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## Child Abuse in the United States

### **Introduction**

Child abuse has a lengthy history and it seems like it does not have end. It was and it stays the most important problem for our society even though we think we do everything to stop it.

Children have always been subject of abuse by the adults. First they believed that children were their property. Then a child became little more than the property of the parents. Adults could use children as an asset to perform work on the farm. [1] That time laws failed to protect children. Now it seems like many things have been changed; we are more educated, we have laws protecting children from being abused, but the problem is growing increasingly.

In my opinion there is nothing more vicious than the abuse, exploitation and harm of the most vulnerable members of our society. If we want to have a bright future, we should stop abuse, and the best way to do it is to talk

about it, try to find causes and solutions of the problem, educate parents, and do it every day. We all should be involved to get better results.

## **I. Thesis:**

Today child abuse is a large problem in the United States. The United States has the worst record in the world; losing five children every day due to abuse-related deaths, and based on the statistics, child physical abuse is growing with every year.

There are many Child Abuse Prevention centers in the United States such as Center for Disease Control and Prevention (CDC), Department of Children and Families (DCF) that provide different services such as at home visiting, parent educational classes for solution of this problem. However, we see that we do not reach desired consequences.

Government should be wholly involved in this problem. Funding sources must be increased for such programs.

Statistics show that unemployment problem has its influence too. That means that government should solve this problem, and we also need stricter laws for regulation of child physical abuse because children are our future, they are future parents who should not see a bad experience of parenting, and if we want to have a “healthy society,” we should take all steps to solve this problem today.

## **A. Statistics**

The federal Child Welfare Information Gateway's booklet, "Child Abuse and Neglect Fatalities: Statistics and Interventions," states that 2.35 children out of every 100,000 American children die each year from child abuse and thousands of others are injured physically and emotionally. Every year 3.3 million reports of child physical abuse are made in the United States. The United States has the worst record in the world-losing five children every day due to abuse-related deaths, and based on the statistics, child physical abuse is growing with every year. [2]

## **B. Causes of Child Abuse**

The causes of physical child abuse are many. It can occur in all families, regardless of religion, culture, race, ethnicity, or income. Parents who physically abuse are often reacting to serious stress in their own lives. They do not know what good parenting is like and what children require for proper care. This reason continues the horrible cycle of abuse in our society.

Of course, it is not only the cause of child physical abuse. There are many other causes such as emotional illness, drug and alcohol abuse (48%), depression, anxiety disorder, stress, low self-esteem, and unemployment and income problems (30%). [3]

## **C. General Types of Child Abuse**

Child abuse is a crime that encompasses a variety of behaviors involving physical, emotional, or sexual mistreatment or neglect upon a child. Child abuse laws define child abuse as any act or failure to act.

These four, physical, emotional, sexual, and neglect are general types of child abuse and each of them has serious consequences.

The injury from physical abuse may be the result of beating, slapping, pushing, shaking, kicking, pinching, hair pulling, burning with cigarette, scalding water or other hot objects. Hundreds of thousands of children are physically abused each year by someone close to them, and thousands of children die from the injuries. For those who survive, the emotional scars are deeper than the physical scars. [4]

Here I want to underline one type of Child Physical Abuse which is Abuse of Unborn Child which can be occurred by using drugs and alcohol during pregnancy which leads problems such as Fetal Alcohol Syndrome. I want to introduce a case *Whitner v. State* where for the sentencing court to have had subject matter jurisdiction to accept Whitner's plea. Criminal child neglect under section 20-7-50 would have to include an expectant mother's use of crack cocaine after the fetus is viable.

Section 20-7-50 of South Carolina Law provides the proper care and attention for such child or any person having the legal custody of any child or helpless person, who shall, without lawful excuse, refuse or neglect to provide the life, health, or comfort of such child or helpless person is endangered or is likely to be endangered, shall be guilty of a misdemeanor and shall be punished within the discretion of the circuit court. In this case court had to decide whether a viable fetus was a "person" for purposes of the Children's Code.

