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TOWARDS A MORE PRACTICAL CENTRAL REGISTRY

BY BRIAN G. FRASER*

INTRODUCTION

Approximately 300 cases of child abuse¹ per million population are reported in the United States each year.² It has been estimated, moreover, that two children die each day as a result of serious abuse.³ Often the abused child is battered not once but a number of times.⁴ The majority of serious physical injuries are inflicted on children 3 years of age or younger,⁵ resulting in a substantial number of victims who, because of their age and their legal incapacities,⁶ lack the ability to cry out for help.

All 50 states, the District of Columbia, Puerto Rico, and the Virgin Islands require by law that certain persons report incidents

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¹ Child abuse as is commonly used in this context refers to a traditional definition of a physical, nonaccidental injury. See, e.g., ARK. STAT. ANN. §§ 42-801, 802 (Supp. 1973). It does not refer to sexual abuse which, it has been suggested, is just as prevalent as physical abuse. See V. DEFRANCIS, PROTECTING THE CHILD VICTIM OF SEX CRIMES COMMITTED BY ADULTS vii (1969). Nor does child abuse refer to emotional abuse which is beginning to be recognized as a serious medical problem. See, e.g., KAN. STAT. ANN. §§ 38-716, 722 (1973).

² C. KEMPE, H. SILVER & D. O'BRIEN, CURRENT PEDIATRIC DIAGNOSIS AND TREATMENT 781 (3d ed. 1974). Reported cases are those cases which have been reported to some state governmental agency. This is in no way intended to reflect the true incidence of child abuse. The real figure can only be estimated.

³ U. FONTANA, SOMEWHERE A CHILD IS CRYING 39 (1973).

⁴ Fontana, Donovan & Wong, *The "Maltreatment Syndrome" in Children*, 269 N.E.J. MED. 1389, 1392 (1963); Grumet, *The Plaintive Plaintiffs: Victims of the Battered Child Syndrome*, 4 FAM. L.Q. 296, 303-04 (1970); Kempe, Silverman, Steele, Droegemueller & Silver, *The Battered-Child Syndrome*, 181 J.A.M.A. 17, 18 (1962); McCoid, *The Battered Child and Other Assaults Upon the Family*, 50 MINN. L. REV. 1, 49 (1965).

⁵ "Estimates of the usual age for child abuse are that one-third occur under 1 year of age, one-third from ages 1-3, and one-third over the age of 3." C. KEMPE, H. SILVER & D. O'BRIEN, *supra* note 2, at 781. However, while it is true that the majority of child abuse is inflicted on the young child, certain types of abuse, e.g., sexual abuse, are more closely correlated with an older age group. *Id.*

⁶ The minor cannot initiate legal proceedings on his own behalf in a court of law. Thus, he must bring suit through his parents (obviously, unfeasible in these types of cases) or through a court appointed guardian ad litem or next friend. At the present time, four states mandate by law that a guardian ad litem be appointed to represent the child's interests in all cases of child abuse. KAN. STAT. ANN. § 38-821 (1973); N.Y. FAMILY CT. ACT §1043(a) (McKinney Supp. 1973); TENN. CODE ANN. § 37-248 (Supp. 1973); ch. 36, § 2, [1972] Colo. Sess. Laws 154; *Id.* § 3 at 155. See also Child Abuse Prevention and Treatment Act, Pub. L. No. 93-247, § 4(b)(2)(G) (1974), which requires that a guardian ad litem be appointed to represent the interests of an abused child in every case which results in a judicial proceeding.

of suspected child abuse, but only 33 states presently make provision in their reporting statutes⁷ for a central registry⁸ to record these reports. What is needed is some effective legislation in the remaining 17 states to force professionals⁹ within the community to report suspected child abuse. In addition, a physical facility in which to record these reports, *i.e.*, a central registry is also needed. A physical plant in which reports of child abuse are recorded and appropriately cross indexed can serve three functions: (1) to supply research data¹⁰ needed for identifying and categorizing¹¹ the abusers and the abused, and for predicting the eventual fate of the abused children;¹² (2) to aid the individual physician

⁷ For the status of each State's mandatory reporting statute and reporting statutes in general, see V. DEFRENCIS & C. LUCHT, *CHILD ABUSE LEGISLATION IN THE 1970's* (rev. ed. 1974); Fraser, *A Pragmatic Alternative to Current Legislative Approaches to Child Abuse*, 12 AM. CRIM. L. REV. 103 (1974).

⁸ ALASKA STAT. § 47.17.040 (1971); ARIZ. REV. STAT. ANN. § 8-546.03 (1974); ARK. STAT. ANN. § 42-803 (Supp. 1973); CAL. PENAL CODE § 11161.5(a) (West Supp. 1974); COLO. REV. STAT. ANN. § 22-10-6 (Supp. 1969); Pub. Act No. 73-205(g) 3 CONN. LEG. SERV. (1973), formerly CONN. GEN. STAT. ANN. § 17-38a (1958); DEL. CODE ANN. tit. 16, § 1004(b) (Supp. 1972); FLA. STAT. ANN. § 828.041(7) (Supp. 1974); HAWAII REV. STAT. § 350-2 (1968); ILL. ANN. STAT. ch. 23, § 2047 (Smith-Hurd 1974); KAN. STAT. ANN. § 38-721 (1973); LA. REV. STAT. § 14:403(B) (Supp. 1974); MD. ANN. CODE art. 27, § 35A(i) (Supp. 1973); MASS. GEN. LAWS ANN. ch. 119, § 51F (Supp. 1974); MICH. STAT. ANN. § 14.564(2) (1969); MO. ANN. STAT. § 210.107(3) (Vernon Supp. 1974); MONT. REV. CODES ANN. § 10-903 (Supp. 1973); NEB. REV. STAT. § 28-1504(3) (Supp. 1973); N.H. REV. STAT. ANN. §§ 571:25(a)-30 (Supp. 1971); N.J. STAT. ANN. § 9:6-8:11 (Supp. 1974); N.Y. SOC. SERV. § 422 (McKinney Supp. 1973); N.C. GEN. STAT. §§ 110-122 (Supp. 1973); OHIO REV. CODE ANN. § 2151.42.1 (Page Supp. 1973); OKLA. STAT. ANN. tit. 21, § 846 (Supp. 1973); ORE. REV. STAT. § 418.765 (1973); PA. STAT. ANN. tit. 11, § 2106 (Supp. 1974); R.I. GEN. LAWS ANN. § 40-11-4 (Supp. 1973); S.D. COMPILED LAWS ANN. § 26-10-12.2 (Supp. 1973); TENN. CODE ANN. § 37-1207 (Supp. 1973); TEX. FAM. CODE § 34.06 (1973); VA. CODE ANN. § 16.1-217.1 (Supp. 1973); WASH. REV. CODE ANN. § 26.44.070 (Supp. 1973); WYO. STAT. ANN. § 14-28.13 (Supp. 1973).

