



INVISIBLE ABUSE: UTAH'S RESPONSE TO EMOTIONAL CHILD ABUSE

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ABSTRACT

The very nature of emotional child abuse makes it difficult to detect and report. Nevertheless, scholars and professionals in the field of child welfare have identified emotional abuse as being equally detrimental to children as physical abuse and neglect. Many states, including Utah, have unclear definitions of emotional child abuse. The purpose of this study is to interpret how Utah has used its statute on emotional abuse in the court system and whether the current definition of emotional child abuse has given Utah's courts enough information and direction to prosecute those who emotionally abuse children. Data was collected by researching the legislative history of the statute, compiling cases of emotional abuse that have come before the Utah Court of Appeals, and interviewing professionals who have dealt with cases of emotional abuse in Utah. This study concludes that although child emotional maltreatment, once reported, is being adequately treated therapeutically when cases involve other types of abuse, it is not being addressed adequately in the court system when emotional abuse is solely in question. There is a need for more direction in the legal community in defining and responding to emotional child abuse.

INTRODUCTION

Many professionals argue that emotional child abuse is underreported due to a lack of a clear definition of what constitutes emotional maltreatment (Hammarman, Pope, & Czaja, 2002; McCoy & Keen, 2009). Emotional abuse has been defined in various ways, and it is difficult for state law enforcement agencies and child welfare professionals to agree on a single definition. Across states, different definitions are used to legally evaluate whether or not emotional abuse has or is taking place. Utah's definition is vague and only includes that "Harm or threatened harm means damage or threatened damage to the emotional health and welfare of a child through neglect or abuse (Child Welfare Information Gateway, 2008)." Loue (2005) asks the question, "If it cannot be defined, how can it be addressed (314)?" Creating a statute or at least a written statement that professionals can look at to see what constitutes emotional abuse might increase their likelihood of reporting it.

Based on the literature that was reviewed, the purpose of this study is to analyze how Utah compares to other states in responding to emotional child abuse in its definition, reporting, and enforcement of the state statute. My hypothesis was that because Utah's statute appears to be vague in defining emotional abuse, it would negatively impact Utah's court system and other child welfare agencies' ability to respond to emotional abuse effectively.

METHODS

The data from this study come from a comparison of state statutes on child abuse, a case history of appealed cases of emotional child abuse in Utah, and eight in-depth interviews with child welfare professionals in various agencies throughout Utah. I interviewed a Detective from the Cache County Sheriff's Office, a CPS Caseworker and Intake Worker, a Bear River Mental Health Psychologist, a Guardian Ad Litem, a Juvenile Court Judge, the Attorney General, and an Elementary School Principal.

RESULTS

State Statute Comparison

Washington and Georgia are the only states that do not have any definitions for emotional abuse or even recognize it as part of child abuse as a whole (Child Welfare Information Gateway, 2007). 20 U.S. states have a vague statute of what constitutes emotional abuse. For example, Oklahoma says in its statute that harm or threatened harm "includes, but is not limited to, mental injury" (Child Welfare Information Gateway, 2007). An additional 20 U.S. states have a more standard definition of emotional child abuse, as demonstrated by Ohio, which defines mental injury as, "any behavioral, cognitive, emotional, or mental disorder in a child caused by an act or omission that is described in § 2919.22 and is committed by a parent or other person that is responsible for the child's care (Child Welfare Information Gateway, 2007). The last eight U.S. States along with Washington D.C. have the most specific definitions. California's definition of child abuse includes "serious emotional damage," and it goes on to define what this means: "Serious emotional damage is evidenced by states of being or behavior including, but not limited to, severe anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others (Child Welfare Information Gateway, 2007)."

Case History

This study was only able to have access to cases that were appealed to the Utah Court of Appeals. Cases other than appeals cannot be publicly accessed. Even so, very few cases in Utah have involved emotional child abuse. In 1990, the Court of Appeals in State in Interest of L.D.S. v. Stevens, a physical and emotional abuse case, upheld the termination of Deanna's parental rights under Utah's Code, even though at this time there was nothing specific in the code about emotional abuse.

In Interest of J.M.V. (1998) and State ex rel. L.I. (2006), Utah's Court of Appeals ruled in favor of children who had been emotionally abused, after much debate and trauma on the children. State ex rel. S.W. (2008) was a case where the Utah Court of Appeals determined that "the relationship between the mother and child was inappropriate due to yelling and screaming, name calling, and boundary issues."

Interviews

After interviewing professionals in Utah I found general trends in their responses. When I asked them to describe cases of emotional abuse they have been involved in, all of the interviewees responded that it is very rare that they get involved with a case of sole emotional abuse not tied to other forms of abuse. They gave examples of emotional abuse such as witnessing domestic violence, having a parent who is mentally ill or dealing with substance abuse, a parent threatening to hurt or kill themselves, and constant name-calling and putting the child down. Most interviewees felt that the court system was not addressing emotional child abuse as well as it could, but they concluded that there were more important problems elsewhere. Everyone did agree, however, that although the court doesn't prosecute emotional abuse, enough therapy and/or other services are provided to help children who have been abused emotionally.

One of the most important questions I asked the participating professionals was, "Do you think that a more clear definition of emotional abuse would help in reporting and prosecuting it?" The result was mixed:

"We would be doing victims a disservice if it's specific. It needs to be vague. We need to use our judgment to figure out if abuse is going on. It's hard to enforce as it is, and it would be a lot harder if it had to fit certain criteria. It's necessary to be vague so we can justify it." -- *Detective with the Cache County Sheriff's Office*

"The statute should be more clear cut. It's like the DCFS minimum standard for cleanliness – well what is that? We have to make personal judgment calls a lot. It's really vague. DCFS's definition clears it up but it needs to be spelled out for other agencies." -- *Child Protective Services Caseworker with Utah's experience on emotional abuse is more specific and does give more direction than previously thought. Although it appears to be vague in defining emotional abuse, it does include specific guidelines for removing a child from their home and into the state's custody, even in cases of emotional abuse, and it does have a provision for making severe emotional abuse a criminal offense, something that most states lack. Most of the professionals I interviewed believed that having a vague definition of emotional child abuse increased their ability to identify and respond to emotionally abused children, despite what the literature says.*

In 2007 Utah reported that 36% of all abuse cases were classified as emotional abuse, yet every professional I interviewed said that they rarely see a case of emotional abuse and that it is very seldom that it is not paired with another type of abuse; this disparity raises concerns that emotional abuse may not occur as often as Utah reports. I would support standardizing how we report cases of abuse across states so that the rates that are reported do not misrepresent what is actually occurring within each state.

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