maltreatment and its etiology (i.e. theories of causation) is less developed (National Research Council 1993).

Research into the impact and prevalence of emotional abuse has been plagued with disagreements about how to define it, measure it and treat it (Nesbit & Karagianis 1987; Giovannoni 1989; Claussen & Crittenden 1991; McGee & Wolfe 1991; O'Hagan 1993). The failure to overcome these issues has been taken as an explanation for the omission of emotional abuse from most policy agendas and research programs (Frost 1982, as cited in Daro 1988).

The precise relationship between emotional abuse and other forms of maltreatment is currently not known (National Research Council 1993). Emotional abuse may occur as a distinct form of abuse (e.g. verbal abuse, threats to abandon a child, witnessing domestic violence) (Navarre 1987), or in conjunction with other forms of maltreatment (Herrenkohl 1990). It is increasingly considered to be the core issue in all forms of child abuse and neglect (Hart, Germain & Brassard 1987; Navarre 1987; McGee & Wolfe 1991).

Not only does emotional abuse appear to be the most prevalent form of child maltreatment, but some professionals believe it to produce the most destructive consequences (Garbarino & Vondra 1987). The effects of emotional abuse may be manifested in the sense of helplessness and worthlessness often experienced by physically abused children (Hyman 1987), in the sense of violation and shame found in sexually abused children (Brassard & McNeil 1987), or in the lack of environmental stimulation and support for normal development found in neglected children (Schakel 1987).

O'Hagan (1993) has further argued that it is the emotional and psychological trauma associated with physical and sexual abuse that has the most detrimental impact on the development of children, a view supported by the United Kingdom's National Commission of Inquiry into the Prevention of Child Abuse (1996).

On the basis of a sub-sample of 721 letters submitted by adults who had been abused as children the National Commission determined that 80 per cent of respondents who had experienced sexual abuse in combination with physical and/or emotional abuse felt that the emotional abuse was most damaging in the long term.

Similar findings were confirmed by Briggs (1995) in interviews with men allegedly sexually, physically and emotionally abused by caregivers while in Christian Brothers boarding schools in Western Australia.

Children may recover from physical pain and injuries, but may never recover from the terror, degradation, humiliation or breach of trust involved in sexual abuse (Briggs 1995; Briggs & Hawkins 1996).

However, unlike the more visible consequences of physical abuse or neglect, the consequences of emotional abuse have not been extensively investigated, because they are more elusive (Herrenkohl 1990). Most maltreatment typologies tend to use emotional abuse as a residual category, encapsulating the forms of maltreatment not captured by the categories of physical abuse, sexual abuse or neglect (Daro 1988).

Consequently, the effectiveness of the response to emotionally abused children has been questioned by a number of authors. Melton and Davidson (1987) have maintained that the concept of emotional abuse may be too imprecise for use as a basis for state intervention with families. Bourton and Burnham (1992) describe their experience of social workers visiting families without a clear agenda for intervention, at times manufacturing a crisis to resolve a chronic situation. Garbarino and Vondra (1987) have argued that children appear to suffer not only from the identified abuse, but also from the iatrogenic effects (where the treatment causes more damage than the illness itself) of the protective and therapeutic systems designed to assist them to recover from the experience - commonly known as 'systems abuse'.

This paper explores the range of controversies inherent in attempts to operationalise a definition of emotional abuse within legal, practice and research frameworks. The paper includes an overview of current research investigating aspects of emotional abuse: specifically, children's witnessing of spousal violence; the use of emotional abuse in the minimisation of abusive concerns; and emotional abuse in the context of systems abuse. A review of the short and long-term consequences of emotional abuse will be presented as part of a future Clearing House Issues Paper.

Broad Characteristics

Briggs and Hawkins note that by 'the very nature of adult-child relationships and cultural influences, most adults will have inflicted emotional abuse on children, probably without realising it' (1996, p.21).

While behaviour may be emotionally damaging to a child, it may not necessarily be considered emotionally abusive by child protection or child welfare staff. Depending upon which of the many definitions is employed, emotional abuse may involve passive or neglectful acts, and/or the deliberate, cruel and active rejection of a child (Briggs & Hawkins 1996).

A common feature of most definitions, however, is the basic tenet that isolated instances of inappropriate responses do not constitute emotional abuse for the purposes of intervention. Unlike physical and sexual abuse, where a single incident may be considered abusive, emotional abuse is characterised by a climate or pattern of behaviour(s) occurring over time (O'Hagan 1993; McDowell 1995a, as cited in Woodham & Lapsley 1996). Thus, 'sustained' and 'repetitive' are the crucial components of any definition of emotional abuse (O'Hagan 1993).

It should also be noted that, like other forms of maltreatment, emotional abuse occurs in different forms and at different rates in different cultures. Every culture defines some form of behaviour as abusive, and has instances where people deviate from acceptable standards (Korbin 1991). Briggs and Hawkins (1996) cite the example of the industrial north of England, where traditional views emphasise the value of modesty and sincerity. The perception that conceit and dishonesty are the worst traits a child could develop has been linked with the accepted regional propensity of 'putting down' children.

Any definition of emotional abuse, then, should be 'reliant upon context, where each incident [behaviour] a child is subject to is seen to be part of an established pattern' (Woodham & Lapsley 1996, p.276) and dependent on the context of a child's living environment. For the purposes of this paper, emotional abuse is discussed in terms of the behaviours which may be considered abusive by professionals in the child protection and child welfare fields.

Terminology

One of the main issues in defining emotional abuse is the search for agreement on the most accurate term to describe it. A variety of labels appear to be used interchangeably with emotional abuse: mental cruelty (Navarre 1987); psychological maltreatment (Hart, Germain & Brassard 1987); emotional neglect (Whiting 1976; Junewicz 1983); mental injury (Kavanagh 1982); psychological battering (Garbarino, Guttman & Seeley 1986); and coercive family processes (Patterson 1982). Each term appears to reflect an attempt to incorporate within it a resolution of issues related to the following.

First, whether the abuse is intentional. For example, *emotional neglect* reflects acts of omission, a failure to take action; that is, the caregiver may not be aware that her/his behaviour or attitude is abusive. In contrast, a key assumption of *mental cruelty* and *psychological battering* is the caregiver's intent to cause harm; in other words, an act of commission.

Second, whether there is a difference in the processes affected by this form of abuse. For example, *psychological maltreatment* focuses on the impact on the mental abilities of a child, such as intelligence, memory, recognition and attention. However, *emotional abuse* places a greater significance on the impact on a child's feelings and capacity to express emotion and develop relationships (O'Hagan 1993).

Third, 'goodness of fit' within a legislative framework requires differing standards of evidence to aid in decision making.

Fourth, the emphasis placed on patterns in family relationships (attachments) as a cause of children's distorted social learning processes (Patterson 1982).

Clearly there is a need to examine the terminology employed in the process of defining emotional abuse. In the following sections, the term 'emotional abuse' has been adopted to facilitate the writing process; it does not reflect a premature resolution of these issues.

Defining Emotional Abuse

The identification and professional recognition of the three major forms of child abuse - physical, sexual and emotional - has evolved over time (Browne 1988). Browne contends that, in each case, the type of abuse can be characterised in the same way and 'dichotomized into 'active' and 'passive' forms' (1988, p.15); that is, acts of commission and omission.

However, a large number of quite heterogeneous stratification systems have been developed in order to define emotional abuse. Some investigators (for example, Browne 1988), have distinguished between 'abusive' and 'neglectful' components of emotional abuse. For Whiting (1976), psychological *abuse* is present when parents cause a child to become emotionally disturbed, that is, via an act of commission. Psychological *neglect* occurs when parents refuse to allow an emotionally disturbed child to receive treatment, representing an act of omission. However, other investigators believe that any distinction between psychological abuse and neglect, the 'active' and the 'passive', is artificial (Garbarino, Guttman & Seeley 1986).

In what is widely regarded as the seminal work in the field of emotional abuse, James Garbarino and associates (Garbarino 1978; Garbarino, Guttman & Seeley 1986) have provided the basis for more recent attempts at defining what Garbarino terms 'psychological maltreatment' - 'a concerted attack by an adult on a child's development of self and social competence, a pattern of psychically destructive behaviour' (Garbarino, Guttman & Seeley 1986, p.8).

Under this definition, 'psychological maltreatment' is classified into five behavioural forms:

- *rejecting*: behaviours which communicate or constitute abandonment of the child, such as a refusal to show affection;
- *isolating*: preventing the child from participating in normal opportunities for social interaction;
- *terrorising*: threatening the child with severe or sinister punishment, or deliberately developing a climate of fear or threat;
- *ignoring*: where the caregiver is psychologically unavailable to the child and fails to respond to the child's behaviour;

- *corrupting*: caregiver behaviour which encourages the child to develop false social values that reinforce antisocial or deviant behavioural patterns, such as aggression, criminal acts or substance abuse.

Garbarino has also argued that each of these forms of psychological maltreatment has a differential effect on children depending on their passage through the four major developmental stages of infancy, early childhood, school age and adolescence (Garbarino, Guttman & Seeley 1986).

For example, rejection in infancy will result from a parent's refusal to accept and respond to a child's need for human contact and attachment. In early childhood, rejection is associated with a parent who actively excludes the child from family activities. At school age, rejection takes the form of a parent who consistently communicates a negative sense of identity to the child, and in adolescence, rejection is identified by a parent's refusal to acknowledge the young person's need for greater autonomy and self-determination (Garbarino, Guttman & Seeley 1986).

Hart and colleagues hosted a national conference in the United States in order to achieve a consensus among professionals on a working definition of psychological abuse. It was concluded that the psychological maltreatment of children and youth:

'... consists of acts of omission and commission which are judged on the basis of a combination of community standards and professional expertise to be psychologically damaging. Such acts are committed by individuals, singly or collectively, who by their characteristics (e.g. age, status, knowledge, organisational form) are in a position of power that renders a child vulnerable. Such acts damage immediately or ultimately the behavioural, affective, or physical functioning of the child' (1987, p.6).

The conceptualisation of emotional abuse has continued to expand through both research and clinical observation.

Hart, Germain and Brassard (1987) extended Garbarino's original typology of psychological maltreatment by including two other behaviours: the denial of emotional responsiveness; and acts or behaviours which degrade children.

Garbarino and Vondra (1987) included: stimulus deprivation; influence by negative or inhibiting role models; forcing children to live in dangerous and unstable environments (e.g. exposure to war, domestic violence or parental conflict); and the sexual exploitation of children by adults and parents who provide inadequate care while under the influence of drugs or alcohol.

McGee and Wolfe (1991) constructed an operational definition of psychological maltreatment for use in research, defining psychologically abusive acts in terms of parent-to-child communication. Utilising a developmental psychopathology perspective, they concluded that 'psychological maltreatment is any communication pattern that could undermine a child's resolution of important developmental tasks' (1991, p.14). Thus, it is the message conveyed to the child which is critical to the child's experience of the abuse. For example, destroying a child's toy communicates 'I hate what you value'.

However, McGee and Wolfe's model has been criticised on a number of grounds, in particular: the need for a greater level of accountability when making decisions about statutory intervention based on concepts such as potential harm rather than actual harm (Giovannoni 1991); the failure to incorporate active interpretations of societal standards in attempts to define maltreatment (Barnett, Manly & Cicchetti 1991); the lack of qualitative and quantitative research upon which to base the model (Egeland 1991); the lack of attention paid to the cultural and historical context in which certain communications are examined (Garbarino 1991; Sternberg & Lamb 1991); and for adopting a focus on potential harm when other studies have achieved increased understanding about the actual harm caused by psychological maltreatment (Hart & Brassard 1991).