⁹ State mandatory reporting statutes require certain professionals (and sometimes other specified persons) to report suspected cases of child abuse. See Fraser, *supra* note 7, at 108 n.19, 109 nn.22-26.

¹⁰ The Department of Human Resources shall maintain a central registry of abuse and neglect cases . . . in order to compile data for appropriate study of the extent of abuse and neglect with the State.

N.C. GEN. STAT. §§ 110-122 (Supp. 1973).

¹¹ Abusive parents/caretakers come from all walks of life, and it is virtually impossible to group them categorically into one socio-economic, religious, or ethnic background. See C. KEMPE, H. SILVER & D. O'BRIEN, *supra* note 2.

¹² Study has shown that child abuse results from parental character disorders developed in the parent's own childhood and passed on from generation to generation causing the abused child of today to become the abusing parent of tomorrow. Steele & Pollock, *A Therapeutic Approach to the Parents*, in *HELPING THE BATTERED CHILD AND HIS FAMILY* 3, 4 (1972). There are also indications that the seriously abused and neglected child today will become a juvenile delinquent in 10 years and a convicted felon in 20 years. Duncan, Frazier, Litin, Johnson & Barron, *Etiological Factors in First-Degree Murder*, 168 J.A.M.A. 1755 (1958).

and the courts in determining whether the child has been abused;¹³ and (3) to aid departments of social services and courts (which also have the duty of protecting the child in peril) in following abusing parents and caretakers who "hospital shop" and "doctor shop."¹⁴ This article examines the concept of, the need for, and the problems concerned with a central registry.

I. THE CONCEPT OF THE CENTRAL REGISTRY

Although central registries have not been universally accepted, in the last few years there has been a large increase in their number.¹⁵ There are three basic forms of statewide central registries. The first is a warehouse for statistical data to be used for research purposes. The second is a registry used to track abusing parents and their abused children¹⁶ and to help physicians make a diagnosis of child abuse.¹⁷ The third form combines the elements necessary for research and for tracking.¹⁸

In those states which have adopted a central registry system, certain persons in each state are mandated by law to report to the police department, to the department of social services, or to the district court with juvenile jurisdiction (depending upon the statutory provisions of each state)¹⁹ suspected cases of child abuse

¹³ . . . that all persons so authorized by this title may use [the central registry] for determining the existence of prior reports in order to evaluate the condition or circumstances of the child before them.

N.Y. Soc. SERV. § 422(2) (McKinney Supp. 1973).

¹⁴ To aid in detecting parents/caretakers who have their battered children treated by a different doctor or at a different hospital each time the child is injured, the North Carolina statute, for example, provides:

The [state department] shall maintain a central registry of abuse and neglect cases . . . to identify repeated abuses of the same child or of other children within the same family.

N.C. GEN. STAT. § 110-122 (Supp. 1973).

¹⁵ For example, in late 1971, there were only 19 states with legislatively mandated central registries. *Hearings on the Rights of Children Before the Subcomm. on Children and Youth of the Senate Comm. on Labor and Public Welfare*, 92d Cong., 2d Sess., pt. 2, at 250 (1972). Today, there are 33 states with such legislatively mandated central registries, an increase of over 80 percent in 2 years. See FRASER, *THE LEGISLATIVE APPROACH TO CHILD ABUSE: A CURRENT COMPILATION OF OUR STATES' STATUTES* (1973).

¹⁶ The following states provide for use of the central registry for tracking purposes: Conn., Del., Fla., Hawaii, Ill., Kan., La., Md., Mich., Mo., N.H., N.Y., N.C., Ohio, Okla., Ore., R.I., Tenn., Tex., Va., Wash., and Wyo. See Appendix for appropriate statutes.

¹⁷ The following states provide access to physicians: Ark., Colo., Conn., Fla., Md., N.H., N.Y., Ore., R.I., Tenn., Tex., and Wash. See Appendix for appropriate statutes.

¹⁸ The following states provide for both research and tracking purposes: Alas., Ariz., Ark., Cal., Colo., Conn., Del., Fla., Hawaii, Ill., Kan., La., Md., Mich., Mo., N.H., N.Y., N.C., Ohio, Okla., Ore., R.I., Tenn., Tex., Va., Wash., and Wyo. See Appendix for appropriate statutes.

¹⁹ At the present time, 20 states require that initial reports be sent to some social

when they have reasonable cause to believe that the child has been abused.²⁰ The recipient of the report then investigates the suspected abuse and transmits a report to the state central registry where it is appropriately filed and cross indexed. When a report has previously been filed concerning the same child or the same parents, notification of the previous injury is released to those persons and/or agencies specified by law.²¹

Since every state does require that a report be made of the cases of suspected abuse, it would seem to be a relatively easy task to establish a central registry in those states which, at this time, make no provision for one.²² The relevant material is available; what is required is a facility in which to store this information.²³

II. THE NEED FOR A CENTRAL REGISTRY

Because an abused child is usually battered a number of times, the physical damage done to a child is directly correlated with the duration of the abuse. In many cases, the only way to detect the "battered child syndrome"²⁴ is to collect and analyze all previous reports of suspicious injuries and all relevant medical data. For example, when a physician who is unaware of any prior abuse examines a child with numerous bruises on his leg and buttocks, he is more apt to accept the parents' explanation of the

agency, (department of social services, welfare department, or department of youth and child services). Another 19 states require that a copy of the initial report be sent to both the welfare department and the police department or, in the alternative, a report be sent to either a social agency or a police department. The remaining states require that the initial report be sent directly to the police department and/or the district attorney and/or the district court with juvenile jurisdiction.