The Supreme Court of South Carolina held that a viable fetus is a child within the meaning of the state's child endangerment statute. The court defined a viable fetus as one that is capable of independent life apart from the mother. In this case, the mother had ingested crack cocaine during the third trimester of her pregnancy and was convicted of criminal child neglect by a lower court. Her petition for post-conviction relief was granted by the lower court. On appeal, the Supreme Court of South Carolina reversed the lower court's decision, rejecting, as without merit, the mother's arguments that her conviction had violated both her due process rights, and her right to privacy under the Fourteenth Amendment to the U.S. Constitution. The court ruled that the state had a compelling interest to ensure the life and health of a viable fetus. Two justices dissented, one on the grounds that the term "child" in the child endangerment statute did not apply to fetuses, and one on the grounds that the statute does not regulate the conduct of a woman toward her unborn child. [5]

Child emotional abuse in my opinion is more serious because it leaves marks inside instead of outside. These marks can be left forever, and it is very hard to identify. Emotional abuse can be made in verbal forms, excessive demands on a child's performance, penalizing a child for positive, normal behavior, penalizing a child for demonstrating signs of positive self-esteem; and penalizing a child for using interpersonal skills needed for adequate performance in school and peer groups.

The consequences of emotional child abuse can be serious and long-term. Emotionally abused children may experience a lifelong pattern of depression, anxiety, low self-esteem, troubled relationships, or a lack of empathy. During their childhood, victims may fail to thrive or their

developmental progress may be halted. Some may also become poorly adjusted emotionally and psychologically. As teenagers, they find it difficult to trust, participate in and achieve happiness in interpersonal relationships, and resolve the complex feelings left over from their childhoods. As adults, they may have trouble recognizing and appreciating the needs and feelings of their own children and emotionally abuse them as well. [6]

Many state statutes require that sexual abuse of children generally need not cause injury; any sexual act performed on a child can be considered abuse.

California Penal Code Section 11165.1 defines sexual abuse as sexual assault or sexual exploitation and defines sexual assault in details.

The effects of sexual abuse extend far beyond childhood. Sexual abuse robs children of their childhood and creates a loss of trust, feelings of guilt and self-abusive behavior. It can lead to antisocial behavior, depression, identity confusion, loss of self-esteem and other serious emotional problems. It can also lead to difficulty with intimate relationships later in life. [6]

California Penal Code section 11165.2 defines "neglect" as the negligent treatment or the maltreatment of a child by a person responsible for the child's welfare under circumstances indicating harm or threatened harm to the child's health or welfare. The term includes both acts and omissions on the part of the responsible person.

Under Section 11165.3 "the willful harming or injuring of a child or the endangering of the person or health of a child," means a situation in which any person willfully causes or permits any child to suffer, or inflicts thereon,

unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of the child to be placed in a situation in which his or her person or health is endangered. [7]

*In re Marilyn case*, Marilyn at age five and Richard, age seven came within subdivision (a) of section 300 in that they would suffer serious physical harm or illness by the willful and negligent failure of Debbie, mother, to provide adequate food, clothing, shelter or medical treatment for them. The petition alleged that the family had been living in a 14-foot trailer in the open desert with no electricity or running water. Both minors were infested with lice. Minors were detained and placed in a foster home, and after dispositional hearing minors were adjudged dependent children of the juvenile court and were ordered into foster home placement. Reunification services were terminated because court found that there had been only moderate compliance with the reunification plan, that return of the minors to mother would create a substantial risk of detriment to the minors. [8]

## **II. Dependent Child**

Welfare and Institutional Code Section 300 gives description of dependent child and identifies who can be a dependent child within the jurisdiction of juvenile code. [9]

- (a)** The child who has suffered, or there is a substantial risk that the child will suffer, serious physical harm inflicted nonaccidentally upon the child by the child's parent or guardian.

**(b)** The child has suffered, or there is a substantial risk that the child will suffer, serious physical harm or illness, as a result of the failure or inability of his or her parent or guardian to adequately supervise or protect the child, or the willful or negligent failure of the child's parent or guardian to adequately supervise or protect the child from the conduct of the custodian with whom the child has been left, or by the willful or negligent failure of the parent or guardian to provide the child with adequate food, clothing, shelter, or medical treatment, or by the inability of the parent or guardian to provide regular care for the child due to the parent's or guardian's mental illness, developmental disability, or substance abuse.

**(c)** The child is suffering serious emotional damage, or is at substantial risk of suffering serious emotional damage, evidenced by severe anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others, as a result of the conduct of the parent or guardian or who has no parent or guardian capable of providing appropriate care.