Pillari (1991) argued that emotional abuse is intergenerational, highlighting deeply rooted patterns of scape-goating in families where children become the source of blame for the inability of parents to resolve the detrimental consequences of their own experiences of rejection and family trauma. Pillari

notes that some professional systems continue to blame children for parental disturbances, further compounding the effects on the child and minimising the potential for parents to change behaviours and attitudes towards children.

O'Hagan (1993, 1995), in what is another important work in the field, made two theoretical delineations, arguing that an adequate definition should not only describe what emotional abuse is, but what it does. He also developed separate definitions for emotional and psychological abuse, maintaining that a significant source of confusion could be clarified as a result.

According to O'Hagan, emotional abuse is 'the sustained, repetitive, inappropriate emotional response to the child's expression of emotion and its accompanying expressive behaviour' (1993, p.28). Such abuse inhibits the child's capacity for spontaneous, positive and appropriate emotional expression (O'Hagan 1995). Psychological abuse is defined as 'sustained, repetitive, inappropriate behaviour which damages, or substantially reduces, the creative and developmental potential of crucially important mental faculties and mental processes of a child: these include intelligence, memory, recognition, perception, attention, language and moral development' (O'Hagan 1993, pp.33-34). Psychological abuse fundamentally undermines a child's capacity to understand and manage her/his environment by creating confusion and fear, thereby rendering the child more vulnerable and less confident (O'Hagan 1995).

Although O'Hagan distinguishes between emotional and psychological abuse, he does not claim that they are totally distinct entities. O'Hagan believes that, like all forms of maltreatment, they will frequently co-occur and each may impact negatively on both the child's emotional and mental life. When focusing on behaviour that impairs a child's emotional life and subsequent emotional development, O'Hagan concludes, 'emotional abuse' is the appropriate term; when the focus is the impairment of the child's mental life and subsequent mental development, 'psychological abuse' is the appropriate term. Thus what is required when the two types of abuse cooccur, is the recognition that the child is enduring both forms of abuse.

While a variety of forms have been proposed and debated, the elements common to most conceptualisations of emotional abuse are: that the inappropriate adult behaviour must be of a sustained and repetitive nature and considered within a cultural context; and that community standards about appropriate caregiver behaviour are constantly changing and are not homogenous or easily identifiable.

With regard to the effects on the child, it is commonly agreed that: the subjective meaning constructed by victims of their experience of violation should be incorporated into the definition; a developmental perspective should be adopted in the consideration of the abuse; emotional abuse can undermine the development of children's cognitive competency and skills; emotional abuse can have a detrimental effect on children's trust and on the way they form relationships and express emotions.

Legal Definitions

Nowhere is the need for clarity of definition more important than in child protection policy and legislation. Emotional abuse was recognised as a separate form of child maltreatment by legislators in the United Kingdom in the 1980s. However, it had been part of the child abuse statutes in several states within the United States as early as 1977 (Iwaniec 1995).

The language employed in the drafting of state laws which deal with emotional abuse has a direct influence on the successful adjudication of subsequent cases brought before the court. It affects the regulations, guidelines and policies of child protection agencies; the personal attitudes and training of child protection caseworkers; the opinions and competency of the lawyers representing the state; and the attitudes and knowledge of the judges deciding such cases (Corson & Davidson 1987).

It is contended that the definition of emotional abuse in most Australian and United States statutes reflects the history of confusion often associated with issues surrounding emotional abuse within the research and practice fields.

In a review of the United States federal and state legislative frameworks for emotional abuse, Corson and Davidson (1987) concluded that, even where statutes made reference to emotional abuse, the relevant

provisions were too imprecise for much case law to have been produced in the area. Similarly, McGee and Wolfe (1991) noted that many legal and procedural definitions of emotional abuse were so broad that caseworkers commonly assumed that emotional abuse rarely existed on its own. Rather, it is assumed to occur primarily in combination with other types of child maltreatment.

With rare exceptions (e.g. Newfoundland and Alberta, Canada), few legally mandated definitions of emotional abuse exist that explicitly define a threshold or criterion for state intervention, or the nature of emotionally abusive parental acts (Wolfe 1991).

However, the degree of observable behavioural disruption required when considering whether or not a child needs legal protection, *has* been described (Wolfe 1991). For example, the American Bar Association (Corson & Davidson 1987) recommends protective intervention only when a child is already suffering serious emotional damage as evidenced by severe anxiety, depression, withdrawal, self-harming behaviour or aggressive behaviour towards others, and where the child's parents are unwilling to provide appropriate treatment.

Australian Definitions

There is currently no national, legal definition of child abuse and neglect in Australia. The Australian Institute of Health and Welfare provides a general definition of child abuse and neglect, as applied to substantiated child abuse notifications reported to the various State and Territory child protection services. Emotional abuse is defined as any 'act by a person having the care of a child which results in the child suffering any kind of significant emotional deprivation or trauma' (Broadbent & Bentley 1997, p.75). However, what constitutes 'significant' emotional deprivation or trauma is not defined.

The criticisms of Corson and Davidson (1987) and Wolfe (1991) also apply to Australian State and Territory legislation, which provides limited definitions of emotional abuse that are subject to a significant degree of interpretation. For example, under Section 63e of the Victorian *Children and Young Persons Act 1989*, a child is in need of protection in cases of emotional abuse if:

'The child has suffered, or is likely to suffer, emotional or psychological harm of such a kind that the child's emotional or intellectual development is, or is likely to be, significantly damaged and the child's parents have not protected, or are unlikely to protect, the child from harm of that type.'

Not only is the term 'emotional or psychological harm' in need of interpretation, but clarification of the term 'significant' is also critical to the process of decision making in child protection. In an attempt by the courts to clearly define the latter, Justice O'Bryan declared in the Supreme Court of Victoria that:

'In my opinion, in choosing the word significant the legislature intended that harm to the child's emotional or intellectual development will be more than trivial or insignificant but need not be as high as serious ... The word significant means 'important', 'notable', 'of consequence'... For the purposes of the act 'significantly damaged' means that the child's emotional or intellectual development is likely to be damaged in some respect that is important or of consequence to the child's emotional or intellectual development.' (Justice O'Bryan, 11 December 1992)

Unfortunately this judgement has not assisted greatly in achieving a more reliable conceptualisation of the term 'significant'. This is most notably reflected in the more recent Victorian Parliamentary Crime Prevention Committee's Inquiry into Sexual Offences Against Children, whose first recommendation was: 'that the word 'significant' be defined within the *Children and Young Persons Act 1989* to ensure appropriate investigation.' (Crime Prevention Committee 1995, p.xiii)

In contrast to Australia and the United States, the United Kingdom *Children Act 1989* appears to have reached a definition of emotional abuse that addresses a number of these criticisms. The provisions of the Act have been interpreted to identify emotional abuse as:

'... an actual or likely severe adverse effect on the emotional and behavioural development of a child caused by persistent or severe emotional ill-treatment or rejection. All abuse

involves some emotional ill-treatment. This category should be used where it is the main or sole form of abuse' (Department of Health, Education and Science 1991, p.49).

Importantly, this definition ensures that a practice framework of child protection is able to single out emotional abuse as a discreet entity. Resultant social policy, intervention and treatment approaches are therefore more likely to achieve a greater degree of accuracy in a determination of emotional abuse and the subsequent protection of children.

Prevalence

Emotional abuse does not leave physical injuries and its ongoing nature usually means there is no crisis which would precipitate its identification by the health, welfare or criminal justice systems (Oates 1996). For that reason emotional abuse is the most hidden and underestimated form of child maltreatment.

Of the data available, and depending on the definition adopted, estimates of the prevalence of 'psychological maltreatment' vary from between 0.69 to 25.7 per cent of children (Fortin & Chamberland 1995). Emotional abuse accounts for approximately 7 per cent of all reported cases of child maltreatment across the United States (Second National Incidence Study 1986, NCANDS 1990, as cited in National Research Council 1993). However, the absence of operational definitions and true standards of severity means that the true occurrence of the extent of emotional abuse is unknown (National Research Council 1993).

The most recent national Australian data, produced by the Australian Institute of Health and Welfare, indicate that in 1995-96 emotional abuse cases accounted for 31 per cent of substantiated child maltreatment cases. The rate of emotional abuse among those aged 0-16 years (based on the number of substantiated child protection cases for the year) was 0.2 per cent (Broadbent & Bentley 1997). No other estimates of the prevalence or incidence of emotional abuse in Australia are known to the authors.

A more detailed investigation of the substantiation rates of emotional abuse cases across the nation serves to high-light the effect that variations in State and Territory child protection practices, legislation and policy contexts may have on the observable prevalence of emotional abuse.

The first national statistics (for 1988-89) describing rates of substantiated child maltreatment were presented at the opening of the Australian Child Protection Conference in 1990 (Calvert 1990) (see Table 1).

Table 1: State and Territory breakdown of 1988-89 national child abuse and neglect case statistics by type of abuse

State or Territory*	Type of Abuse			
	Physical	Emotional	Neglect	Sexual
New South Wales	24.1	17.5	29.7	28.4
Victoria	15.0	48.3	28.2	8.5
Queensland	26.1	16.7	37.7	19.5
Western Australia	30.3	3.2	29.8	36.7
South Australia	39.5	6.0	24.2	29.0
Tasmania	53.0	4.0	7.0	30.0
Northern Territory	32.0	3.0	34.0	31.0

AUSTRALIA	31.4	14.1	27.7	26.2
------------------	-------------	-------------	-------------	-------------

*no data provided for ACT. **Source:** Calvert (1990)

As Goddard and Carew (1993) note: 'Even a cursory glance at this table reveals extraordinary differences in how abuse is defined, with almost half (48.3 per cent) of the referrals in Victoria classified as emotional abuse compared to an average of just over 8 per cent for the other States (ranging from 3 per cent in the Northern Territory to nearly 18 per cent in NSW). Even allowing for differences in reporting and data collection, it can only be assumed that even within Australia child abuse is defined differently' (Goddard & Carew 1993, p.208).

Unquestionably, the category of emotional abuse reflects the widest range of substantiation rates in comparison to other maltreatment types. It is also apparent from these figures that determining the prevalence of emotional abuse across Australia has been hampered by the failure to achieve an acceptable operational definition and standards of severity. For emotional abuse, as for other forms of child maltreatment, the debate about what is excluded or included in a definition of abuse ultimately affects how much of it can be identified.

Data compiled from a number of different Australian Institute of Health and Welfare child abuse and neglect Annual Reports (Angus, Wilkinson & Zabar 1994; Angus & Woodward 1995; Broadbent & Bentley 1997) indicate that the wide disparity in the range of substantiation rates of emotional abuse nationally has continued over the past decade (see Table 2). Indeed, no other form of child maltreatment appears to match the order of this difference.

Table 2: Percentage of cases substantiated as emotional abuse by State and Territory, 1991-96.

State or Territory	1995-96	1993-94	1995-96
New South Wales	32	33	38
Victoria	31	30	36
Queensland	16	16	19
Western Australia	4	5	4
South Australia	10	14	17
Tasmania	5	11	6
Australian Capital Territory	19	37	24
Northern Territory	1	8	7
AUSTRALIA	25	27	31

Source: Angus, Wilkinson & Zabar 1994; Angus & Woodward 1995; Broadbent & Bentley 1997

It would appear that just as different definitions of emotional abuse can produce different rates of child protection notifications and substantiations, so too can definitions affect the extent of legal protective intervention undertaken on the grounds of emotional abuse. Goddard contends, for example, that emotional abuse is 'virtually impossible to persuade the courts to recognise' (1996, p.38); however, this is not necessarily the case.