²⁰ Some states require that not only suspected incidents of child abuse be recorded, but events or circumstances which would reasonably result in abuse also be recorded when a person "observes the child being subjected to conditions or circumstances which reasonably would normally result in abuse . . ." COLO. REV. STAT. ANN. § 22-10-2 (Supp. 1969). See also IDAHO CODE § 16-1641 (Supp. 1973); KY. REV. STAT. ANN. § 199.335(2) (Supp. 1972); LA. REV. STAT. § 14:403(C)(1) (Supp. 1974); N.M. STAT. ANN. § 40A-6-1(C)(1) (Supp. 1973); N.C. GEN. STAT. § 110-118(a) (1973).

²¹ Not all states make provision for a report to be made back to the receiving agency. See, e.g., ARK. STAT. ANN. § 42-803 (Supp. 1973).

²² However, it should be noted that a number of states have created a central registry by administrative fiat and not through statutory provision. For those states which have created a central registry through legislation, see Appendix.

²³ A word of caution is, perhaps, in order. The mere fact that a central registry is mandated by law is no guarantee that it will function properly and serve the purposes for which it was created. See 1973 N.Y. STATE ASSEMBLY REP. OF THE SELECT COMM. ON CHILD ABUSE at 42.

²⁴ See C. KEMPE, H. SILVER & D. O'BRIEN, *supra* note 2; Kempe, Silverman, Steele, Droegemueller & Silver, *supra* note 4.

injury as accidental in nature than if he had knowledge of previous reports of suspicious and unexplained injuries to the same child. The critical need is to identify the abused child at the earliest possible time and to place him within the protective services of the state to prevent the abused case from becoming the terminal case.²⁵

It is not at all unusual for the abusing parent to "doctor shop" or "hospital shop",²⁶ never giving the attending physician a clear picture of just how extensive the collective trauma actually is. Without the ability to identify the abuse or its extent, the departments of social services and the courts have little hope of protecting those persons who cannot protect themselves. A central registry is needed, therefore, to gather information of past abuse to the same child.²⁷

III. THE OPERATION OF THE CENTRAL REGISTRY

Every state²⁸ minimally requires in the initial report of child abuse the name and the address of the child suspected of being abused; the names and addresses of the parents or others who are legally responsible for the child; the child's age; the nature and extent of the injuries; and any other information the reporter believes might be helpful in establishing the cause of the injuries and the identity of the abuser.²⁹

Recognizing the paucity of information contained in so limited a report, a few states require the following additional information: "any evidence of previous injury or maltreatment to the child or his siblings";³⁰ "family composition . . . the actions taken by the reporting source, including the taking of photographs and x-rays,"³¹ removal or keeping of the child or notifying

²⁵ The early identification of a child already the victim of abuse is obviously not optimal prevention. Yet it would appear from our investigations that the severe permanent damage associated with "the battered child syndrome" usually does not occur with the initial incident. Identification of abuse at this time thus offers an opportunity for intervention with the goal of preventing subsequent trauma and irreversible injury to the child.

Friedman, *The Need for Intensive Follow-up of Abused Children*, in *HELPING THE BATTERED CHILD AND HIS FAMILY* 79 (1972).

²⁶ See note 14 *supra*.

²⁷ For example, within the bounds of Denver, Colorado, there are 28 hospitals and over 3,080 practicing physicians, as well as mental health centers, free clinics, outpatient clinics, social workers, and nurses, all of whom would, without a central registry, remain ignorant of past abuse.

²⁸ See Appendix for appropriate statutes.

²⁹ See, e.g., KAN. STAT. ANN. § 38-717 (1973).

³⁰ CONN. GEN. STAT. ANN. § 17-38a(c) (Supp. 1974).

³¹ N.Y. SOC. SERV. § 415 (McKinney Supp. 1973). In this respect, New York is rather

the medical examiner";³² "if known, the name of the person or persons delivering or accompanying the child for treatment."³³

The type of central registry employed in a given state is significant to the nature of this process. If it is to function solely as a storehouse for statistical material, the information requested by the central registry will be somewhat limited, and there will be no feedback to the reporting agencies concerning any previous injury to the same child. If the central registry is to be used as a tool for evaluation and for tracking, the material initially requested by the registry will be much broader in scope and copies of reports of previous abuse should be available immediately to authorized persons.

Ideally, a physician who is examining a child in his office and suspects child abuse would be able to call the central registry, and after giving the central registry the names and addresses of the child and parents, should expect within minutes an answer, retrieved from storage by the computer, regarding previous instances of suspected child abuse. After verifying that the request is a proper one and validating the identity of the person requesting the information,³⁴ the registrar would return the call and provide the physician with any previous reports of suspected abuse. If abuse is diagnosed, the physician would make the mandatory report and take any precautionary steps available under state law.³⁵ The report would then be forwarded to the receiving agency which would forward a copy of a "suspected abuse" report to the central registry. The receiving agency would be mandated to

unique. It is the only state which mandates that photographs and x-rays be taken in certain circumstances and provide immunity for such action. *Id.* § 416. See also WASH. REV. CODE ANN. § 26.44.050 (Supp. 1973), which authorizes an investigating agency to take photographs.

³² N.Y. SOC. SERV. § 415 (McKinney Supp. 1973).

³³ W.VA. CODE ANN. § 49-6A-2 (Supp. 1974).

³⁴ Probably the most efficient method would be to take the name, address, and occupation of the person making the request and to return the call when the relevant information is obtained. An operator can cross-reference the name and address of the caller with the appropriate telephone directory. If the name can be verified and the person has an occupation or position authorized by law to receive the information, the operator simply places a return call to that person to provide the requested data.