**(d)** The child has been sexually abused, or there is a substantial risk that the child will be sexually abused, as defined in Section 11165.1 of the Penal Code, by his or her parent or guardian or a member of his or her household, or the parent or guardian has failed to adequately protect the child from sexual abuse when the parent or guardian knew or reasonably should have known that the child was in danger of sexual abuse.



(e) The child is under the age of five years and has suffered severe physical abuse by a parent, or by any person known by the parent, if the parent knew or reasonably should have known that the person was physically abusing the child.

*In re Rocco, a minor, Contra Costa County Department of Social Services v. Catherine P.* The department filed a petition seeking to have Rocco, 11 year old minor, declared a dependent child. The petition alleged that Rocco was a person described in section 300, subdivision (b). At the beginning the court sustained all the allegations of the petition and found Rocco to be “a person described by section 300 A.” Minor’s mother is drinking and using drugs like cocaine. She does not care of her son, leaves with people who kick Rocco in the ribs, lock him out of house.

Minor’s mother usually is not home, sometimes she is in the jail, sometimes in the hospital and Rocco wants to go home only “after she straightens up, after she quits drugs and alcohol.”

What is interesting in this case is the language of the court. Court found that at 11 years, Rocco was old enough to avoid the kinds of physical dangers which make infancy an inherently hazardous period of life. There was no evidence that Rocco might be physically abused, no evidence such conduct was repetitive, and no demonstrated danger it would recur. Court found that there was little indication of physical danger in the general lack or inadequacy of Catherine’s supervision. I do not agree with the court’s decision in this part because I do not think that something dangerous and irreparable must be happened for

the court to consider it physical abuse, like it was in *Deshaney v. Winnebago* case, where a minor fell into a life-threatening coma. I know that state statutes vary for state to state: some states, officially recognize physical abuse occurs only when a child suffers a specified type of injury, whereas in other states, any serious injury that is not accidental in nature is considered abuse, and there should be serious consequences, but I think it is not right. The abuse must be identified and stopped as soon as it is possible to avoid dangerous consequences.

I agree with the second part of the decision of the court, where it found that mother of Rocco subjected him a substantial risk by placing drugs under his nose, setting a wrong example, and leaving him entirely to his own devices over prolonged period of time, he would eventually succumb to the latter temptation. On this basis court found a substantial risk of serious physical injury. [10]

### **III. Discipline v. Abuse**

Sometimes parents think they are imposing discipline, but they do not know where to put a line between an abuse and discipline. They teach to respect, but do not show respect in return.

According to the Committee for Children (2004), the purpose of discipline is “to encourage moral, physical, and intellectual development and a sense of responsibility in children. Ultimately, older children will do the right thing, not because they fear external reprisal, but because they have internalized a standard initially presented by parents and

other caretakers. In learning to rely on their own resources rather than their parents, children gain self-confidence and a positive self-image.” [6]

*In the case People v. Linda Lee Smith* Defendant Linda Lee was disciplining her two year old daughter Amy, and her discipline ended by death of Amy because she refused to sit on the couch instead of the floor to eat a snack...Is not it terrible? Is it discipline?

Defendant was convicted of second degree murder (Penal Code Section 187), felony child abuse (section 273, subdivision (10)), and child beating (section 273d). [11]

#### **IV. Child abuse and its impact on our society**

In my opinion we cannot have a healthy society in which people still think about abusing their children. I do not say other children, but their own children who have their blood. Children are our future, but what we do we grow future abusers because it is proved fact that children that are abused have a greater chance of growing up and abusing their own children.

Child abuse also affects our society because it increases the rate of other abuse in the family, and here we have domestic violence.

I do not believe that we can have a good, healthy society with emotionally distressed people, and no one can deny the fact.

#### **V. Prevention of Child Abuse**

##### **A. Child Protective Services and Investigation of Child Abuse**

There are many Child Abuse Prevention centers in the United States such as Center for Disease Control and Prevention (CDC), Department of Children and Families (DCF) that provide different

services such as at home visiting, parent educational classes for solution of this problem.

CPS serves to place children who have been abused or neglected in safer homes, either through adoption or foster care.

When allegations of abuse meet the statutory definitions, the state's child-protective services agency or a law enforcement agency steps in to investigate. Child-protective services agencies generally investigate allegations only when the child's parent or guardian is suspected of causing the abuse or of allowing it to occur. Family law presumes that the parent or guardian will protect the child from abuse by other parties and that he or she will contact law enforcement agencies to investigate incidents of abuse by other parties when the parent is not causing or allowing the abuse.