In Victoria, 46 per cent of all child maltreatment cases in 1994-95 for which child protection staff applied for protection applications, were on the grounds of emotional and/or intellectual harm under section 63(e)

of the *Children and Young Persons Act 1989* (Health and Community Services Victoria 1996).

Victoria, which together with New South Wales has the highest proportion of emotional abuse cases in its annual figures (see Table 2), also has one of the broadest definitions of what constitutes emotional abuse. The Victorian definition includes cases where children's functioning is adversely affected as a result of exposure to domestic violence and/or parental mental disorder (Broadbent & Bentley 1997).

Though specific data is not available, it is likely that this expanded definition is partially responsible for the high proportion of emotional abuse cases for which protective action has been taken. The new categories are somewhat easier to prove before a court (i.e. the presence of an incapacitating parental mental disorder or a history of serious spousal violence), in comparison with the traditional, more nebulous types of emotional abuse, such as yelling, threatening and withholding affection.

In a paper reviewing the protection of children exposed to domestic violence in the United Kingdom, Carroll concluded that:

'... many children who live in violent households respond to their circumstances with disturbed behaviours and feelings of high anxiety which impair their ability to develop and grow healthily. Thus they fulfil the criteria outlined in the legislation, of an impairment of their emotional and social development which amounts to 'significant harm.' (1994, p.11)

Causes

There is a dearth of knowledge surrounding the causes of emotional abuse. Much of the literature devoted to the investigation or delineation of aspects of emotional abuse discusses the etiology in terms of child maltreatment in general (e.g. Wolfe 1991); that is, the effect of parental and child characteristics and socio-cultural context on the propensity for abuse.

However, adults or parents who emotionally abuse are frequently described as poorly equipped with the knowledge to cope effectively with children's normal demands at different developmental stages (Oates 1996). A study comparing emotionally abusive parents with a closely matched control group of 'problem' parents in a day nursery (Brazelton 1982, as cited in Oates 1996), indicated that emotionally abusive parents showed poorer coping skills, poorer child management strategies, and more difficulty in forming and maintaining relationships. These parents also reported more deviant behaviour in their children displayed than parents in the control group.

Previous Clearing House publications have described a number of parental and child characteristics that may enhance the potential for emotional abuse.

For example, two of the most prevalent mental disorders identified as affecting parents who maltreat their children, namely depression and substance abuse (Chaffin, Kelleher & Hollenberg 1996), are likely to increase the potential for emotionally abusive responses (see *Child Maltreatment and Mental Disorder* (Tomison 1996b) and *Child Maltreatment and Substance Abuse* (Tomison 1996c) for a more detailed discussion).

Similarly, neuropsychological deficits or intellectual disability may increase the likelihood for inappropriate parenting and/or emotional abuse as a function of the added stress such conditions may produce (Tomison 1996a).

With regard to child characteristics, a child with a physical or intellectual disability may be more vulnerable to emotional abuse because of the greater potential for disruptions in mother-child bonding and/or greater parental stress (see *Child Maltreatment and Disability* (Tomison 1996a)).

Types of Emotional Abuse

Verbal Abuse

Verbal abuse is, perhaps, the core emotionally abusive behaviour.

Schaefer (1997) sought to determine which specific parental verbal utterances were generally perceived as psychologically harmful. A sample of 151 local mental health professionals and parents (120 women, 31 men) completed a questionnaire which described 18 categories of parental verbalisations commonly associated with psychological maltreatment in the literature.

Eighty per cent of respondents rated 10 of the 18 categories as being 'never acceptable' parenting practices. These were: rejection or withdrawal of love; verbal putdowns; perfectionism; negative prediction (e.g. 'you'll never amount to anything'); negative comparison (e.g. 'Why can't you be more like your sister?'); scapegoating; shaming; cursing or swearing; threats; and guilt trips (e.g. 'How could you do that after all I've done for you?').

Non-organic Failure to Thrive

Non-organic failure to thrive is one of the few forms of emotional abuse that generates observable physical symptomology for the child, and has produced a specific body of literature, particularly in the medical field.

Failure to thrive is a general term used to describe infants and children whose growth and development is significantly below age-related norms (Iwaniec, Herbert & Sluckin 1988). Cases can be classified into two categories (Oates 1982): *organic failure to thrive*, where a disease has caused the problem and medical treatment is prescribed; and *nonorganic failure to thrive*, where psychosocial factors are responsible and the treatment involves adequate feeding in combination with efforts to ensure the child's emotional needs are met. Non-organic failure to thrive has been described as the meeting point of emotional abuse and neglect (Goddard 1996).

Oates (1982) suggested that non-organic factors account for the highest proportion of failure to thrive cases, a contention supported by Schmitt (1978, as cited in Goddard 1996) who reported that organic reasons account for only 30 per cent of failure to thrive cases, while 20 per cent are nonorganic cases caused by underfeeding errors and the remaining 50 per cent are attributed to non-organic failure to thrive caused by parental neglect.

It is unclear, however, as to whether emotional deprivation alone can lead to growth failure (Jones et al. 1987). The early evidence from studies investigating the causes of failure to thrive was conflictual (Oates 1996). For example, growth failure caused by emotional deprivation was first documented in children in institutional settings (Spitz 1945, Widdowson 1951, both cited in Oates 1996). Despite living in an hygienic environment, the children received minimal individual attention, were prone to infection and displayed developmental delay and inadequate weight gains. However, the authors failed to report if an assessment of food intake was carried out (Oates 1996).

In contrast, other studies have reported that insufficient diet is the sole cause of non-organic failure to thrive (American Humane Association 1992, as cited in Goddard 1996; Whitten, Pettit & Fischhoff 1969, as cited in Oates 1996). Yet others have concluded that the probable cause is a combination of emotional abuse and inadequate diet (Oates 1982).

Investigation of non-organic failure to thrive cases has indicated that there are often multiple family problems occurring, including poverty, housing problems, unemployment and marital discord (Oates 1996). The parents may have unconventional beliefs or perceptions about what constitutes a normal diet for an infant (Oates 1996); the primary caregiver (in the vast majority of cases, the mother) may be emotionally unresponsive to the child (Iwaniec, Herbert and Sluckin 1988; Oates 1996); and the mother-child relationship may appear fraught and unhappy (Iwaniec, Herbert and Sluckin 1988).

Mothers in these cases have been found to have poor parenting skills; to be immature or depressed; or to have a knowledge of parenting but to have failed to use it because of the overwhelming nature of other family problems. Some have wholly negative perceptions of their infants, accusing them of being deliberately naughty to annoy them (Oates 1982).

The infants in such cases have been described as being lethargic, anxious, fussier, more demanding and unsociable, less adaptable, more inconsolable and less happy than other babies (Iwaniec, Herbert & McNeish 1985; Oates 1996). It is not clear whether these factors merely increase the likelihood of failure to thrive, or result from it.

Overall, it is quite probable that other factors within the child, together with defects in parent-child interactions, poor dietary intake and insufficient affection and stimulation cause the condition (Oates 1996).

Oates (1989) contends that the key to diagnosis is the psychosocial history of the family. Health and medical staff may identify warning signs of nonorganic failure to thrive even during pregnancy. The American Humane Association Guide (1992, as cited in Goddard 1996) suggests that early warning signs for non-organic failure to thrive are: inadequate ante-natal care; consideration of abortion and/or adoption; substance abuse or psychiatric problems; a lack of social support; financial problems; a maternal history of being maltreated as a child; and inadequate attachment to the baby after birth.

Post-natally, home visitor services, and infant welfare nurses in particular, are ideally placed to identify the first signs of failure to thrive caused by a lack of parental care (Olds et al. 1986a; Olds et al. 1986b; Goddard 1996). These workers have much to offer inexperienced parents or those who do not understand or do not respond to their child's needs (Goddard 1996). Often such assistance is welcomed and the mothers respond well when it is provided (Oates 1982).

Witnessing Domestic Violence

There is growing recognition that domestic violence and child physical and sexual abuse are strongly associated (e.g. Goddard & Hiller 1993; Tomison 1995a). A growing body of research also suggests that children who witness domestic violence, but who are not actually physically assaulted, may suffer social and mental health problems as a result (Edleson 1995). Yet it is only in the last decade that the plight of the indirect victims of family violence, children who witness domestic violence, has been investigated (Fantuzzo et al. 1997).

Using national surveys of family violence, it is estimated that between 3.3 and 10 million children are at risk of witnessing domestic violence across the United States each year. However, no national prevalence studies of children who witness domestic violence have been conducted in the United States to date (Edleson 1995). Research has also been hampered by the failure to develop clear definitions of this form of abuse and systematic ways of substantiating accounts of witnessing violence (Geffner, Rosenbaum & Hughes 1988). Much of the information on children's exposure to domestic violence is derived from retrospective studies of female survivors in women's shelters, anonymous telephone surveys, or retrospective accounts from adult survivors of spousal violence (Fantuzzo et al. 1997).

In order to determine the prevalence of children exposed to substantiated cases of domestic violence by a more credible and direct method of sampling, Fantuzzo et al. (1997) undertook a secondary analysis of a United States domestic violence database from the Spousal Assault Replication Program. The database contains cases of adult female assaults in five major American cities collected by police and researchers in response to calls for police assistance.

Results indicated that, relative to the general population in these cities, the families experiencing domestic violence were significantly more likely to have children living in the household, and a significantly higher proportion of children aged five years or less. The latter were found to be most likely of all children under 17 years to have witnessed multiple incidents of domestic violence. On average, children under five years were present as witnesses in 48 per cent of domestic violence cases and in 21 per cent of cases involving multiple incidents.

A review of Victoria's domestic violence legislation revealed that children under five years were present in: 65 per cent of domestic disputes involving the threat or use of a gun; in 79 per cent of disputes involving a weapon (usually a knife); and in almost two-thirds of disputes where property was damaged (Wearing 1992).

Overall, the current state of knowledge of children who witness domestic violence is substantially smaller than that which focuses on children who are physically abused in families where spousal violence is also occurring (Fantuzzo et al. 1997). For that reason 'making definitive statements regarding the child witnessing phenomenon ... would be a risky endeavour' (Fantuzzo et al. 1997, p.116).

Redefining Physical Abuse as Emotional Abuse or Neglect

As noted earlier, child abuse and neglect concerns do not occur in isolation (Farmer & Owen 1995). In *Spotlight on Neglect* (Tomison 1995b), recent Australian research (Goddard & Hiller 1992; Tomison 1994) was discussed in terms of the identified propensity of workers in some instances to use official case labels to misclassify cases. It was contended that, when dealing with cases involving both abusive and neglectful concerns, workers sometimes minimised the abuse and mislabelled cases as emotional abuse or neglect.

It was argued that this misclassification occurs because emotional abuse and neglect cases are generally dealt with by the provision of family support services, whereas sexual and physical abuse cases are likely to require more stringent protective intervention.

Thus, the perceived lesser severity of emotional abuse or neglect may be used by some workers to minimise child abuse, and hence the level of protective intervention required. This minimisation would then lead to potentially inadequate child protection through the adoption of a caseplan tailored for a scenario that ignores specific aspects of the case.