³⁵ A number of states have provided that if a physician has before him a child whom he believes has been abused, that physician may take temporary custody of that child without the parents' consent, even though no further medical treatment is indicated. See, e.g., KY. REV. STAT. ANN. § 199.335 (1973); MD. ANN. CODE art. 27, § 35A (f-1) (Supp. 1973); MICH. STAT. ANN. § 14.564(1), (2) (Supp. 1974); N.J. STAT. ANN. § 9:6-8.16 (Supp. 1974); N.Y. FAMILY CT. ACT § 1024 (McKinney Supp. 1973); N.C. GEN. STAT. § 110-118(d) (Supp. 1973); TENN. CODE ANN. § 37-1204 (Supp. 1973); Pub. L. No. 73-205(d), 3 CONN. LEG. SERV. (1973).

make a complete investigation, and a follow up report would be required to be made to the central registry. The central registry, using the initial report and the follow up report, would separate the founded from the unfounded reports, and the unfounded reports would be immediately expunged.³⁶ The recorded information in the central registry would be available to the department in any future investigation, to physicians, and to the court to enable it to make a factual, well-informed disposition in neglect proceedings.³⁷

IV. PROBLEMS WITH THE CENTRAL REGISTRY

Central registry opponents have raised a number of valid objections as to the lack of sufficient procedural safeguards in present legislative provisions. For example, in most states, a central registry contains reports of both adjudicated and suspected abuse.³⁸ In practical terms, this means that certain individuals are listed in the registry as suspect parties.³⁹ This listing occurs without opportunity for representation by counsel and without the right of appeal. Additionally, the listing of a name in a central registry carries with it a stigma of wrong doing and guilt which is potentially damaging if the information should be made public or be made available for use by the FBI, state police agencies, credit agencies, insurance companies, or potential employers.⁴⁰ A number of states have provided by statute that there shall be a central registry, but have failed to enumerate who shall have access to the records and have failed to grant to any state agency

³⁶ See, e.g., N.Y. Soc. SERV. § 422(5) (McKinney Supp. 1973), which provides that reports of abuse which are not supported by some credible evidence are immediately expunged.

³⁷ The majority of states provide for two separate hearings in neglect (child abuse) proceedings. Initially, there is an adjudicational hearing to determine the status of the subject child, *i.e.*, is this child an abused (and consequently, a neglected and dependent) child? See, e.g., COLO. REV. STAT. ANN. §§ 22-1-3(20), 3-6 (Supp. 1969). If the child is found to be an abused child a dispositional hearing is ordered to determine who should be awarded custody. Alternatives include: termination of parental rights, temporary custody with some state agency and a rehearing within some defined time period, or return of the child to his parents but under court supervision and a rehearing within some defined time period. See, e.g., COLO. REV. STAT. ANN. § 22-3-13 (Supp. 1967).

³⁸ Washington is the sole state which limits records in the central registry to adjudicated reports.

³⁹ Every law enforcement agency shall forward copies of all reports received to the state registry after investigation has shown that the child's injuries were the result of abuse or if the cause remains unknown.

ORE. REV. STAT. § 418.765 (1973).

⁴⁰ The abuse of recorded and computerized information is increasingly recognized as a serious invasion of privacy. See S.2810, 93d Cong., 1st Sess. (1973).

the right to establish relevant rules and regulations concerning access.⁴¹ To protect all people who have been reported, this information should be available only to those persons with a bona fide legal interest, and with proper safeguards.⁴²

The children whom the central registry is designed to protect become emancipated at the age of 18, move out of their homes and, in effect, move out of danger. Accordingly, opponents argue, the recorded information is no longer necessary for the protection of a particular child, and such information should be expunged automatically after a statutory time period. Only four states presently make provisions for the automatic expungement of recorded material.⁴³ The majority of states either make no statutory provision for expungement or have granted the right to provide guidelines for expungement to a state agency, and the state agency has failed to promulgate the needed rules.

On the other hand, it is arguable that legislation could be narrowly drawn to protect against unfounded and unnecessary recording and the arbitrary release of information.

V. SOLUTIONS

Only in severe cases is child abuse in its early stages easily identifiable.⁴⁴ Because the initial diagnosis must require knowledge of the present suspicious injury and of any history of unexplained or inadequately explained injuries,⁴⁵ if the central registry is to serve a utilitarian purpose, records cannot be limited just to adjudicated cases of abuse. At the same time, a standard must be developed which will exclude reports made without some cred-

⁴¹ States which have created a central registry but have failed to specify who shall have access and which have failed to grant to some state agency the right to create rules and regulations which would give certain persons access include: Ark., Ill., Kan., N.J., Ohio, Ore., Pa., and R.I. See Appendix for appropriate statutes.

⁴² States which have legislatively specified who shall have access include: Alas., Cal., La., Md., Mich., Mo., N.Y., Okla., S.D., Tenn., Tex., and Va. See Appendix for appropriate statutes. Other states have statutorily delegated the power to create rules and regulations which would grant to certain persons access to records contained in the central registry. Those states include: Colo., Conn., Del., Hawaii, Mass., N.H., N.C., and Wyo. See Appendix for appropriate statutes.

⁴³ Ariz., N.Y., Tenn., and Va. are the four states providing for automatic expungement. See Appendix for appropriate statutes.

⁴⁴ This is particularly true in those states which have defined child abuse to include "emotional abuse." See, e.g., DEL. CODE ANN. tit. 16, § 1002 (Supp. 1972); KAN. STAT. ANN. §§ 38-721, -722 (1973); MASS. GEN. LAWS ANN. ch. 119, § 51A (Supp. 1974); S.D. COMPILED LAWS ANN. § 26-10-12.2 (Supp. 1973); TENN. CODE ANN. § 37-1203 (Supp. 1973); TEX. FAM. CODE § 34.01 (1973). See also Fraser, *supra* note 7, at 107 n.12 for a definition and explanation of emotional abuse.

⁴⁵ C. KEMPE, H. SILVER & D. O'BRIEN, *supra* note 2.

ible evidence of child abuse,⁴⁶ and procedures must be developed for the immediate removal of reports which, after further investigation, prove to be false.

