

1988

## The Battered Child

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### Recommended Citation

Lewis, James A. (1988) "The Battered Child," *NYLS Journal of Human Rights*: Vol. 6 : Iss. 1 , Article 7.  
Available at: [https://digitalcommons.nyls.edu/journal\\_of\\_human\\_rights/vol6/iss1/7](https://digitalcommons.nyls.edu/journal_of_human_rights/vol6/iss1/7)

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## BOOK REVIEWS

THE BATTERED CHILD. By R. Hefler & R. Kempe. Chicago, Ill.: University of Chicago Press, 1987. Pp. XXIII, 470. \$35.00.

Reviewed by James A. Louis\*

The maltreatment of children at the hands of parents or other adults responsible for their care is, by this time, a well-known public issue. Every metropolitan center, no less any number of medium or small-sized communities, has its share of headline stories about children who have been apparently beaten to or near death by parents, of youngsters locked away from meaningful human contact or deprived of necessary care and sustenance by cruel and malicious or, at best, disturbed and misguided guardians, of pre-schoolers subjected to sexual contacts or other abuses by day care teachers, aides, or other "caring" adults. Then there are the "neutral" stories reciting the ever increasing numbers of reports of suspected incidents of abuse, cruelty, abandonment, and neglect each year. And even when those stories are not in the news there are accounts of adults who say that they have been victimized by the child protection agencies and laws themselves, through the pressing of false allegations, by inept or malicious investigations, or as a result of interventions which are inappropriate to the family situation. It is hard to imagine that many Americans have no awareness of so current and pervasive a social phenomenon! A new edition of *The Battered Child*<sup>1</sup> could not be better timed. The earlier editions of this work were timely, each was unparalleled in importance to professionals working with abused and neglected children and their

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1. R. HEFLER & R. KEMPE, THE BATTERED CHILD (4th ed. 1987) [hereinafter THE BATTERED CHILD].

families.<sup>2</sup> This new "revised and expanded" version promises to be no less useful in informing the judgments and inspiring the interest of the wide range of practitioners in various disciplines represented. Valid information is always timely. It is particularly valuable for this edition to come on the scene at a time when child maltreatment and the societal and governmental response to it are hot political issues. This book's four hundred-sixty pages stand as the strongest argument that this problem -- maltreatment of children and responding to it with due regard to the rights of all concerned -- is much too complex for facile responses. Whether or not the editors so intended, this comprehensive work is in no small way a political document if it warns policy makers not to be drawn to easy answers.

Many advocates for the rights of children and those who represent the interests of parents or others who are responsible for the care of children will benefit from the knowledge contained here. Through the several editions,<sup>3</sup> *The Battered Child* has, or should have, become a working document and weapon in the arsenal of all who find themselves involved with child protection cases. More lawyers than ever before will need to turn here for information as litigation is filed against child welfare agencies and social workers for malpractice,<sup>4</sup> and as more divorce and custody cases involve real or tactically fabricated accusations of abuse brought by one parent against the other.<sup>5</sup>

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2. R. HEFLER & C. KEMPE, *THE BATTERED CHILD* (1st ed. 1968, 2d ed. 1974, 3d ed. 1980).

3. *Id.*

4. Motivated by the subsequent harm befalling a child, malpractice litigation against child welfare agencies, social workers, and health care professionals is developing as state statutes impose liability for failure to diagnose the battered child syndrome. *See*, *Landeros v. Flood*, 17 Cal. 3d. 399, 551 P.2d 389, 131 Cal. Rptr. 69 (1976). *See also*, Kempe, Silverman, Steele, Droegemueller & Silver, *The Battered Child Syndrome*, 181 J. A.M.A. 17 (July 1962) [hereinafter *Syndrome*].

5. *Final Thoughts and Future Directions*, in *THE BATTERED CHILD*, *supra* note 1, at 457, 459. Recent events reveal a trend of using reports of child abuse to carry out a vendetta against another person. Although these are infrequent, such reports are on the increase, especially between estranged or divorced parents. *Id.*

Frankly, the names Helfer and Kempe are well known to anyone who is professionally involved with child abuse and neglect.<sup>6</sup> The groundbreaking first edition of *The Battered Child* was compiled by Dr. Ray E. Helfer, of the current edition, and C. Henry Kempe, M.D., a pioneer in the contemporary awareness of child abuse, who, in coining the term, "the battered-child syndrome,"<sup>7</sup> made the medical and associated health professions begin to look at the context of symptoms of abuse. Helfer and Kempe collaborated in editing other important works in addition to the second and third editions of the instant book.<sup>8</sup> The fourth and current edition is the first since C. Henry Kempe's death in 1984, a fact amply and caringly noted in the prefatory material. Dr. Hefler's collaborator in this edition, Ruth S. Kempe, M.D., herself has spent a career in treating and studying the victims and families of maltreatment.<sup>9</sup> Readers familiar with the earlier volumes should note that this version is no less useful in understanding and preparing for child abuse and neglect cases, all within the context of the late 1980's.