This position is supported by research commissioned by the Victorian child protection services in response to the finding that almost *half* of all substantiated cases in Victoria in 1987-88 were labelled as emotional abuse (see Table 1). The resultant report indicated that a significant proportion of emotional abuse cases (between 14 and 22 per cent) registered on the Children At Risk Register (CARR) were registered inappropriately (Dwyer 1991).

The report's key conclusion was that the confusion in defining emotional abuse was due to an emphasis on 'emotional interaction' in the welfare-oriented training of the State's protective service staff. That is, child protection staff were focusing on the emotional distress of the child associated with the experience of child maltreatment in general, rather than classifying the case on the basis of the actual types of maltreatment suffered. This was perceived in some cases to result in a minimisation of the concerns (Dwyer 1991).

The findings led to a change in the way abuse was categorised, with the category 'Likelihood of Significant Emotional Harm' removed from the child protection classification system. This later action appears to have contributed to a reduction of approximately 31 per cent in the proportion of substantiated cases of emotional abuse over the next three years.

Systems Abuse

Systems abuse may be defined as the 'harm done to children in the context of policies or programs designed to provide care or protection. Children's welfare, development or security is undermined by the actions of individuals or by the lack of suitable policies, practices and procedures within systems or institutions' (Cashmore, Dolby & Brennan 1994, p.10).

This broad definition encompasses acts of commission and omission (neglect), and allows for the promotion of aspects of child development that are likely to produce optimal outcomes for children, rather than merely focusing on harm minimisation (Cashmore, Dolby & Brennan 1994).

Typically, systems abuse can be characterised as involving one or more of the following: the failure to consider children's needs; the unavailability of appropriate services for children; a failure to effectively organise and coordinate existing services; and institutional abuse (i.e. child maltreatment perpetrated within agencies or institutions with the responsibility for the care of children (Cashmore, Dolby & Brennan 1994).

Emotional abuse inflicted via systems abuse may occur as a consequence of: traumatic child protection investigations, as a function of the out-of-home care experience (in particular, having multiple placements, a lack of continuity of care, and separation of siblings in care); the practice of removing a sexually abused child rather than the perpetrator in cases of intrafamilial abuse; the failure to punish an abuser, combined with the removal of the child (which may appear to the child as punishment for disclosing the abuse); the failure to protect children in the care system from further abuse; the experience of child witnesses in the court system; and the experience of children in the Family Court system (in particular where access or custody issues exist) (Cashmore, Dolby & Brennan 1994; Briggs & Hawkins 1996).

Schools

A particular form of systems abuse that is not frequently mentioned in the literature, is emotional abuse within educational settings. A number of studies have indicated that a proportion of teachers commonly use emotional abuse in conjunction with other punitive disciplining practices as a means of exerting control (Hart, Germain & Brassard 1987; Briggs & Hawkins 1996).

While physical punishment has been banned in most educational settings, emotional abuse often passes without comment (Briggs & Hawkins 1996). Briggs and Hawkins (1996), in their book *Child Protection: A Guide for Teachers and Child Care Professionals*, cite studies by Krugman and Krugman (1984) and Hyman (1985), which found that teachers emotionally abused children by: overly restricting access to toilets for very young children; threatening to tell parents of a child's misbehaviour or unsatisfactory work; rejecting the child or their work; verbally abusing children; harassing, or allowing other children to harass children; labelling children as 'ineducable', 'dumb' or 'stupid'; screaming at children till they cried; and providing a 'continuous experience of failure by setting ... tasks that are inappropriate for their stages of development' (Briggs & Hawkins 1996, p.37).

Briggs and Hawkins describe other 'emotionally abusive' actions recorded in the two studies: pinching, shaking and pulling children by the ears; using fear-inducing techniques to control children; and tipping or pulling chairs out from under seated children. Such behaviours would seem to be more appropriately labelled as physically abusive, indicating yet again the difficulties experienced in developing clear definitions of emotionally abusive acts.

Finally, Briggs and Hawkins (1996) highlight as emotionally abusive the failure of teachers to deal with allegations or suspicions of child maltreatment, along with the experience of bullying by peers.

Media Reporting

Finally, although not strictly a form of systems abuse, the extent of media reporting on child abuse and children may, in itself, constitute emotionally or psychologically abusive activity at the societal level (Franklin & Horwath 1996).

Since the Victorian era, the general perception of childhood has been one of a period of innocence - that children are 'innately good' (Franklin & Horwath 1996). More recently, however, children, and adolescents in particular, have been the victims of negative stereotypes held by the public and by professionals in western society (Franklin & Horwath 1996).

Media representations are the prime source of information on social problems for many people (Hutson & Liddiard 1994). Franklin and Horwath (1996) describe an ominous shift in society's perception of children, as evidenced in recent media reports in the United Kingdom. In an infamous case of child homicide in the United Kingdom in 1993, James Bulger, a two-year-old boy, was murdered by two ten-year-old boys. At the time, the two young offenders were described in the press as evil, 'powerful, destructive human being[s]' (Franklin & Horwath 1996, p.315).

Over time the media began surreptitiously to generalise their criticisms of the two boys such that the character of all children was impugned, challenging the concept of childhood innocence and the perception that children are 'innately good'. According to Franklin and Horwath, since the Bulger case

media presentations of children and childhood in the United Kingdom have continued to be presented in a distinctive and sinister fashion.

Implications

It is contended that the promotion of negative stereotyping of children and young people is directly and indirectly emotionally and psychologically abusive.

First, developing the perception of children as powerful, evil creatures both dehumanises children and acts both as justification and reinforcement for the behaviour of perpetrators of sexual and physical abuse. Such perceptions reinforce a distorted view of children as evil and out of control - children who lead adults astray, and are thus in need of punishment. This victim blaming runs directly counter to, and conflicts with, current approaches to offender treatment, which focus on offenders acknowledging that their crimes are an abuse of power. 'How much more convenient, as well as morally reassuring, to blame the victim' (Franklin & Horwath 1996, p.317).

Second, the portrayal of children in a negative manner by the media may also lead child victims of maltreatment to blame themselves for the assaults they have suffered, internalising the messages of perpetrators that they 'deserve' to be abused, and increasing their willingness to accept the abuse.

Third, how society values and perceives children 'fundamentally affects the size and direction of public investment in their services' (Walby 1996, p.25). If children and young people are perceived in negative terms - as a 'problem group', a 'threat to social stability' or as 'disadvantaged' - the resultant policies are most likely to be designed to control, manage and rehabilitate youth, rather than to encourage and support young people's transition to adulthood (Drury & Jamrozik 1985). In contrast, promoting positive societal perceptions of children and young people may, in turn, lead to the development of 'child-friendly' government policies.

Partly as a result of concerns like Franklin and Horwath's, the United Kingdom National Commission of Inquiry into the Prevention of Child Abuse recommended that the media 'take a more balanced and sympathetic view of children' (1996, p.77). The Commission felt that the media had an obligation to consider a child's best interests in stories in which children feature, and that the failure to do so would constitute grounds for a complaint to a relevant authority.

Others would suggest that the media's obligation to providing a 'balanced view' of the child should be operationalised as regular campaigns which address society's negative expectations and perceptions of children (e.g. the concept of children as family property) (Fortin & Chamberland 1995) and to model and encourage the expression of warmth and positive regard for children (Garbarino & Garbarino 1994).

Prevention

Although there is evidence that emotional abuse has longstanding and serious impacts on children's development and social functioning, public intervention in these cases is limited (Daro 1988). Despite a number of practice models proposed for working with sexually and physically abused children and their families (Giarretto 1978; Dale et al. 1986), little attention has been paid to how best to help children recover from the traumatic effects of emotional abuse.

Melton and Thompson (1987) describe the current system for dealing with emotionally abused children as 'woefully inadequate'. They argue that 'when professionals cannot eliminate even the grossest forms of physical violence against children, there is good reason to wonder about the likely success of interventions designed to change more subtle forms of maltreatment' (1987, p.206).

Family Support

Many of the strategies suggested to prevent emotional abuse are adaptations of more generalist family support programs.

Fortin and Chamberland (1995) suggest a combination of alleviating socio-environmental stress, a reduction in familial dysfunction, the promotion of parenting skills and a positive self-concept, and social support.

Walsh (1996) advocates changing emotionally abusive interactions for children via the promotion of general family resilience, that is, identifying and fortifying the key processes that enable families to surmount persistent stresses.

Egeland and Erickson (1987) suggest a model of intervention for high-risk parents aimed at increasing parental understanding of children's cues, assisting their development of realistic expectations of child behaviour, and providing a detailed knowledge of child development. Egeland and Erikson also advocate the provision of ongoing support at times of crisis.

Given the importance of parent-child attachments, it is not surprising that a number of authors have proposed specific interventions to enhance these relationships (Hickox & Furnell 1989; Wolfe 1991).

McCluskey and Miller (1995), for example, have developed theme-focused family therapy that focuses exclusively on the inner-emotional world of the family. Their approach introduces a deliberate strategy to decrease the pace of communication between family members, encouraging individual reflection and giving children a voice and a leading role in the therapeutic process.

Wolfe (1991) describes a prevention approach in which physical or emotional abuse episodes 'are only the most visible markers of a more pervasive concern - a disturbed, dysfunctional parent-child relationship' (Wolfe 1991, p.36). He contends that tertiary interventions take place after abusive patterns of interaction have formed, are directed towards parents and fail to pay adequate attention to the long-term impact on the child. He advocates prevention which addresses the developmental differences that may emerge in a child as a function of child maltreatment, and which result from the child's attempt to learn social behaviours in the absence of sensitive parenting or careful guidance (Wolfe 1991).

Wolfe also supports teaching the abused child new methods for structuring experiences, thus enhancing social competence and setting the foundations for the development of a solid socio-emotional basis for relationship formation. This is achieved via the strengthening of children's self-identity and self-differentiation from an early age, either through improved parent-child relations or extrafamilial opportunities to develop appropriate interpersonal relationships.

Finally, Wolfe advocates the adoption of a 'strength-based approach' to dealing with at risk and abusive families. The focus of intervention is on enlisting greater cooperation from parents in order to develop desirable, effective strategies of childrearing and the promotion of an optimal balance between the needs of child and abilities of the parent, rather than a traditional approach, where the focus is on the identification of parental misdeeds.

Community Education

Despite the growing acknowledgment of child maltreatment as a societal problem, it is often difficult to convince those in the broader community that they, themselves, may be part of the problem. It is easier to think of maltreaters in stereotypical ways, pathologising them as mentally ill, abnormal or evil, enabling non-offenders to distance themselves from the problem rather than to address the true causes of maltreatment, such as poverty, or a lack of social support (Wilczynski & Sinclair 1996).

However, most adults will have experienced emotional abuse as children (whether they have labelled it as such or not), and subsequently inflicted it on children themselves (Hart, Germain & Brassard 1987; Briggs & Hawkins 1996). It is contended that emotional abuse is therefore the form of maltreatment most likely to result in the public seeing themselves as 'part of the problem'.

A number of community education campaigns have been developed in the United States to prevent emotional abuse (e.g. Brassard & Hart 1987). One hallmark television and print media campaign, developed by the Chicagobased National Committee to Prevent Child Abuse, promoted the message: 'Children believe what their parents tell them. Watch what you say. Stop using words that hurt. Start

using words that help.' (Cohn Donnelly 1991)

Following such campaigns, Daro (1988) noted that public concern regarding the potential impact of at least one aspect of emotional abuse - verbal abuse - was significant. A public opinion poll conducted for the United States National Committee for the Prevention of Child Abuse found that approximately three-quarters of respondents thought that severe verbal abuse, described as 'repeated yelling and swearing' at a child, 'very often' or 'often' resulted in long-term emotional problems for the child. In contrast, only 42 per cent perceived a similar level of harm to result from corporal punishment (Daro & Mitchell 1987, as cited in Daro 1988). This finding was described by Garbarino (1990) as providing the cornerstone for community action to prevent emotional abuse or 'psychological maltreatment'.

