

Criminal Disposition of Persons Involved in 72 Cases of Fatal Child Abuse

JACY SHOWERS, EdD

*Researcher and Consultant, Child Abuse Team, Children's Hospital, Columbus, Ohio**

JULIO APOLO, MD

Director, Emergency Services, Children's Hospital, Columbus, Ohio

ABSTRACT

Seventy-two cases of fatal child abuse were studied to determine the numbers of cases in which charges were filed, indictments returned, and convictions obtained. The sentences given and amount of time served were also examined.

All of the cases reviewed involved children six years of age or under who were in the care of their parent(s) or substitute caretaker(s) when the injuries or conditions occurred which resulted in their deaths. Charges were filed in less than one-half of the cases, and convictions were obtained in less than one-third of these cases. The sentences given and actual time served varied considerably.

The results of the present study illustrate the need for improved training of medical personnel, law enforcement officials and prosecuting attorneys in the investigation and prosecution of cases of fatal child abuse.

INTRODUCTION

In the United States, child abuse is second only to sudden infant death syndrome as a cause of death in infants between birth and six months of age, and second only to accidents among children aged from one to five years (McNeese, 1982). Internationally, the United States ranks first in death by homicide of children aged from one to four years, and fourth in death by homicide of children aged from five to 14 years old (World Health Organization, 1981). The scope of the problem of fatal child abuse is large.

The investigators were interested in examining how fatal child abuse cases are addressed by law enforcement agencies and the criminal court system. In order to examine this question, all

known cases of fatal child abuse occurring from 1965 to 1984 at one paediatric hospital were reviewed. Demographic variables and medical causes of death associated with these cases were described in an earlier report (Showers et al., 1985). The purposes of the present study were: (a) to determine the number of cases for which criminal charges were filed and indictments obtained; (b) to delineate the specific criminal charges filed against alleged abusers; (c) to determine the distribution by sex and race of the perpetrator for those cases that led to criminal charges and convictions; and (d) to ascertain the sentences given to convicted perpetrators, and the actual time served.

SETTING FOR THE STUDY

Columbus Children's Hospital is a 300-bed paediatric facility serving primarily 33 counties in central and south-eastern Ohio. A complete range of health care services including diagnostic, treatment, rehabilitation and prevention programs are provided by multidisciplinary teams at the hospital. A child abuse team was established in 1975 and currently consists of physicians, social workers, a paediatric nurse associate, a nurse's aide, a health educator, a psychologist, and a data coordinator.

METHODOLOGY

This study included all known cases of children who died secondary to suspected physical abuse or neglect between 1 January 1965 and 31 December 1984. Demographic, social, and criminal information about alleged perpetrators

*Address for reprints: Jacy Showers, Child Abuse Program, 700 Children's Drive, Columbus, Ohio 43205, USA.

was recorded from social service files, law enforcement files, and reports from prosecutors, clerks of court, and the Ohio Department of Rehabilitation and Correction.

RESULTS

Demographic variables

For the 20-year period studied, a total of 72 victims of fatal child abuse and neglect were identified. All child victims were less than six years old. Hospital social workers, physicians and representatives of investigatory agencies were unable to identify perpetrators in 15 of the cases, even though the results of autopsies on the child victims and/or circumstances surrounding the deaths strongly suggested that the children involved died at the hands of their caretakers. In these cases (21 per cent), no criminal charges were filed.

For the remaining 57 cases, 63 suspected perpetrators were identified. This total included six cases in which two perpetrators were implicated. All alleged perpetrators were known to the child victims and were of the same race as the child.

Charges and indictments

A summary of the criminal disposition of all 72 cases is presented in *Table I*. Insufficient evidence

existed to file criminal charges against slightly more than half (32) of the 63 suspected perpetrators identified. In many of these cases, the prime suspect was home alone with the child at the time the injuries occurred and there were no witnesses. The remaining alleged perpetrators (31) were charged with counts ranging from aggravated murder to child endangering (*Table II*). Those charged represented 29 of the original 72 cases (40 per cent). Indictments were returned for 27 of those suspects, with one case still pending.

Acquittals

Acquittals were obtained for five of the defendants who went to trial. One male defendant was acquitted by a judge, and three defendants (two men and one woman) were acquitted by juries. One male defendant was found not guilty by reason of insanity. A sixth case resulted in a hung jury (eight to four for guilty), and the judge subsequently dismissed the charges.

Convictions, sentences, and time served.