The first part of the book discusses abuse and child maltreatment in a variety of contexts. Chapters on historical developments which lead to current thinking about abuse in the cultural context adequately summerizes the subject for even the unfamiliar reader. Anyone searching further to understand abuse and neglect and the responses to it would do well to turn as well to Anne H. Cohn's essay, "Our National Priorities for Prevention,"<sup>10</sup> for at least passing attention to the current socio-political picture. It no doubt is placed at the end of the book because it leads the way to thinking about the future, but this piece is no less important to understanding the

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6. THE BATTERED CHILD, *supra* note 1, at iv. Ray E. Hefler, M.D., is a professor in the Department of Pediatrics and Human Development at the College of Human Medicine, Michigan State University. *Id.* The late C. Henry Kempe, M.D., was Professor and Chairman of the Department of Pediatrics at the University of Colorado Health Science Center.

7. See *Syndrome*, *supra* note 4, at 17.

8. See, e.g., R. HEFLER & C. KEMPE, HELPING THE BATTERED CHILD AND HIS FAMILY (1972); R. HEFLER & C. KEMPE, CHILD ABUSE AND NEGLECT (1976).

9. THE BATTERED CHILD, *supra* note 1, at iv. Ruth S. Kempe, M.D. is an Associate Professor of Psychiatry at the University of Colorado Health Science Center. *Id.*

10. Cohn, *Our National Priorities for Prevention*, in THE BATTERED CHILD, *supra* note 1, at 444.

context of modern concerns than is chapter two. The contribution of familial and social stress to child abuse and domestic violence is the subject of an essay by Murray A. Straus and Glenda Kaufman Kantor.<sup>11</sup> It empirically addresses an issue which many deem to be a major contributing factor to abuse in modern life. Obviously, an understanding of the role played by stress is essential to remediation of causes of much abuse as well as the defense of parental acts in many cases which do occur.<sup>12</sup> Part I concludes with analyses of how abuse effects child development, in an important chapter by Dr. Helfer discussing the cycle of abuse,<sup>13</sup> and of psychiatric and psychodynamic factors in parents who abuse, in a paper by psychiatrist Brandt Steele.<sup>14</sup> Both chapters are worth the effort of digesting this esoteric, complex material for anyone who works with children and families, and who must understand the place of violence and neglect in family dynamics.

Part Two, Assessment, provides a practical guidebook to the diagnosis and evaluation of various forms of abuse and neglect. Its chapters include comprehensive descriptions of certain types of trauma, physical and emotional injuries, and illnesses and conditions indicative of abuse or neglect. Presumably, the detailed clinical descriptions and the array of photographs showing serious injuries are technically useful to physicians and other health care professionals; they certainly help inform any lawyer representing a party to a child abuse case as to the quality of the evidence needed or at hand in a given case. Among the greatest complexities in abuse and

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11. Straus & Kantor, *Stress and Child Abuse*, in THE BATTERED CHILD, *supra* note 1, at 42.

12. *Id.* at 42-57.

13. Helfer, *The Developmental Basis of Child Abuse and Neglect: An Epidemiological Approach*, in THE BATTERED CHILD, *supra* note 1, at 60, 70-79. Dr. Helfer discusses the world of abnormal rearing cycle (W.A.R.). Children in this cycle are not provided with a favorable environment in which to learn basic interpersonal skills. *Id.* at 70. As a result, these children are easily discouraged, depressed, and have a difficult time keeping close friends due to a lack of the skills necessary for development in this area. *Id.* at 79. Ultimately this continues into their adult lives and is passed from generation to generation. *Id.* at 66.

14. B. STEELE, *Psychodynamic Factors in Child Abuse*, in THE BATTERED CHILD, *supra* note 1, at 81-114.

neglect cases is connecting the fact of the injury, which is often self-evident or admitted, to a causation which constitutes abuse or neglect. This concern should be equally significant to counsel for child protection agency, parent, and the child.

This section of the book also contains chapters on the roles of various functionaries in the assessment process, including the child protective agency<sup>15</sup> and a multidisciplinary child protection team.<sup>16</sup> This recent creation uses a somewhat fluid group of professional experts in making a diagnosis of abuse and assessing both its seriousness and course of treatment. It is interesting to note that these teams often include attorneys whose role is to discuss the facts from the standpoint of evidentiary requirements and the need to involve the legal process, in addition to whether or not the facts at hand satisfy the legal standards which must be met to justify further intervention into family privacy. Those whose role it is to vindicate the rights of family members whose lives have been subjected to the child protection system would do well to understand the nature and potential legal difficulties of the interviewing process described in chapter six.<sup>17</sup>

Part III concerns treatment of abused children, abusive parents,

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15. Carroll & Hasse, *The Function of Protective Services in Child Abuse and Neglect*, in *THE BATTERED CHILD*, *supra* note 1, at 137. These agencies are departments of government or nonprofit entities which are legally responsible for the provision of child protection. Social workers or other child welfare professionals, are used to investigate and treat these children. *Id.* In addition, adequate medical psychiatric and psychological consultation, as well as an adequate legal staff should be available. The agency functions include intake or assessment of referred families, provision of treatment services, case coordination with other agencies in the community, and preventive services. *Id.* at 140.