In Australia, a number of initiatives have been designed to prevent verbal abuse and emotional abuse as a whole.

'Use Words That Help Not Hurt', based on the United States campaign and developed by the National Association for the Prevention of Child Abuse and Neglect is one such initiative. Begun in 1995, the program aims to: increase community awareness of the harmful and long-term effects of harsh and abusive words on children; encourage positive communication which nurtures and supports children; and expand the 1995 National Child Protection Week theme 'Let's Talk With Children', which outlined positive ways adults could communicate effectively with their children. The program also encourages support for adults in parenting children by informing them of resources available to assist them when needed, and comprises a Community Service Announcement television advertisement, community education kit, poster and brochure.

The Victorian Board of Studies has developed the 'Healthy Families Project', a school-based community education program with an underlying message that cycles of behaviour are not inexorable. Adopting a proactive, positive approach, the educational program at the centre of the project both implicitly and explicitly strengthens children's natural resilience. It teaches children that individuals have the power to change their lives and to develop more constructive forms of parenting than they themselves experienced as children.

The program is firmly located within the mainstream primary school curriculum to ensure it reaches all children, and is intended to achieve three related sets of outcomes: a cultural and attitudinal change in the wider community, particularly among primary school teachers and parents, via media publicity, publications, workshops, seminars and conferences; structural improvements in the organisation of support services provided by the educational system and primary care agencies, to improve the coordination of services at the local level; and personal improvements in the quality of family relationships for participating children and parents.

One approach combining the objectives of both the family support and community education programs as they pertain to the prevention of emotional abuse, is the 'Grow Together Campaign', developed by the West Australian Department for Community Development. Launched in the early 1990s, the 'Grow Together Campaign' is a community education campaign promoting positive family relationships. Specifically, it encourages positive attitudes towards the care of children, an understanding of the developmental stages of childhood, and an appreciation of a child's view of the world. The campaign also seeks to provide information on the availability of practical help and support to families who care for children.

Support Networks for Children

Social support plays an important role in ameliorating the effects of emotional abuse. Emotionally abused children may fail to develop the capacity to empathise with others - a precursor to difficulties with peers, intimate relationships, and inadequate parenting skills (Briggs & Hawkins 1996). Severe emotional abuse may lead the child to engage in antisocial, sometimes violent, behaviour, where the child offender exhibits a sociopathic response to the violence that has been perpetrated.

The common factor in survival cases (i.e. where the child has not suffered long-term damage), is the availability of another, close supportive person to whom the child can turn (Briggs & Hawkins 1996;

Woodham & Lapsley 1996). Respondents in a recent New Zealand study (Woodham & Lapsley 1996), recalled positive and fond memories of their support person, often termed their 'bright light'. Such figures can assist the development of a child's capacity to make decisions and the establishment of a reality-based sense of right and wrong (Szur 1987). Such relationships also enable the child to detach themselves emotionally from the abusive parent and engage in other relationships (Briggs & Hawkins 1996).

Support for the positive effect of a supportive person also comes from *Every Childhood Lasts a Lifetime* (Owen 1996), a collection of personal testimonies from a diverse group of young Australians who as children were removed from the care of their families and placed under State or Territory guardianship. The authors describe a life without constancy, with multiple placements adversely affecting their ability to develop attachments to carers and friends, and to achieve stability in care and education. Access to one or two significant people able to provide ongoing social support appeared to make a substantial impact in the lives of these children and adolescents. As 'Michael' notes, 'what people need is somebody constant in their life' (Owen 1996, p.30).

Support Networks for Parents and Caregivers

Conversely, one factor which increases the propensity for emotional maltreatment is social isolation (Garbarino & Garbarino 1994). Parents need access to multiple perspectives on their child, themselves and on parent-child relationships. Each perspective provides 'separate, distinct, and special information to the parent [and to the child]' (Garbarino & Garbarino 1994, p.21), without which any parental disturbance or child behavioural problem may escalate into a pattern of emotional abuse.

Although not focused specifically on emotional abuse, Vinson, Baldry and Hargreaves (1996) conducted a study with important findings for the prevention of all maltreatment, assessing two adjoining neighbourhoods in Western Sydney which were both economically depressed but had contrasting rates of child maltreatment. Their intention was to determine why the difference in the rate of child maltreatment existed and whether this could be attributed to differences in the characteristics of the neighbourhoods as social entities.

The neighbourhoods were matched in terms of population, size and measures of social disadvantage. Based on analysis of demographic data and parents'/carers' ratings of their social environment, the locality as a place to raise children, transport and communication patterns, and specific aspects of each carer's support network, it was apparent that the one outstanding difference between the neighbourhoods was the structure of the social networks. The area with the higher rate of abuse suffered from a relative lack of connection between more immediate parts (familial) and more distant parts (usually peers) of the social network. These parents had a quite insular existence, with much less contact with the wider community.

Vinson, Baldry and Hargreaves concluded that the degree of network connectedness enabled them to distinguish between not just clinical and non-clinical populations (high abuse-low abuse), but also high and low risk localities. This has implications for the effective prevention of child maltreatment in that it indicates the importance of social support and social networks. They also suggested that the prevention of child maltreatment may be enhanced by programs which attempt to simulate some of the 'helpful child-rearing functions attributed to naturally occurring networks' (Vinson, Baldry & Hargreaves 1996, p.540).

These *devised social networks* are organised to fulfil functional roles, such as parent education, child care, parent enrichment courses and mutual support groups, and act as the means to improve the social connectedness of participants. Vinson, Baldry and Hargreaves (1996) describe the Child and Neighborhood Program (Powell 1987, as cited in Vinson, Baldry & Hargreaves 1996), which fulfils the role of the devised social network. This program provides parent education, emotional support, role models and information and referral services.

Child and Family Centres - The 'One Stop Shop'

The values underlying Powell's Child and Neighborhood Program approach (1987, as cited in Vinson, Baldry and Hargreaves 1996) are incorporated into a relatively new development that has begun operating in Australia. Child and Family Centres, frequently referred to as 'one stop shops', are multiservice community centres which aim to provide a local, non-stigmatising family support service that encourages families to proactively seek assistance.

Adopting an holistic approach to the prevention of child maltreatment and the promotion of a healthy community, they may offer services to address the following needs: mental health, child health, dental services, family support services, women's services, financial aid, legal advice and client advocacy. They may also operate drop-in centres, self-help courses, social groups and other community activities to enable those who are socially isolated to develop improved social networks.

Future Research Directions

The need for research into emotional abuse is self-evident. What form the research should take remains an issue to be addressed. In essence, given the variability of the assumptions underlying the conceptualisation of emotional abuse, one solution may be to attempt to reach a consensus on definition by placing greater emphasis on examining how understandings of emotional abuse are operationalised in practice. Such research would need to incorporate perceptions of routine casework and describe the content, process, and outcome of everyday investigations and interventions. The result would be the construction of a baseline of how the child protection and child welfare systems respond in cases of emotional abuse.

Gough (1993) has argued that such research would provide valuable information on current practice and case outcomes; lead to a better understanding of the context and influence of the legal and child protection systems on interventions in child abuse maltreatment; and serve to clarify the definitions and processes of child protection work as the basis for more coherent studies of programs and strategies aimed at protecting children from experiencing emotional abuse.

A relevant methodology for such a project would incorporate the capacity to listen to the experiences of children in a way that documents the stories they tell about emotional abuse; focus attention on the impact of the practices of child protection on children who have been emotionally abused; and examine how meanings associated with emotional abuse are negotiated within the protective system and between the protective system and the child and family.

Conclusion

Garbarino contends that as the 'study of children-at-risk matures ... it will turn increasingly to the concept of psychological maltreatment as its unifying theme. If we can set minimal standards of care that address directly emotional and intellectual development, identity and self-esteem, we as a society will have arrived at a mature conception of the social dimension of normality. Armed with this conception, we will be able to formulate better policy and practice for preventing developmental risk' (Garbarino 1990, p.297).

The adoption of such an integrated perspective has not been universal, in part because of the problems in arriving at concrete definitions of emotional abuse described in this paper. Difficulties in constructing universal definitions of emotional abuse or any form of maltreatment occur, in part, because of the lack of social consensus over what forms of parenting are unacceptable; uncertainty about whether to define maltreatment on the basis of adult characteristics, adult behaviour, the outcome for the child, and the environmental context in isolation or in combination; conflict over whether standards of risk or harm should be used in constructing definitions; and confusion as to whether similar definitions should be used for scientific, legal and clinical purposes (National Research Council 1993).

While there has been increased momentum in attempts to explicitly define and describe emotional abuse over the past decade, developing a uniform definition remains an elusive goal. As Goddard (1996) notes, defining emotional abuse and establishing the connection between parents' behaviour and the consequences for children are difficult tasks.

The tendency in society is to address the forms of child maltreatment which involve identifiable acts of omission or commission by adults, and which produce observable, negative consequences for children. Although recognised for the severity of its impact, emotional abuse remains on the margins of child abuse. It is contended that until emotional abuse is clearly defined and identifiable and is attended to with the vigour currently applied to prevention of the more overt forms of child maltreatment, the effective prevention of this 'hidden' form of abuse and its associated long-term consequences will remain a highly difficult task.

References

Angus, G. and Woodward, S. (1995), *Child Abuse and Neglect Australia 1993 - 1994*, Child Welfare Series no.13, Australian Institute of Health and Welfare, Canberra.

Angus, G., Wilkinson, K. and Zabar, P. (1994), *Child Abuse and Neglect Australia 1991 - 1992*, Child Welfare Series no.5, Australian Institute of Health and Welfare, Canberra.

Barnett, D., Manly, T.J. and Cicchetti, D. (1991), 'Continuing toward an operational definition of psychological maltreatment', *Development and Psychopathology*, vol.3, pp.19 - 29.

Bourton, A. and Burnham, L. (1992), 'Looking for clues', *Social Work Today*, 18 June, pp.16 - 17.

Bowlby, J. (1969), *Attachment and Loss: Volume 1 - Attachment*, Basic Books, New York.

Brassard, M.R. and Hart, S.N. (1987), *Emotional Abuse: Words Can Hurt*, National Committee to Prevent Child Abuse, Chicago.

Brassard, M.R. and McNeil, L.E. (1987), 'Child sexual abuse', in M.R. Brassard, R. Germain and S.N. Hart (eds), *Psychological Maltreatment of Children and Youth*, Pergamon Press, New York.

Briggs, F. (1995), *From Victim to Offender: How Child Sexual Abuse Victims Become Offenders*, Allen and Unwin, St Leonards, NSW.

Briggs, F. and Hawkins, R.M.F. (1996), *Child Protection: A guide for teachers and Child Care Professionals*, Allen and Unwin, St Leonards, NSW.

Broadbent, A. and Bentley, R. (1997), *Child Abuse and Neglect Australia 1995 - 1996*, Child Welfare Series no.17, Australian Institute of Health and Welfare, Canberra.