There was a total of 21 convictions for 19 cases in the study (*Table III*). Nine defendants pleaded guilty, five to the original charges and four to lesser charges. Of the remaining 12 defendants, seven were found guilty as charged and five were found guilty of lesser offences than charged. The

Table I. Criminal disposition of 72 cases of child abuse

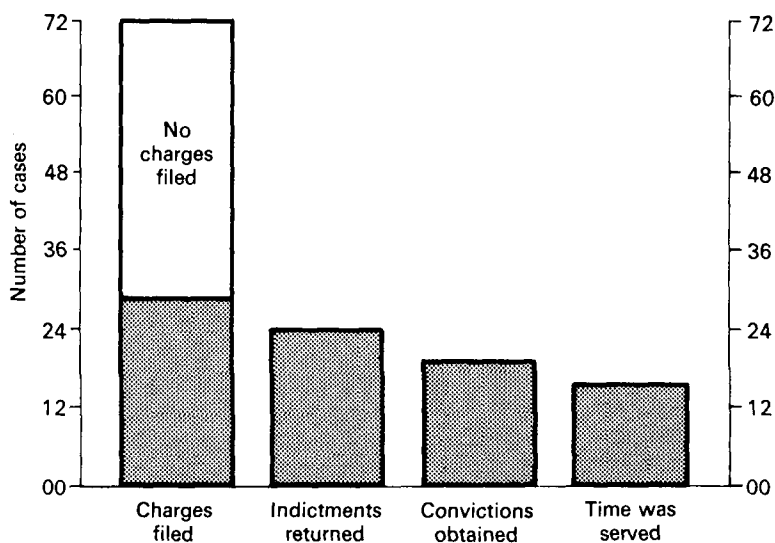


Table II. Charges filed against suspected perpetrators

Charge*	No	%
Aggravated murder	1	2
Murder	11	17
Manslaughter in the first degree	1	2
Involuntary manslaughter	9	14
Voluntary manslaughter	4	6
Child endangering	3	5
Negligent homicide	1	2
Felonious assault	1	2
	N = 31	
No charges filed	32	51

N = 63**

*Some suspects were charged with more than one offence; in those cases, only the most serious charge was tallied.

**Representing 57 of 72 cases. No suspect was named in the remaining 15 deaths.

sentences ranged from six months probation to 15 years to life in prison. Three of the 21 suspects convicted served no time (14 per cent), and four served one year or less (19 per cent).

The number of suspects charged and convicted varied greatly between the first ten years and the last ten years of the study. Although 42 per cent of all cases occurred prior to 1975, only 16 per cent of total convictions were obtained during that time.

Distribution by sex and race

Women represented 38 per cent of the alleged suspects, 23 per cent of the persons charged with a criminal offence, and 10 per cent of those convicted. Only one woman served time in prison. Males, on the other hand, constituted 62 per cent of suspects, 77 per cent of those charged, 90 per cent of those found guilty, and 94 per cent of those persons who served time. Boyfriends of the victims' mothers, who constituted 35 per cent of all prime suspects, were most likely to be charged and convicted (42 per cent). Of the suspects charged, 20 were white (65 per cent) and 11 were black (35 per cent); the racial distribution for all cases was 60 per cent and 40 per cent respectively.

Table III. Disposition and time served. N = 21 Convictions

Charge	Disposition	Sentence	Time served*
Agg. Murder	Found Guilty, Inv. Mans	2-5 yrs	Unknown
Murder	Found Guilty, Murder	15 yrs-life	6 yrs +
Murder	Plead Guilty, Inv. Mans	7-25 yrs	Unknown
Murder	Found Guilty, Inv. Mans	7-25 yrs	5 yrs +
Murder	Found Guilty, Inv. Mans	1-25 yrs	1 yr +
Murder	Plead Guilty, Inv. Mans	5-25 yrs	4 yrs
Murder	Found Guilty, Inv. Mans	4-25 yrs	10 yrs +
Murder	Found Guilty, Inv. Mans	4-25 yrs	11 yrs +
Murder	Plead Guilty, Mans in 1st Degree (pre-1974 code)	5 yrs' probation	None
Vol. Mans	Found Guilty, Vol. Mans	5-25 yrs	4 yrs +
Vol. Mans	Found Guilty, Vol. Mans	5-25 yrs	4 yrs +
Vol. Mans	Plead Guilty, Asslt	5 weekends in jail	5 weekends in jail
Inv. Mans	Found Guilty, Inv. Mans	7-25 yrs	2 yrs +
Inv. Mans	Found Guilty, Inv. Mans	5-25 yrs	4 yrs +
Inv. Mans	Found Guilty, Inv. Mans	5-25 yrs	3 yrs +
Inv. Mans	Found Guilty, Inv. Mans	4-25 yrs	3 yrs +
Inv. Mans	Plead Guilty, Inv. Mans	4-25 yrs	7 months; shock probation
Inv. Mans	Plead Guilty, Inv. Mans	1-10 yrs Susp; 5 yrs' probation	None
Fel. Asslt	Plead Guilty, Fel. Asslt.	3-15 yrs	7 yrs +
Endang.	Plead Guilty, Endang.	60 days' jail	60 days' jail
Endang.	Plead Guilty, Endang.	6 months' probation	None

* + signifies the defendant is still serving time.