16. Krugman, *The Assessment Process of a Child Protection Team*, in *THE BATTERED CHILD*, *supra* note 1, at 127. The team is often divided into three groups: the core team, the consultative team, and the case specific professionals. *Id.* at 128-29. The core team usually evaluates the safety of the child's home and recommends treatment strategies, as well as provides a contact person for local agencies and families involved in a particular child abuse case. *Id.* at 128. The consultative team attends meetings dealing with abuse and neglect and its members have broad experience in these areas. *Id.* This team may aid in assessing the treatability of certain individuals and may even provide such treatment. *Id.* The case specific professionals are those who have had direct involvement with the family and child. *Id.* at 129. This includes police officers, teachers and family physicians. *Id.*

17. Helfer, *Communicating in the Therapeutic Relationship: Concepts, Strategies and Skills*, in *THE BATTERED CHILD*, *supra* note 1, at 117.

and the whole family. The laws of all the states allow some level of therapeutic services to be provided, either at the request of the parent or by order of a court.<sup>18</sup> Both the child-victim and the parent-abuser should be viewed as having a right to treatment services if they desire; problem cases involve situations where the intervening agency (the state) is unwilling or unable to provide the services or where either the parent or child opposes it. Donald N. Duquette's chapter, "Liberty and Lawyers in Child Protection,"<sup>19</sup> generally discusses this issue and describes the typical role of the lawyers in civil child abuse cases conducted in family, juvenile, or domestic relations court. These cases involve a lawyer representing the agency or person seeking to intervene "on behalf of the child," counsel for the accused parent or guardian, and, in recent times, an advocate for the child.<sup>20</sup> This advocate, whether a lawyer or lay volunteer, is with more or less specificity, charged to represent the child's wishes *and* interests. This fully participating advocate for the victim is perhaps the clearest indication of the development of the rights of children from mere beings in need of physical protection as an exercise of *parens patriae*<sup>21</sup> to parties with rights not only to safety but to a reasonable, "normal" future as well. The role played by law enforcement is treated in short order.<sup>22</sup> It gives some indication of the historical role of the criminal justice system in child

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18. See, e.g., N.J. STAT. ANN. § 30: 4C-11, 12 (West 1981). New Jersey law authorizes the state Division of Youth and Family Services to provide services at the request of family members or to seek a court order to overcome parental objection. Article 3 of the New York Social Services Law authorizes local social services agencies to provide services either with parental consent or valid court order. N.Y. SOC. SERV. LAW § 398 (McKinney 1988). California, like most other states provides likewise. CAL. WELF. & INST. CODE §§ 300, 361 (West Supp. 1988).

19. Duquette, *Liberty and Lawyers in Child Protection*, in *THE BATTERED CHILD*, *supra* note 1, at 401.

20. See *Santosky v. Kramer*, 455 U.S. 745 (1982); *Lassiter v. Department of Social Servs.*, 452 U.S. 18 (1981); *Cooley v. Washington*, 136 A.2d 583 (D.C. 1957); *CHILD ABUSE PREVENTION ACT*, 42 U.S.C. § 5101 (1983).

21. The doctrine of *parens patriae* refers to the role of the state as guardian of persons under legal disability. Under this doctrine the state is the primary protector of children from abuse or neglect. *BLACK'S LAW DICTIONARY* 1003 (5th ed. 1979).

22. Shepherd, *Law Enforcement's Role in the Investigation of Family Violence*, in *THE BATTERED CHILD*, *supra* note 1, at 392.

abuse cases. At some times and places, the criminal law was the only protection children had; its flaw was when the parent-child relationship was a sufficient excuse for any parental misdeed.<sup>23</sup> Today the role of law enforcement is growing, especially in cases of sexual abuse and serious physical abuse.<sup>24</sup> It would be helpful if a book this comprehensive would provide more discussion of the role of the criminal justice system and the problems which result when the criminal and civil systems conflict.<sup>25</sup> Undoubtedly, professionals involved in criminal justice will benefit as much as anyone else from the vast contents of this book.

Part IV is the most timely section of *The Battered Child*. The other sections are not dated; the idea of prevention is simply the most recent development. Any analysis of the rights of the individuals involved and those of the family as a unit must recognize the strong social and personal interests in preventing abuse and neglect from happening, on the one hand, and the reality that prevention means intervention before something goes wrong on the other. The chapters in this section discuss the theories, goals, and methods of prevention strategies. Now and in the future, it is vital that families and those charged with serving them, either on request or by virtue of a court mandate, understand this. Those whose role is to preserve the rights of participants in the child protection system will not be able to avoid the often conflicting concerns of protecting those who are vulnerable and unable to help themselves in a manner which preserves, as much as possible, the dignity and rights of family privacy. Effective preventive approaches, if they can be developed, may provide just the answer.

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23. Duquette, *supra* note 17, at 401-04.

24. Shepherd, *supra* note 20, at 392-99.

25. Cohn, *supra* note 9, at 451-52.