Browne, K. (1988), 'The nature of child abuse and neglect: an overview', in K. Browne, C. Davies and P. Stratton (eds), *Early Prediction and Prevention of Child Abuse*, John Wiley and Sons, Chichester.

Calvert, G. (1990), A brief overview of child protection, paper presented at the Australian Child Protection Conference, June 1990, Sydney, unpub.

Carroll, J. (1994), 'The protection of children exposed to marital violence', *Child Abuse Review*, vol.3, pp.6 - 14.

Cashmore, J., Dolby, R. and Brennan, D. (1994), *Systems Abuse: Problems and Solutions*, NSW Child Protection Council, Sydney.

Chaffin, M., Kelleher, K. and Hollenberg, J. (1996), 'Onset of physical abuse and neglect: psychiatric, substance abuse, and social risk factors from prospective community data', *Child Abuse and Neglect*, vol.20, no.3, pp.191 - 203.

Children Act 1989, HMSO, London.

Children and Young Persons Act 1989, Act No. 56/1989, reprinted 24 August 1995 incorporating amendments up to Act No. 109/1994, Victorian Government Printers, Melbourne.

Claussen, A.H. and Crittenden, P.M. (1991), 'Physical and psychological maltreatment: relations among types of maltreatment', *Child Abuse and Neglect*, vol.15, pp.5 - 18.

Cohn Donnelly, A.H. (1991), 'What we have learned about prevention: what we should do about it', *Child Abuse and Neglect*, vol.15, Supp.1, pp.99 - 106.

Corson, J. and Davidson, H. (1987), 'Emotional abuse and the law', in M.R. Brassard, R. Germain and S.N. Hart (eds), *Psychological Maltreatment of Children and Youth*, Pergamon Press, New York.

Crime Prevention Committee, Parliament of Victoria (1995), *Combating Child Sexual Assault: An Integrated Model, First Report*, LV North, Government Printer, Melbourne.

Dale, P., Davies, M., Morrison, T. and Waters, J. (1986), *Dangerous Families: Assessment and Treatment of Child Abuse*, Tavistock Publications, London.

Daro, D. (1988), *Confronting Child Abuse: Research for Effective Program Design*, Free Press, New York.

Department of Health, Education and Science (1991), *Working Together Under the Children Act 1989: A Guide to Arrangements for Inter-agency Cooperation for the Protection of Children from Abuse*, Department of Health, Education and Science, Home Office and Welsh Office, HMSO, London.

Drury, S. and Jamrozik, A. (1985), 'Conceptual issues of relevance to social policy and services for young people, in A. Jamrozik (ed.), *Issues in Social Welfare Policy 1985: Perceptions, Concepts and Practice* (SWRC papers at ASPAA and ANZAAS), Social Welfare Research Centre, Kensington, NSW.

Dwyer, G. (1991), *Emotional Abuse: An Epidemic, a Misnomer, or a Case of Inappropriate Intervention*, Community Services Victoria, Melbourne.

Edleson, J.L. (1995), 'Mothers and children: understanding the links between woman battering and child abuse', paper presented to Strategic Planning Workshop on Violence Against Women, National Institute of Justice, Washington DC, 31 March 1995.

Egeland, B. (1991), 'From data to definition', *Development and Psychopathology*, vol.3, pp.37 - 43.

Egeland, B. and Erickson, M.F. (1987), 'Psychologically unavailable caregiving', in M.R. Brassard, R. Germain, and S.N. Hart (eds), *Psychological Maltreatment of Children and Youth*, Pergamon Press, New York.

Fantuzzo, J., Boruch, R., Beriam, A., Atkins, M. and Marcus, S. (1997), 'Domestic violence and children: prevalence and risk in five major U.S. cities', *Journal of the American Academy of Child and Adolescent Psychiatry*, vol.36, no.1, pp.116 - 122.

Farmer, E. and Owen, M. (1995), *Child Protection Practice: Private Risks and Public Remedies*, HMSO, London.

Fortin, A. and Chamberland, C. (1995), 'Preventing the psychological maltreatment of children', *Journal of Interpersonal Violence*, vol.10, pp.275 - 95.

Franklin, B. and Horwath, J. (1996), 'The media abuse of children: Jake's progress from demonic icon to restored childhood innocent', *Child Abuse Review*, vol. 5, pp. 310 - 18.

Garbarino, J. (1978), 'The elusive 'crime' of emotional abuse', *Child Abuse and Neglect*, vol.2, pp.89 - 99.

Garbarino, J. (1990), 'Future directions', in R.T. Ammerman and M. Hersen (eds), *Children at Risk: An Evaluation of Factors Contributing to Child Abuse and Neglect*, Plenum Press, New York.

Garbarino, J. (1991), 'Not all bad developmental outcomes are the result of child abuse', *Development and Psychopathology*, vol.3, pp.45 - 50.

Garbarino, J. and Garbarino, A.C. (1994), *Emotional Maltreatment of Children* (rev. edn), National Committee to Prevent Child Abuse, Chicago.

Garbarino, J., Guttman, E. and Seeley, J.W. (1986), *The Psychologically Battered Child*, Jossey-Bass Publishers, California.

Garbarino, J. and Vondra, J. (1987), 'Psychological maltreatment: issues and perspectives', in M.R. Brassard, R. Germain and S.N. Hart (eds), *Psychological Maltreatment of Children and Youth*, Pergamon Press, New York.

Geffner, R., Rosenbaum, A. and Hughes, H. (1988), 'Research issues concerning family violence', in V. Van Hasselt, R. Morrison, Bellack, A. and M. Hersen (eds), *Handbook of Family Violence*, Plenum Press, New York.

Giarretto, H. (1978), 'Humanistic treatment of father - daughter incest', *Journal of Humanistic Psychology*, vol.18, pp.1 - 6.

Giovannoni, J. (1989), 'Definitional issues in child maltreatment', in D. Cicchetti and V. Carlson (eds), *Child Maltreatment: Theory and Research on the Causes and Consequences of Child Abuse and Neglect*, Cambridge University Press, Cambridge.

Giovannoni, J. (1991), 'Social policy considerations in defining psychological maltreatment', *Development and Psycho-pathology*, vol.3, pp.51 - 59.

Goddard, C.R. (1996), *Child Abuse and Child Protection: A Guide for Health, Education and Welfare Workers*, Churchill Livingstone, South Melbourne.

Goddard, C.R. and Carew, R. (1993), *Responding to Children: Child Welfare Practice*, Longman Cheshire, Melbourne.

Goddard, C.R. and Hiller, P.C. (1992), *Tracking Physical and Sexual Abuse Cases from a Hospital Setting into Victoria's Criminal Justice and Child Protection Systems: A Report for the Victorian Law Foundation*, vols 1 - 3, Department of Social Work and Department of Anthropology and Sociology, Monash University, Melbourne.

Goddard, C.R. and Hiller, P.C. (1993), 'Child sexual abuse: assault in a violent context', *Australian Journal of Social Issues*, vol.28, no.1, February, pp.20 - 33.

Gough, D. (1993), *Child Abuse Interventions: A Review of the Literature*, Public Health Research Unit, University of Glasgow, Glasgow.

Gough, D. (1996), 'The literature on child abuse and the media', *Child Abuse Review*, vol.5, pp.363 - 76.

Hart, S.N. and Brassard, M.R. (1991), 'Psychological maltreatment: progress achieved', *Development and Psychopathology*, vol.3, pp.61 - 70.

Hart, S.N., Germain, R.B. and Brassard, M.R. (1987), 'The challenge: to better understand and combat psychological maltreatment of children and youth', in M.R. Brassard, R. Germain and S.N. Hart (eds), *Psychological Maltreatment of Children and Youth*, Pergamon Press, New York.

Health and Community Services Victoria (1996), *Protective Services Annual Statistical Report 1994 - 1995*, Health and Community Services Victoria, Melbourne.

Herrenkohl, R.C. (1990), 'Research directions related to child abuse and neglect', in R.T. Ammerman and M. Hersen (eds), *Children at Risk: An Evaluation of Factors Contributing to Child Abuse and Neglect*, Plenum Press, New York.

Hickox, A. and Fumell, J.R. (1989), 'Psychosocial and background factors in emotional abuse of children', *Child Care, Health and Development*, vol.15, pp.227 - 40.

- Hutson, S. and Liddiard, M. (1994), *Youth Homelessness: The Construction of a Social Issue*, Macmillan, Basingstoke.
- Hyman, I.A. (1987), 'Psychological correlates of corporal punishment', in M.R. Brassard, R. Germain and S.N. Hart (eds), *Psychological Maltreatment of Children and Youth*, Pergamon Press, New York.
- Iwaniec, D. (1995), *The Emotionally Abused and Neglected Child: Identification, Assessment and Intervention*, John Wiley and Sons, Chichester.
- Iwaniec, D., Herbert, M. and McNeish, A.S. (1985), 'Social work with failure-to-thrive children and their families: Part I, Psycho-social factors', *British Journal of Social Work*, vol.15, pp.243 - 59.
- Iwaniec, D., Herbert, M. and Sluckin, A. (1988), 'Helping emotionally abused children who fail to thrive', in K. Browne, C. Davies and P. Stratton (eds), *Early Prediction and Prevention of Child Abuse*, John Wiley and Sons, Chichester.
- Jones, D.N., Pickett, J., Oates, M.R. and Barbor, P. (1987), *Understanding Child Abuse* (2nd edn), Macmillan Education, Houndsmills, Basingstoke.
- Junewicz, W.J. (1983), 'A protective posture toward emotional neglect and abuse', *Child Welfare*, vol.62, pp.243 - 53.
- Kavanagh, C. (1982), 'Emotional abuse and mental injury: a critique of the concept and recommendation for practice', *Journal of American Academy of Child and Adolescent Psychiatry*, vol.21, pp.171 - 77.
- Korbin, J. (1991), 'Cross-cultural perspectives and research directions for the 21st century', *Child Abuse and Neglect*, vol.15, Suppl.1, pp.67 - 77.
- McCluskey, U. and Miller, L.B. (1995), 'Theme focused family therapy: the inner emotional world of the family', *Journal of Family Therapy*, vol.17, pp.411 - 34.
- McGee, R.A. and Wolfe, D.A. (1991), 'Psychological maltreatment: toward an operational definition', *Development and Psychopathology*, vol.3, pp.3 - 18.
- Melton, B. and Thompson, R.A. (1987), 'Legislative approaches to psychological maltreatment: a social policy analysis', in M.R. Brassard, R. Germain and S.N. Hart (eds), *Psychological Maltreatment of Children and Youth*, Pergamon Press, New York.
- Melton, G.R. and Davidson, H.A. (1987), 'Child protection and society: when should the state intervene?', *American Psychologist*, vol.42, pp.172 - 75.
- National Commission of Inquiry into the Prevention of Child Abuse (UK) (1996), *Childhood Matters: Report of the National Commission of Inquiry into the Prevention of Child Abuse*, Volume 1: The Report, The Stationery Office, Norwich.
- National Research Council (1993), *Understanding Child Abuse and Neglect*, National Academy Press, Washington DC.
- Navarre, E.L. (1987), 'Psychological maltreatment: the core component of child abuse', in M.R. Brassard, R. Germain and S.N. Hart (eds), *Psychological Maltreatment of Children and Youth*, Pergamon Press, New York.
- Nesbit, W.C. and Karagianis, L.D. (1987), 'Psychological abuse in the home and in the school', *Canadian Journal of Education*, vol.12, pp.177 - 83.
- Oates, R.K. (1982), 'Failure to thrive - part of the spectrum', in R.K. Oates (ed.), *Child Abuse: A Community Concern*, pp.119 - 29, Butterworths, London.
- Oates, R.K. (1989), 'The spectrum of child abuse', in G. Vimpani, T. Parry (eds), *Community Child Health: An Australian Perspective*, pp.439 - 59, Churchill Livingstone, Melbourne.