To serve the purposes of the central registry, physicians should have direct access to information contained within it, and reports of suspected abuse should be filed with reports of adjudicated abuse. Information must be appropriately cross referenced and indexed, probably in a computerized system, to make it available in a matter of minutes. The use of a central registry with appropriate safeguards should produce an increase in the number of reports of child abuse. With a greater number of child abuse cases reported, clearer definition should emerge of who the abusers are, who is likely to be abused, and where abuse is likely to take place. With an early identification of child abuse and with adequate therapeutic programs available to abused children and their abusing parents, the incidence of serious abuse should decline, and the possibility of future abuse should lessen.⁴⁷

Legislation for an effective central registry⁴⁸ must provide for reports of both suspected and adjudicated cases of child abuse. At a minimum, each report should include the name, age, and present address of the abused child; the names (maiden name, all married names, and aliases, appropriately cross referenced), and address or addresses of the parents/caretakers; the nature of the injury and all previous unexplained injuries; the name, address, and occupation of the reporter; any services which have been offered to the parties (those which have been accepted and those which have been refused); the name, address, and occupation of any person requesting information from the central registry;⁴⁹ the names and ages of any siblings; and the final disposition of the case.

The reports should be released only to those persons specified by law, including: (a) a physician who is examining a child he

⁴⁶ See, e.g., N.Y. Soc. SERV. § 422(5) (McKinney Supp. 1973).

⁴⁷ If one accepts the premise that child abuse is learned behavior and is passed down from generation to generation, it follows that if the cycle of present abuse is severed, future incidents of child abuse are prevented. See D. GIL, VIOLENCE AGAINST CHILDREN 48 (1970).

⁴⁸ Probably the best statutory provision for a central registry is found in New York's new child abuse act. See N.Y. Soc. SERV. § 422 (McKinney Supp. 1973).

⁴⁹ The assumption underlying this provision is that a person who requests information from the central registry must have some appropriate reason for doing so, e.g., a physician who has before him a child whom he believes may have been abused. By listing the name, the occupation, and the address of the person requesting information, another resource for information becomes available to other physicians.

reasonably suspects may have been abused; (b) a person authorized to place a child in protective custody when that person has before him a child whom he reasonably believes may have been abused; (c) an agency having the responsibility for the care or supervision of a subject of a report;⁵⁰ (d) any person who is a subject of a report;⁵¹ (e) a court or a grand jury upon a finding that the information is necessary to resolve an issue before it; (f) a person who is engaged in bona fide research provided that no identifying information is made available to the researcher unless it is absolutely essential for research purposes and the state board of social welfare gives its prior approval.⁵² In no event should reports be made available for employment or credit purposes, or to any law enforcement agency.⁵³ Any person who willfully permits or who encourages the release of data contained in the registry to persons not legally entitled to such information, should be held criminally liable.⁵⁴

Any person who is the subject of a report should be permitted to request in writing that the report be amended, sealed, or expunged if he believes the report is unfounded. If the request is denied, the person making that request should be so notified in writing⁵⁵ and be entitled to a hearing to determine whether the denial was justified. In such a hearing, the local child protection agency and the central registry should have the burden of proof, but any previous judicial determination of child abuse, sexual abuse, or neglect must be presumptive evidence that such a report is true.⁵⁶ When a child who is the subject of a report reaches 18 years of age, the record should be sealed but not destroyed.⁵⁷

⁵⁰ Subject of a report is any child reported to the central registry as abused and the parents or other persons legally responsible for the child who are also named in the report.

⁵¹ Any person named in the report as a suspected child abuser should have access to the information contained in the registry, excluding the name, address, and occupation of the reporter. *See* N.Y. Soc. SERV. § 422(4) (McKinney Supp. 1973).

⁵² These provisions giving access to certain enumerated persons follow the provisions of the new New York child abuse act very closely. *See* N.Y. Soc. SERV. § 422(4) (McKinney Supp. 1973). *See also* ARIZ. REV. STAT. ANN. § 8-546.03(C) (1974); CAL. PENAL CODE § 11161.5(a) (West Supp. 1974); MD. ANN. CODE art. 27 § 35A(i) (Supp. 1973); TENN. CODE ANN. § 37-1207 (Supp. 1973).

⁵³ Records of convictions for child abuse appear with records of criminal convictions. There is no reason why the central registry should also disclose this information.

⁵⁴ *See* MASS. GEN. LAWS ANN. ch. 119, § 51F (Supp. 1974); N.Y. Soc. SERV. § 422(10) (McKinney Supp. 1973).

⁵⁵ *See* N.Y. Soc. SERV. §§ 422(8), (9) (McKinney Supp. 1973).

⁵⁶ *See id.* § 422(8).

⁵⁷ *See* TENN. CODE ANN. §37-1207(2) (Supp. 1973); VA. CODE ANN. § 16.1-217.1 (Supp. 1973).

When it is reasonably believed that a younger sibling or the offspring of the original abused child is then being abused, access to that sealed report should be made available through petition to the agency and the central registry.⁵⁸

If legislation is drafted as outlined here, the abused child, as well as all others involved, will be protected against improper use of the records. The answer to any further argument is that the danger to our children that we know exists and the utilitarian value that an adequate central registry will provide outweigh the possibility of abuse and personal indiscretion, which can be minimized by establishing narrow procedural guidelines.

CONCLUSION

The concept of a central registry for recording instances of child abuse is here to stay. For maximum effectiveness, it is hoped that the eventual form will be somewhat akin to what has been described above.

A more far-reaching problem in state central registry systems arises from the transience between states so prevalent today. That there have been a number of reports made and recorded in the central registry in California, for example, is of little value to a physician and protective service agency in New York, if the suspect party is now living there. State reports could be coordinated in one of two ways. A federal central registry, which would house all reports of suspected abuse in the country, might be created. Immediate problems arise with this concept, however, because there is no one standardized definition of abuse,⁵⁹ some states do not have a centralized collection point for reports, and the Federal Government has no power to require that reports from individual states be sent to a federal central registry. Yet, standardizing the definition of abuse and accomplishing the forwarding of reports to a federal central registry could be achieved by making such steps conditions precedent to a state receipt of federal funds allocated to fight child abuse.⁶⁰ The second alternative is the establishment of a central registry in each state which

⁵⁸ See N.Y. Soc. SERV. § 422(4) (McKinney Supp. 1973).