Caseworkers for child-protective services investigate abuse allegations by interviewing or visiting with the child, the child's parents or guardians, and other sources such as physicians and teachers. If an agent finds evidence that supports a conclusion that the child has been abused, the agency deems the allegations substantiated. The next step is intervention.

Intervention can mean many different things. Frequently, when the risk of further abuse is immediate and significant, child-protective services agents will place the child temporarily in a foster home.

Alternatively, agents may monitor the family or may provide counseling in order to curb the threat of abuse. If a family does not cooperate with the intervention efforts of child-protective services, the agency may take the case before a judge, who may determine that abuse or neglect has occurred. He or she may issue a court order

mandating the agency's intervention. In extreme cases, agents may remove the child from the home permanently; following a judicial termination of parental rights, the child is then placed for adoption. [12] Everything seems clear and easy, but in reality these Protective Social Services fail too.

In *Deshaney v. Winnebago County Department of Social Services*, petitioner, a minor boy, was beaten and permanently injured by his father, with whom he lived. Respondents, social workers and other local officials, received complaints that petitioner was being abused and had reasons to believe that this was the case, but nonetheless did not act to remove petitioner from his father's custody. Their failure to act deprived the boy into a life-threatening coma. Emergency brain surgery revealed a series of hemorrhages caused by traumatic injuries to the head inflicted over a long period of time.

Joshua and his mother brought action under 42 U.S.C. section 1983 in the United States District Court for the Eastern District of Wisconsin, alleging that respondents deprived Joshua of his liberty without due process of law, in violation of his right under the Fourteenth Amendment, by failing to intervene to protect him against a risk of violence at his father's hands of which they knew or should have known. The court granted summary judgment for respondents because first, the court held that the Due Process Clause of the Fourteenth Amendment does not require a state local or governmental entity to protect its citizens from "private violence." Second, the court held that in reliance to their decision in *Martinez v. California*, that the casual connection between respondents' conduct

and Joshua's injuries was too attenuated to establish a deprivation of constitutional rights actionable under 1983. [13]

From this case we see that we are not always protected. Local official did not take any steps to protect a minor child who needed their help, and after this all we want to stop abuse?

## **B. Laws and regulations**

By 1970 every state had enacted laws requiring certain professionals, such as teachers and doctors, to report incidents of suspected child abuse to law enforcement agencies. In 1974, the Federal Child Abuse Prevention and Treatment Act (42 U.S.C.A. §§ 5105–5106) became law, authorizing federal funding for states to identify child abuse and to offer protective services for abused children.

Child Abuse is also regulated by Family Code, by Welfare and Institution Code Sections 300-304, and by Penal Code Sections 11164-11174.3.

## **VI. Conclusion:**

Children like all other people have a right of freedom and safety guaranteed by the Constitution. They cannot protect themselves, but it does not mean their rights must be violated.

In conclusion I want to say that not only government, but we all must be concerned about this serious problem because children are our future, they will continue to build this country which is based on healthy society. We should take all efforts to stop abuse.

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## Endnotes:

- [1] <http://www.libraryindex.com/childabusehistory/>
- [2] <http://www.childhelp.org/pages/statistics/>
- [3] <http://www.livestrong.com/causeofchildabuse/>
- [4] <http://www.healthypace.com/types-childabuse/>
- [5] Whitner v. State, No.24468
- [6] <http://americanhuman.org/stop-childabuse/>
- [7] Penal Code of California
- [8] In re Marilyn H. et al., Kern County Department of Human Services v. Debbie H. 5 Cal.4th 295 (1993)
- [9] Welfare and Institution Code of California
- [10] In re Rocco M., a minor. Contra Costa County Dep. Of Social Services v. Catherine P., 1 Cal. App.4<sup>th</sup> 814 (1991)
- [11] The People v. Linda Lee Smith, 35 Cal. 3d 798 (1984)
- [12] <http://www.dfps.state.tx.us/childprotection/>
- [13] Deshaney, a minor, by his guardian AD Litem, et al. v. Winnebago County Department of Social Services et al., 489 U.S. 189 (1989)
- [14] Child abuse prevention and Treatment Act