- Oates, R.K. (1996), *The Spectrum of Child Abuse: Assessment, Treatment, and Prevention*, Brunner/Mazel Inc., New York.
- O'Hagan, K. (1993), *Emotional and Psychological Abuse of Children*, Open University Press, Buckingham.
- O'Hagan, K. (1995), 'Emotional and psychological abuse: problems of definition', *Child Abuse and Neglect*, vol.19, 449 - 61.
- Olds, D. L., Henderson, C. R., Chamberlin, R. and Tatelbaum, R. (1986a), 'Preventing child abuse and neglect: a randomised trial of nurse intervention', *Paediatrics*, no.78, pp.65 - 78.
- Olds, D. L., Henderson, C. R., Tatelbaum, R. and Chamberlin, R. (1986b), 'Improving the delivery of prenatal care and outcomes of pregnancy: a randomised trial of nurse home visitation', *Paediatrics*, no.77, pp.16 - 28.
- Owen, J. (1996), *Every Childhood Lasts a Lifetime: Personal Stories from the Frontline of Family Breakdown*, Australian Association of Young People in Care, Brisbane.
- Patterson, G.R. (1982), *Coercive Family Process*, Eugene, Castalia.
- Pillari, V. (1991), *Scapegoating in Families: Intergenerational Patterns of Physical and Emotional Abuse*, Brunner/Mazel, New York.
- Schaefer, C. (1997), 'Defining verbal abuse of children: a survey', *Psychological Reports*, vol.80, p.626.
- Schakel, J.A. (1987), 'Emotional neglect and stimulus deprivation', in M.R. Brassard, R. Germain and S.N. Hart (eds), *Psychological Maltreatment of Children and Youth*, Pergamon Press, New York.
- Szur, R. (1987), 'Emotional abuse and neglect', in P. Maher (ed.), *Child Abuse: The Educational Perspective*, Basil Blackwell, Oxford.
- Tomison, A.M. (1994), *An Evaluation of Decision Making in Child Abuse Services in the Barwon Region: A Report for the Victorian Health Promotion Foundation*, Volumes I and II, Department of Social Work and Human Services, Monash University, Melbourne.
- Tomison, A.M. (1995a), 'Linking child abuse and other family violence: findings from a case tracking study', *Family Matters*, no.41, Winter, pp.33 - 38.
- Tomison, A.M. (1995b), *Spotlight on Child Neglect*, Issues Paper no.4, National Child Protection Clearing House, AIFS, Melbourne.
- Tomison, A.M. (1996a), *Child Maltreatment and Disability*, National Child Protection Clearing House Issues Paper no.7, AIFS, Melbourne.
- Tomison, A.M. (1996b), *Child Maltreatment and Mental Disorder*, National Child Protection Clearing House Discussion Paper no.3, AIFS, Melbourne.
- Tomison, A.M. (1996c), *Child Maltreatment and Substance Abuse*, National Child Protection Clearing House Discussion Paper no.2, AIFS, Melbourne.
- Vinson, T., Baldry, E. and Hargreaves, J. (1996), 'Neighbourhoods, networks and child abuse', *British Journal of Social Work*, vol.26, no.4, pp.523 - 43.
- Walby, C. (1996), 'Change of tack', *Community Care*, 31 October - 6 November, pp.24 - 25.
- Walsh, F. (1996), 'The concept of family resilience: crisis and challenge', *Family Process*, vol.35, pp.261 - 82.
- Wearing, R. (1992), *Monitoring the impact of Crime (Family Violence) Act 1987*, funded by the Family

Law Foundation, Victoria.

Whiting, L. (1976), 'Defining emotional neglect', *Children Today*, vol.5, pp.2 - 5.

Wilczynski, A. and Sinclair, K. (1996), 'The presentation of child abuse in the media', *The Other Voice*, Newsletter of the Institute of Criminology, Faculty of Law, University of Sydney, vol.1, no.2, November, p.4.

Wolfe, D.A. (1991), *Preventing Physical and Emotional Abuse of Children*, Guilford Press, New York.

Woodham, M.J. and Lapsley, H. (1996), 'Child emotional abuse: treatment, intervention and prevention', in N.J. Taylor and A.B. Smith (eds), *Investing in Children: Primary Prevention Strategies*, Proceedings of the Children's Issues Centre Inaugural Child and Family Policy Conference, Children's Issues Centre, Dunedin, 10 - 13 July 1996.

Written by: Adam M. Tomison (Research Fellow, Australian Institute of Family Studies) and Joe Tucci (Executive Director, Australians Against Child Abuse)

ISBN 0 642 274487

ISSN 1321-2540

You Carry the Cure In Your Own Heart

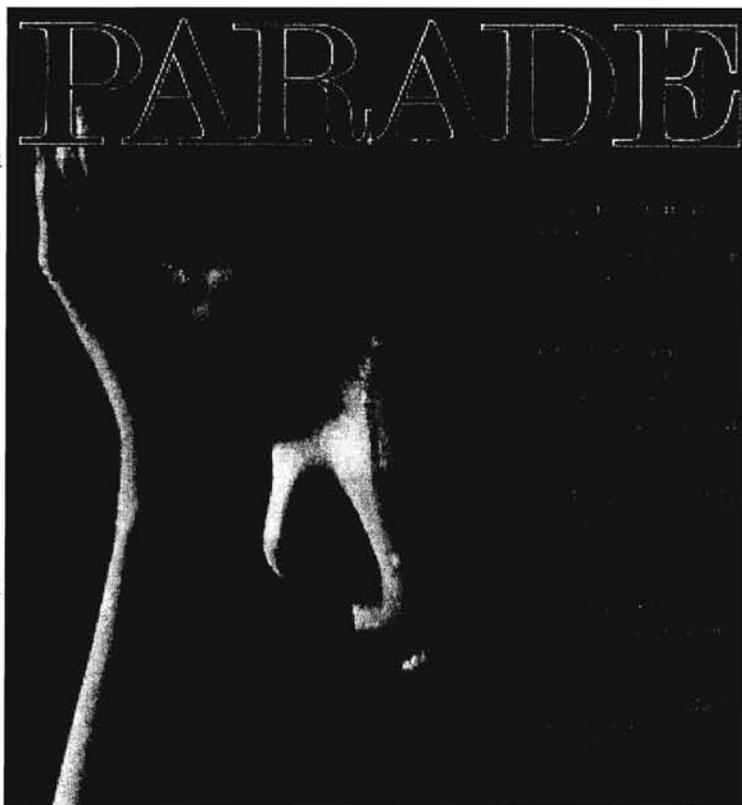
Emotional abuse of children can lead, in adulthood, to addiction, rage, a severely damaged sense of self and an inability to truly bond with others. But—if it happened to you—there is a way out.

by Andrew Vachss

Originally published in *Parade Magazine*, August 28, 1994

The attorney and author Andrew Vachss has devoted his life to protecting children. We asked Vachss, an expert on the subject of child abuse, to examine perhaps one of its most complex and widespread forms—emotional abuse: What it is, what it does to children, what can be done about it. Vachss' latest novel, "Down in the Zero," just published by Knopf, depicts emotional abuse at its most monstrous.

I'm a lawyer with an unusual specialty. My clients are all children—damaged, hurting children who have been sexually assaulted, physically abused, starved, ignored, abandoned and every other lousy thing one human can do to another. People who know what I do always ask: "What is the worst case you ever handled?" When you're in a business where a baby who dies early may be the luckiest child in the family, there's no easy answer. But I have



thought about it—I think about it every day. My answer is that, of all the many forms of child abuse, emotional abuse may be the cruelest and longest-lasting of all.

Emotional abuse is the systematic diminishment of another. It may be intentional or subconscious (or both), but it is always a course of conduct, not a single event. It is

designed to reduce a child's self-concept to the point where the victim considers himself unworthy—unworthy of respect, unworthy of friendship, unworthy of the natural birthright of all children: love and protection.

Emotional abuse can be as deliberate as a gunshot: "You're fat. You're stupid. You're ugly."

Emotional abuse can be as random as the fallout from a nuclear explosion. In matrimonial battles, for example, the children all too often become the battlefield. I remember a young boy, barely into his teens, absently rubbing the fresh scars on his wrists. "It was the only way to make them all happy," he said. His mother and father were locked in a bitter divorce battle, and each was demanding total loyalty and commitment from the child.

Emotional abuse can be active. Vicious belittling: "You'll never be the success your brother was." Deliberate humiliation: "You're so stupid. I'm ashamed you're my son."

It also can be passive, the emotional equivalent of child neglect—a sin of omission, true, but one no less destructive.

And it may be a combination of the two, which increases the negative effects geometrically.

Emotional abuse can be verbal or behavioral, active or passive, frequent or occasional. Regardless, it is often as painful as physical assault. And, with rare exceptions, the pain lasts much longer. A parent's love is so important to a child that withholding it can cause a "failure to thrive" condition similar to that of children who have been denied adequate nutrition.

Even the natural solace of siblings is denied to those victims of emotional abuse who have been designated as the family's "target child." The other children are quick to imitate their parents. Instead of learning the qualities every child will need as an adult—empathy, nurturing and protectiveness—they learn the viciousness of a pecking order. And so the cycle continues.

But whether as a deliberate target or an innocent bystander, the emotionally abused child inevitably struggles to "explain" the conduct of his abusers—and ends up struggling for survival in a quicksand of self-blame.

Emotional abuse is both the most pervasive and the least understood form of child maltreatment. Its victims are often dismissed simply because their wounds are not visible. In an era in which fresh disclosures of unspeakable child abuse are everyday fare, the pain and torment of those who experience "only" emotional abuse is often trivialized. We understand and accept that victims of physical or sexual abuse need both time and specialized treatment to heal. But when it comes to emotional abuse, we are more likely to believe the victims will "just get over it" when they become adults.

That assumption is dangerously wrong. Emotional abuse scars the heart and damages the soul. Like cancer, it does its most deadly work internally. And, like cancer, it can metastasize if untreated.

Domestic Violence

When it comes to damage from domestic violence,
there is no real difference between

Physical
Sexual
Emotional } abuse

All that distinguishes one from the other is:

The abuser's choice of weapon

Andrew Vachss

The American College of Obstetrics and Gynecology Family Violence Work Group
Domestic Violence: The Role of the Physician in Identification, Intervention, and Prevention slide show

When it comes to damage, there is no real difference between physical, sexual and emotional abuse. All that distinguishes one from the other is the abuser's choice of weapons. I remember a woman, a grandmother whose abusers had long since

died, telling me that time had not conquered her pain. "It wasn't just the incest," she said quietly. "It was that he didn't love me. If he loved me, he couldn't have done that to me."

But emotional abuse is unique because it is designed to make the victim feel guilty. Emotional abuse is repetitive and eventually cumulative behavior—very easy to imitate—and some victims later perpetuate the cycle with their own children. Although most victims courageously reject that response, their lives often are marked by a deep, pervasive sadness, a severely damaged self-concept and an inability to truly engage and bond with others.