⁵⁹ See *Hearings on H.R. 6379, H.R. 10552, and H.R. 10968 Before the Select Subcomm. on Education of the House Comm. on Education and Labor, 93d Cong., 1st Sess.* 18 (1974).

⁶⁰ As a condition precedent to receiving federal funds under Pub. L. No. 93-247, each state will be required to broaden its definition of abuse to include neglect and to provide for reporting both known and suspected cases of abuse. Pub. L. No. 93-247 § 4(b)(2)(B) (Jan. 31, 1974). To qualify for federal aid, 48 states will be required to amend their reporting statutes.

would voluntarily exchange child abuse reports with other states.⁶¹ This approach would presumably be more acceptable to the various states, and is much more likely to become a reality than any form of a single, central federal registry.

⁶¹ The department may adopt such rules and regulations as may be necessary in carrying out the provisions of this section, specifically . . . in cooperation with other states in exchanging reports to effectuate a national registry system.

TEX. FAM. CODE § 34.06 (1973). *See also* ALASKA STAT. § 47.17.040(b) (1971); LA. REV. STAT. 46:52(14) (Supp. 1974); ORE. REV. STAT. § 418.770 (1973).

APPENDIX

STATE STATUTORY PROVISIONS FOR CENTRAL REGISTRIES

Statute: The statute in which provision for the creation of a central registry is mandated.

Address: The physical location of the central registry within the state.

Access: Those who have been specified by law to have access to the material contained within the central registry.

Safety

factors: The statutory provisions to protect the confidentiality of material within the central registry and to provide due process to those persons who are the subject of a report, *i.e.*, expungement, amendment, seal, appeal, penalty for disclosures.

*Indicates those states which have not replied to two separate written inquiries concerning the functioning of the central registry.

ALABAMA

Statute: No statutorily created central registry. However, there is a "central file" for reporting previous abuse to a child.

Address: State Department of Pensions and Security, Administrative Building, 64 North Union Street, Montgomery, Alabama 36184.

Access: Social agencies to help in providing and planning protective services; courts to help when requested.

Safety

factors: None.

ALASKA

Statute: ALASKA STAT. § 47.17.040 (1971).

Address: Department of Health and Social Services, Division of Family and Children's Services, Juneau, Alaska 99801.

Access: Appropriate government agencies with child protection functions, (inside and outside Alaska) in connection with investigations or judicial proceedings involving child abuse, neglect, or custody.

Safety

factors: Automatic expungement when subject child reaches 18 years of age. Registry includes investigation reports based on reports of harm, but not the reports of harm themselves.

ARIZONA

Statute: ARIZ. REV. STAT. ANN. § 8-546.03 (1974).

Address: Department of Economic Security, 1717 West Jefferson, P.O. Box 6123, Phoenix, Arizona 85005.

Access: Social agencies (juvenile court, physicians, and health and education agencies and institutions) with approval of Director of Economic Security.

Safety

factors: Automatic expungement when subject child reaches 18 years of age.

ARKANSAS

Statute: ARK. STAT. ANN. § 42-803 (Supp. 1973).

Address: Department of Social and Rehabilitative Services, P.O. Box 1437, Little Rock, Arkansas 72203.

Access: No written guidelines as to who shall have access; information given to extra state agencies when working on behalf of child; statistical information to anyone.

Safety

factors: None.

CALIFORNIA

Statute: CAL. PENAL CODE § 1161.5(a) (West Supp. 1974).
Address: Special Services, Bureau of Identification, Department of Justice, 3301 C Street, P.O. Box B417, Sacramento, California 95813.
Access: Those persons who are required to make a report under the statute.
Safety factors: None.

COLORADO

Statute: COLO. REV. STAT. ANN. § 22-10-6 (Supp. 1969).
Address: Department of Social Services, 1575 Sherman Street, Denver, Colorado 80203.
Access: Protective service agencies; may be given to others if disclosure is consistent with the purpose of the program.
Safety factors: None.

CONNECTICUT

Statute: Pub. L. No. 73-205(g), 3 CONN. LEG. SERV. (1973).
Address: Welfare Department, State of Connecticut, 100 Asylum Avenue, Hartford, Connecticut 06115.
Access: Physician, surgeon, resident, intern, registered nurse, licensed practical nurse, medical examiner, dentist, psychologist, teacher, school principal, school guidance counselor, social worker, police officer, clergyman.
Safety factors: Automatic expungement when subject child reaches 18 years of age.

DELAWARE

Statute: DEL. CODE ANN. tit. 16, § 1004(b) (Supp. 1972).
Address: Division of Social Services, P.O. Box 309, Wilmington, Delaware 19899.
Access: Operating procedures for the central registry never formulated; however, it is implied that legitimate professionals would have access.
Safety factors: Statutory provisions require files to be confidential, subject to rules and regulations as adopted by the Division of Social Services.

DISTRICT OF COLUMBIA

Statute: No statutorily created central registry. However, the Youth Division of the Metropolitan Police Department does maintain a registry.
Address: Youth Division, Metropolitan Police Department, 25 K Street N.E., Washington, D.C. 20002.
Access: Police department only for internal statistical purposes.
Safety factors: None.

FLORIDA

Statute: FLA. STAT. ANN. § 828.041(7) (Supp. 1974).
Address: Department of Family Services, P.O. Box 2050, Jacksonville, Florida 32203.
Access: Given when appropriate, *e.g.*, in connection with treatment for an abused child or his caretakers, counsel for the abuser, and for research.
Safety factors: None.

GEORGIA

Statute: No statutorily created central registry, but one has been created by administrative order.
Address: Georgia Department of Human Resources, 47 Trinity Avenue, Atlanta, Georgia 30334.

Access: Only to agency working with the child.

Safety factors: None.

HAWAII

Statute: HAWAII REV. STAT. § 350-2 (1968).