DISCUSSION

The investigation of child deaths due to caretaker abuse or neglect is complex and difficult. Historically, the identification and prosecution of such cases has been hampered by a low index of suspicion of abuse, inadequate training of medical personnel and law enforcement officials, and poor investigative techniques. In all cases in the present study, social circumstances and/or autopsy findings strongly suggested the possibility of abuse or neglect. Yet hospital staff members and investigatory officials were handicapped by the inability of the victims to provide information about what happened, by the lack of witnesses, and by lack of direct evidence. The finding that charges were filed against suspected perpetrators in less than one-half of the cases illustrates the difficulty of establishing culpability for fatal injuries or conditions which occur while children are in the care of parents or substitute caretakers.

The increase in conviction rate from the first decade of the study to the second, although still low, is probably a result of several factors. Both professionals and the general public have become increasingly aware of the incidence and seriousness of child abuse. The establishment of a multidisciplinary child abuse team at Children's Hospital has led to improved collection and documentation of medical evidence for use by the local coroner, police officers and prosecutors. In addition, there has been improved communication between the hospital, the police, the children's protective services agency, and the public prosecutor.

Arbitrary and varied sentencing, which has been reported previously for cases of child homicide (Scott, 1973) was evident in the present study. The sentences for voluntary manslaughter, for example, ranged from five weekends in jail to from five to 25 years in prison. Three defendants, one convicted of manslaughter, one of involuntary manslaughter, and one of child endangering, served no time. If incarceration in prison is, according to the system of justice in this country, a fair penalty for causing the death of another person, 57 out of a total of 72 cases in this study (78 per cent) were 'unpaid for'.

The relatively low percentage of convictions and even lower percentage of convictions resulting in substantial imprisonment time has social implications. Without intervention in cases of

fatal child abuse, the well-being of other children under the present and subsequent care of the adults involved may be at risk. Eighteen months following one of the cases in this study, in which the suspected perpetrator was not prosecuted, he was charged (and later convicted) with murdering the victim's one-year-old sister. Failure to intervene after the first child's death may have resulted in failure to protect the sibling. The problem of continuing jeopardy of children is a serious one (Kaplan and Reich, 1976).

Although there was no preponderance by race in rate of conviction, severity of sentence, or time served, the findings suggest strongly that female caretakers are less likely than males to be charged, convicted, and imprisoned. Only two female perpetrators served time. One woman spent 60 days in jail. The second woman was tried jointly with her common-law husband and both were found guilty of killing their four-week-old infant. They received equal sentence of from 5 to 25 years. The reasons women were less likely to be charged and convicted in the cases examined in this study may be a result of the factual bases of the cases, or of societal factors yet to be clarified.

CONCLUSION

The overall findings of this study suggest that it is relatively simple for a parent or caretaker to kill a young child without criminal consequences since the crime can be committed in virtual secrecy or isolation. For perpetrators who can be identified circumstantially, evidence for criminal indictment and conviction is frequently absent. Complete autopsies in all cases of unexplained deaths of children, and thorough law enforcement investigations in all cases in which direct physical or social evidence suggests child abuse or neglect, are warranted. A need exists to better train medical personnel and investigation officers to prove culpability in these cases based on medical evidence. Close co-operation between medical personnel, the coroner's office, investigatory agencies and the judicial system is critical to the effective prosecution of child abusers. In all suspicious cases, steps should be taken to protect other children who may be at risk. Until society as a whole becomes more outraged about the nature of fatal child abuse, and programmes are

implemented to prevent it, child abuse will continue to be a major killer of our children.

ACKNOWLEDGMENT

The authors gratefully acknowledge H. Tim Merkle, Assistant Prosecuting Attorney, Franklin County Prosecutor's Office, for his assistance in the preparation of this paper.

REFERENCES

- Kaplan, D. and Reich R. (1976) The murdered child and his killers. *Am. J. Psychiat* **133**, 809–13.
- McNeese M. C. (1982) When to suspect child abuse. *Am. Fam. Physician* **25**, 190–7.
- Scott P. S. (1973) Fatal battered baby cases. *Med. Sci. Law* **13**, 197–206.
- Showers J. and Apolo J., et al. (1985) Fatal child abuse: A two-decade review. *Ped. Emerg. Care* **1**, 66–70.
- World Health Organization (1981) *World Health Statistics Annual Yearbook*. Berne, Switzerland, WHO.