Emotionally abused children grow up with significantly altered perceptions so that they "see" behaviors—their own and others'—through a filter of distortion. Many emotionally abused children engage in a lifelong drive for the approval (which they translate as "love") of others. So eager are they for love—and so convinced that they don't deserve it—that they are prime candidates for abuse within intimate relationships.

The emotionally abused child can be heard inside every battered woman who insists: "It was my fault, really. I just seem to provoke him somehow."

And the almost-inevitable failure of adult relationships reinforces that sense of unworthiness, compounding the

We must renounce the lie that emotional abuse is good for children because it prepares them for a hard life in a tough world. I've met some individuals

felony, reverberating throughout the victim's life.

Emotional abuse conditions the child to expect abuse in later life. Emotional abuse is a time bomb, but its effects are rarely visible, because the emotionally abused tend to implode, turning the anger against themselves. And when someone is outwardly successful in most areas of life, who looks within to see the hidden wounds?

who were prepared for a hard life that way—I met them while they were *doing* life.

Members of a therapy group may range widely in age, social class, ethnicity and occupation, but all display some form of self-destructive conduct: obesity, drug addiction, anorexia, bulimia, domestic violence, child abuse, attempted suicide, self-mutilation, depression and fits of rage. What brought them into treatment was their symptoms. But until they address the one thing that they have in common—a childhood of emotional abuse—true recovery is impossible.

One of the goals of any child-protective effort is to "break the cycle" of abuse. We should not delude ourselves that we are winning this battle simply because so few victims of emotional abuse become abusers themselves. Some emotionally abused children are programmed to fail so effectively that a part of their own personality "self-parents" by belittling and humiliating themselves.

The pain does not stop with adulthood. Indeed, for some, it worsens. I remember a young woman, an accomplished professional, charming and friendly, well-liked by all who knew her. She told me she would never have children. "I'd always be afraid I would act like *them*," she said.

Unlike other forms of child abuse, emotional abuse is rarely denied by those who practice it. In fact, many actively defend their psychological brutality, asserting that a childhood of emotional abuse helped their children to "toughen up." It is not enough for us to renounce the perverted notion that beating children produces good citizens—we must also renounce the lie that emotional abuse is good for children because it prepares them for a hard life in a tough world. I've met some individuals who were prepared for a hard life that way—I met them while they were *doing* life.

The primary weapons of emotional abusers is the deliberate infliction of guilt. They use guilt the same way a loan shark uses money: They don't want the "debt" paid off, because they live quite happily on the "interest."

Because emotional abuse comes in so many forms (and so many disguises), recognition is the key to effective response. For example, when allegations of child sexual abuse surface, it is a particularly hideous form of emotional abuse to pressure the victim to recant, saying he or she is "hurting the family" by telling the truth. And precisely the same holds true when a child is pressured to sustain a lie by a "loving" parent.

When your self-concept has been shredded, when you have been deeply injured and made to feel

Emotional abuse requires no physical conduct whatsoever. In one extraordinary case, a jury in Florida recognized the lethal potential of emotional abuse by finding a mother guilty of child abuse in connection with the suicide of her 17-year-old daughter, whom she had forced to work as a nude dancer (and had lived off her earnings).

Another rarely understood form of emotional abuse makes victims responsible for their own abuse by demanding that they "understand" the perpetrator. Telling a 12-year-old girl that she was an "enabler" of her own incest is emotional abuse at its most repulsive.

A particularly pernicious myth is that "healing requires forgiveness" of the abuser. For the victim of emotional abuse, the most viable form of help is *self-help*—and a victim handicapped by the need to "forgive" the abuser is a handicapped helper indeed. The most damaging mistake an emotional-abuse victim can make is to invest in the "rehabilitation" of the abuser. Too often this becomes still another wish that didn't come true—and emotionally abused children will conclude that they deserve no better result.

The costs of emotional abuse cannot be measured by visible scars, but each victim loses some percentage of capacity. And that capacity remains lost so long as the victim is stuck in the cycle of "understanding" and "forgiveness." The abuser has no "right" to forgiveness—such blessings can only be earned. And although the damage was done with words, true forgiveness can only be earned with deeds.

For those with an idealized notion of "family," the task of refusing to accept the blame for their own victimization is even more difficult. For such searchers, the key to freedom is always truth—the real truth, not the distorted, self-serving version served by the abuser.

Emotional abuse threatens to become a national illness. The popularity of nasty, mean-spirited, personal-attack cruelty that passes for "entertainment" is but one example. If society is in the midst of moral and spiritual erosion, a "family" bedrocked on the emotional abuse of its children will not hold the line. And the tide shows no immediate signs of turning.

Effective treatment of emotional abusers depends on the motivation for the original conduct, insight into the roots of such conduct and the genuine desire to alter that conduct. For some abusers, seeing what they are doing to their child—or, better yet, *feeling* what they forced their child to feel—is enough to make them halt. Other abusers need help with strategies to deal with their own stress so that it doesn't overload onto their children.

But for some emotional abusers, rehabilitation is not possible. For such people,

the injury was
all your fault,
when you look
for approval to
those who can
not or will not
provide it—you
play the role
assigned to you
by your abusers.
It's time to stop
playing that
role.

manipulation is a way of life. They coldly and deliberately set up a "family" system in which the child can never manage to "earn" the parent's love. In such situations, any emphasis on "healing the whole family" is doomed to failure.

If you are a victim of emotional abuse, there can be no self-help until you learn to *self-reference*. That means developing your own standards, deciding for yourself what "goodness" really is. Adopting the abuser's calculated labels—"You're crazy. You're ungrateful. It didn't happen the way you say"—only continues the cycle.

Adult survivors of emotional child abuse have only two life-choices: learn to self-reference or remain a victim. When your self-concept has been shredded, when you have been deeply injured and made to feel the injury was all your fault, when you look for approval to those who can not or will not provide it—you play the role assigned to you by your abusers.

It's time to stop playing that role, time to write your own script. Victims of emotional abuse carry the cure in their own hearts and souls. Salvation means learning self-respect, earning the respect of others and making that respect the absolutely irreducible minimum requirement for all intimate relationships. For the emotionally abused child, healing *does* come down to "forgiveness"—forgiveness of yourself.

How you forgive yourself is as individual as you are. But knowing you deserve to be loved and respected and empowering yourself with a commitment to try is more than half the battle. Much more.

And it is never too soon—or too late—to start.

© 1994 Andrew Vachss. All rights reserved.

Here's an excerpt from a related article, published Summer 2012 in *The Wilson Quarterly*:

"Epidemiologists have now homed in on a series of factors that increase the risk of developing schizophrenia, including ... if you were beaten, taunted, bullied, sexually abused, or neglected when you were a child. In fact, how badly a child is treated may predict how severe the case of an adult person with schizophrenia becomes—and particularly, whether the adult hears harsh, hallucinatory voices that comment or command."

Andrew Vachss has been writing for *Parade* since 1985. In response to endless requests, we have collected all his past *Parade* articles [here](#).

[VACHSS](#) [BIO](#) [WRITINGS](#) [ARTICLES](#) [INTERVIEWS](#) [FAQ](#) [UPDATES](#)
[MISSION](#) [FREE DOWNLOADS](#) [GALLERY](#) [DOGS](#) [INSIDERS](#) [RESOURCES](#)

The Zero 5.0laf - Official Website of Andrew Vachss

Communication Skills

Being able to communicate with others is one of the best life skills a person can develop. Someone who can effectively communicate thoughts, ideas, and feelings is better equipped for success both on the job and in personal relationships.

Effective communication is much more than being able to talk; it is also the ability to listen and understand others, to “read” and interpret body language and to know the best ways to get our points across.

To be a better speaker:

- **Be considerate.** Don't dominate the conversation by talking only about yourself. Use questions to probe the person's feelings or opinions on the topic of conversation.
- **Speak clearly.** Don't mumble or talk in the opposite direction of the listener. Also, use words that you know the listener might understand.
- **Stay focused on the conversation.** Doing something else while you are talking, such as typing or working on a car, sends a message to the listener that you don't think the conversation is worthy of your full attention, and it could inhibit the listener's responses to what you say.
- **Be brief.** Don't over talk a point. It may cause the other person to lose interest in the conversation.
- **Learn to “read” the listener.** If the other person seems inattentive or uncomfortable, it is probably not a good time to be carrying on a conversation. Recommend having the conversation at another time.

To be a better listener:

- **Eliminate distractions.** If you find it hard to concentrate because of your surroundings, move to another area or schedule another time to talk.
- **Make time to listen.** If you are in a hurry or don't have time, let the speaker know and schedule another time to talk. Better to delay the conversation than to risk having an important conversation cut short.
- **Practice reflective listening.** Repeat what you think the speaker said to ensure you heard the speaker correctly. This is called “reflective listening” and it is identified by statements as “If I understand you correctly...” reflective listening gives the speaker a chance to clarify a point and ensures that both the speaker and the listener are on the same page.
- **Listen for understanding.** If you don't understand what is being said, don't be shy or embarrassed to ask questions. It is better to ask for clarification than to risk a misunderstanding that could lead to problems later on.
- **Wait for the speaker to finish.** Don't interrupt, even when it's apparent the person speaking is gathering his/her thoughts.
- **Pay attention to what is being said.** When someone is speaking, don't spend that time preparing your remarks or working on a project – listen.

- **Keep eye contact.** Doing so shows that you are interested in what is being said, which may encourage the speaker to express him/herself more freely.

The fine points of arguing fairly:

Everyone gets into arguments, but good communicators know how to argue fairly. Here are some guidelines to keep your arguments from going too far south.

- **Don't resort to name calling.** Never, ever call a partner a hurtful name. Try the five-second rule (below) to choose words that are appropriate and relevant to the disagreement.
- **Try the five-second rule.** Because we sometimes say things without thinking of the consequences, wait five seconds before you comment on what is just been said. Use this time to exercise control and think about what you should say.
- **Stick to the issue at hand.** Talk only about the present point of disagreement. Bringing up or engaging in discussions about past problems adds the proverbial fuel to the fire. It also shifts the focus from the present problem, which means it probably won't get resolved and will cause trouble again.
- **Manage your anger.** Anger is a natural emotion, especially when you are having a disagreement. But don't allow your anger to turn violent. If you feel your anger reaching that point, leave the scene immediately and do something safe to calm yourself down – counting to 20, taking a brisk walk or exercising. Don't resort to drugs or alcohol or drive your car away on all cylinders.
- **Speak and act with regard for the other person.** Remember with whom you are arguing. It may be a marriage partner or someone whom you love and care about deeply. Although that is probably the last thing on your mind when you are having a disagreement, it should be the first.

Site: www.PRPonline.net

ASAP offers confidential, cost-free assessment, counseling, consultation and referral services to all UCDHS faculty, staff, and their family members. Whether the problem is work-related, personal, career or relationship focused, ASAP can assist you in evaluating and resolving the problem.

You can call ASAP at 916-734-2727 for an appointment.

1 **CERTIFICATE OF SERVICE**

2 I, the undersigned, certify that on the 5th day of April, 2013, I caused a true and correct copy of the
3 foregoing **APPELANT'S BRIEF, APPENDIX and CERTIFICATE OF SERVICE** to be
4 forwarded, with all required charges prepaid, by US mail indicated below, to the following:

4 ORIGINAL TO: Clerk of the Court
Court of Appeals 500 N Cedar St
5 Spokane, WA 99201

5 AND TO:
6 Lisa M. Lydon
Assistant Attorney General
7 1116 West Riverside Avenue
Spokane, WA 99201

8 

9 Drew Dalton, WSBA 39306
10 Attorney for Defendants