Address: Department of Social Services and Housing, State of Hawaii, P.O. Box 339, Honolulu, Hawaii 96809.

Access: Staff of the Department of Social Services and Housing and social agencies (not defined) working with the child or family who has been registered.

Safety factors: Departmental policy of confidentiality.

IDAHO

Statute: No statutorily created central registry. However, a central registry was created by and is maintained at the Department of Environmental and Community Services.

Address: Department of Environmental and Community Services, Statehouse, Boise, Idaho 83720.

Access: Department of Environmental and Community Services staff only.

Safety factors: None.

ILLINOIS

Statute: ILL. ANN. STAT. ch. 23, § 2047 (Smith-Hurd 1974).

Address: Department of Children and Family Services, State Administration Offices, 524 South 2d Avenue, Springfield, Illinois 62706.

Access: Authorized staff of the Department of Children and Family Services only.

Safety factors: None.

INDIANA

Statute: No statutorily created central registry. However, a central registry is maintained by the Department of Public Welfare.

Address: Department of Public Welfare, 100 North Senate Avenue, Room 701, Indianapolis, Indiana 46204.

Access: County Department of Public Welfare and field consultants.

Safety factors: None.

*IOWA

Statute: No statutory provision for a central registry.

KANSAS

Statute: KAN. STAT. ANN. § 38-721 (1973).

Address: State Department of Social Welfare, State Office Building, Topeka, Kansas 66612.

Access: "Agencies" (not defined); it is assumed courts would also have access.

Safety factors: None.

KENTUCKY

Statute: No statutory provision for the creation of a central registry. However, a central registry is maintained in the Department for Human Resources.

Address: Department for Human Resources for Social Services, 403 Wapping Street, Bush Building, Frankfort, Kentucky 40601.

Access: Staff of Department of Human Resources; staff of Metropolitan Social Services Department in Louisville.

Safety factors: None. However, if suspected child abuse is not confirmed (undefined), there is an "attempt" to remove the information.

LOUISIANA

Statute: LA. REV. STAT. § 14:403(B) (Supp. 1974).
Address: Health and Social Rehabilitation Services Administration, P.O. Box 44065, Baton Rouge, Louisiana 70804.
Access: Local child service agencies, hospitals, clinics, schools. Statute provides for cooperation with other states.
Safety factors: None.

MARYLAND

Statute: MD. ANN. CODE, art. 27, § 35A (Supp. 1973).
Address: Department of Employment and Social Services, Social Services Administration, 1305 St. Paul Street, Baltimore, Maryland 21202.
Access: Local departments of social services, social agencies, law enforcement agencies, physicians, health and educational facilities.
Safety factors: Limited form of appeal to Social Services Administration.

MASSACHUSETTS

Statute: MASS. GEN. LAWS ANN. ch. 119, § 51F (Supp. 1974).
Address: Commonwealth of Massachusetts, Department of Public Welfare, Central Office, 21 Jones Street, Boston, Massachusetts 02118.
Access: Not enumerated.
Safety factors: Fine for release of unauthorized information.

MICHIGAN

Statute: MICH. STAT. ANN. § 14.564(2) (1969).
Address: Department of Social Services, 300 South Capitol Avenue, Lansing, Michigan 48926.
Access: Probate court, prosecuting attorney.
Safety factors: None.

MINNESOTA

Statute: No statutory requirement for a central registry. However, a central registry is maintained by the State Department of Public Welfare.
Address: State Department of Public Welfare, Centennial Office Building, St. Paul, Minnesota 55155.
Safety factors: None.

MISSISSIPPI

Statute: No statutory requirement for a central registry. One has been created by administrative order.
Address: State Department of Public Welfare, P.O. Box 4321, Fondren Station, 600 Woolfolk Building, Jackson, Mississippi 39216.
Access: Department of Public Welfare, state agencies, courts.
Safety factors: Automatic expungement when subject child reaches 21 years of age.

MISSOURI

Statute: MO. ANN. STAT. § 210.107(3) (Supp. 1974).
Address: State Department of Public Health and Welfare, Division of Welfare, Broadway State Office Building, Jefferson City, Missouri 65101.
Access: County welfare offices.
Safety factors: None.

MONTANA

Statute: MONT. REV. CODES ANN. § 10-903 (Supp. 1973).
Address: Department of Social and Rehabilitative Services, Helena, Montana 59601.
Access: None specified.
Safety factors: None.

NEBRASKA

Statute: NEB. REV. STAT. § 28-1504(3) (Supp. 1973).
Address: Department of Public Welfare, 1526 K Street, 4th Floor, Lincoln, Nebraska 68508.
Access: County attorney, juvenile courts, county and state welfare department directors in Nebraska and other states. Information available only for purposes directly connected with protection of a child or incompetent or disabled person. Statistical information may be released as long as names are not made available.

Safety factors: None.

NEVADA

Statute: No statutorily created central registry. However, the welfare department has created its own central registry.
Address: Department of Health, Welfare and Rehabilitation, Welfare Division, 201 South Fall Street, Carson City, Nevada 89701.
Access: Local division of the department.

Safety factors: None.

NEW HAMPSHIRE

Statute: N.H. REV. STAT. ANN. §§ 571:25(a)-30 (Supp. 1971).
Address: Department of Health and Welfare, Division of Welfare, 8 Loudon Road, Concord, New Hampshire 03301.
Access: Any professional or medical person or hospital, upon written request.

Safety factors: None.

NEW JERSEY

Statute: N.J. STAT. ANN. § 9:6-8.11 (Supp. 1974).
Address: Department of Institutions and Agencies, Division of Youth and Family Services, 1 South Montgomery Road, Trenton, New Jersey 08625.
Access: Local departments of the Department of Institutions and Agencies.

Safety factors: None.

NEW MEXICO

Statute: No statutory nor administrative provision for the creation of a central registry.

NEW YORK

Statute: N.Y. SOC. SERV. § 422 (McKinney Supp. 1973).
Address: Office of Social Services Information, New York State Department of Social Services, 1450 Western Avenue, Albany, New York 12203.
Access: Physician, person authorized to place child in temporary custody, agency having responsibility for the care of a child, subject of the report, court and grand jury when necessary, any legislative committee for bona fide research.

Safety factors: Only indicated reports are kept. Automatic expungement, sealing of records, right to amend, right to appeal, penalty for illegal release of data.

NORTH CAROLINA

Statute: N.C. GEN. STAT. § 110-22 (Supp. 1973).

Address: Department of Human Resources, Department of Social Services, 325 North Salisbury Street, Raleigh, North Carolina 27611.

Access: Anyone, for bona fide research purposes. (Hypothetically, anyone has access to information contained in the central registry if he writes to the Commissioner of Social Services giving assurance of confidentiality and explanation of how the information will be used).

Safety factors: None.

NORTH DAKOTA

Statute: No statutorily nor administratively created central registry.

OHIO

Statute: OHIO REV. CODE ANN. § 2151.421 (Page Supp. 1973).

Address: Ohio Department of Public Welfare, 408 East Town Street, Columbus, Ohio 43215.

Access: Public welfare agencies, by written request; statistical data to others.

Safety factors: None.

OKLAHOMA

Statute: OKLA. STAT. ANN. tit. 21, § 846 (Supp. 1973).

Address: Oklahoma Public Welfare Commission, Department of Institutions, Social and Rehabilitative Services, Sequoyah Memorial Office Building, Oklahoma City, Oklahoma 73125.

Access: Any county office of the Department of Institutions, Social and Rehabilitative Services; any district attorney's office; any public law enforcement agency investigating a report of suspected child abuse or neglect.

Safety factors: None.

OREGON

Statute: ORE. REV. STAT. § 418.765 (1973).

Address: Department of Human Resources, Public Service Building, Salem, Oregon 90310.

Access: Physician, law enforcement agencies inside and outside Oregon.

Safety factors: Expungement when subject child reaches 15 years of age.

PENNSYLVANIA

Statute: PA. STAT. ANN. tit. 11, § 2106 (Supp. 1974).

Address: Department of Public Welfare, Office of Children and Youth, Harrisburg, Pennsylvania 17120.

Access: Not available.

Safety factors: None.

RHODE ISLAND

Statute: R.I. GEN. LAWS ANN. § 40-11-4 (Supp. 1973).

Address: Department of Social and Rehabilitative Services, Division of Community Services, 600 New London Avenue, Cranston, Rhode Island 02920.

Access: Local divisions of the department, all hospitals.

Safety factors: None.

SOUTH CAROLINA

Statute: No statutorily created central registry. However, a central registry has been created by administrative rule.

Address: South Carolina Department of Social Services, P.O. Box 1520, Columbia, South Carolina 29202.

Access: None.

Safety

factors: None.

SOUTH DAKOTA

Statute: S.D. COMPILED LAWS ANN. § 26-10-12.2 (Supp. 1973).

Address: Division of Social Welfare, Pierre, South Dakota 57501.

Access: Attorney general, state's attorneys, judges of the court, any other person by order of the court, another regional or national registry, courts of record of other states.

Safety

factors: None.

TENNESSEE

Statute: TENN. CODE ANN. § 37-1207 (Supp. 1973).

Address: Department of Public Welfare, State Office Building, Nashville, Tennessee 37219.

Access: Statute delegates adoption of rules for disclosure for purposes of research and cooperation with local child service agencies including, but not limited to, hospitals, clinics, schools, and physicians in identifying cases of harm.

Safety

factors: Expungement when subject child reaches 18 years of age.

TEXAS

Statute: TEX. FAM. CODE ANN. § 34.06 (1973).

Address: State Department of Public Welfare, John H. Reagan Building, Austin, Texas 78701.

Access: Welfare department to develop rules and regulations for cooperation with local child service agencies, hospitals, clinics, physicians, and schools, and for cooperation with other states to establish a national registration system.

Safety

factors: None.

UTAH

Statute: No statutory provision for creation of a central registry, nor administratively created central registry.

VERMONT

Statute: No statutory provision for a central registry; however, the Department of Rehabilitation has created a central registry.

Address: Department of Rehabilitation, Agency of Human Services, Montpelier, Vermont 05602.

Access: Not given.

Safety

factors: None.

VIRGINIA

Statute: VA. CODE ANN. § 16.1-217.1 (Supp. 1973).

Address: Department of Welfare and Institutions, Welfare and Institutions Building, 429 South Belvidere Street, Richmond, Virginia 23220.

Access: Any state or local government agency.

Safety

factors: Expungement when subject child reaches 18 years of age.

WASHINGTON

Statute: WASH. REV. CODE ANN. § 26.44.070 (Supp. 1973).

Address: Department of Social and Health Services, P.O. Box 1788, Olympia, Washington 98504.

Access: Law enforcement agencies (defined by administrative ruling to include coroners, hospitals, physicians, and other state agencies), professionals (defined by rules and regulations as those who might be treating the child or family).

Safety

factors: None. (However, an opinion of the state attorney general's office limits reports to substantiated reports.)

WEST VIRGINIA

Statute: No statutory provision for a central registry; however, one is maintained in the attorney general's office.

Address: Department of Welfare, Charleston, West Virginia 25305.

Access: Prosecuting attorneys, state office of Department of Welfare.

Safety

factors: None.

WISCONSIN

Statute: No statutory provision for a central registry; however, one is maintained in the Department of Health and Social Services.

Address: Department of Health and Social Services, 1 West Wilson Street, Madison, Wisconsin 53702.

Access: County welfare agency, licensed voluntary agency, public agencies in other states.

Safety

factors: Expungement within 10 years.

WYOMING

Statute: WYO. STAT. ANN. § 14-28.13 (Supp. 1973).

Address: Department of Health and Social Services, Division of Public Assistance and Social Services, State Office Building, Cheyenne, Wyoming 82002.

Access: Not enumerated.

Safety

factors: Central Registry records subject to rules concerning preservation, use, and production of records of Department of Health and Social Services for judicial proceedings. See WYO. STAT. ANN. § 42-19 (Supp. 1973).