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# CHILDREN'S LAW REPORT

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## Courts That Work

"Effective court systems" was a topic of discussion at the recent South Carolina Family Court Judges conference, with presentations by Mark Hardin and Judge John P. Steketee. Mr. Hardin, of the ABA Center on Children and the Law, is co-author of *A Second Court That Works: Judicial Implementation of Permanency Planning Reforms*. He also participated in the development of *Resource Guidelines: Improving Court Practices in Child Abuse and Neglect Cases*, which was summarized in the previous issue of this newsletter. Judge Steketee is the presiding judge in Kent County, Michigan, which provided the model for *A Second Court That Works*.

Mr. Hardin noted the increased duties that were placed on family courts with the enactment in 1980 of federal law requiring greater judicial oversight of agency handling of abuse and neglect cases. Family courts had initially been called upon only to decide whether removal was necessary, but this law demanded that they also oversee case planning, progress and implementation of a permanent plan. This change brought greater complexity to cases, an increased number of hearings and more parties to each proceeding.

Although courts had been given the role of preventing "foster care drift", the reformers initially failed to perceive the changes in court systems' staffing, resource and procedures required by this new role. Lack of resources, as well as lack of enforcement, has precluded consistent implementation of the objectives of the federal law.

To help state court systems respond to the changing needs, research has been conducted concerning the operation of successful courts. These studies provide a vision of how courts can work effectively in child maltreatment cases. A large urban county court system in Cincinnati was initially studied, resulting in the 1992 publication of *Judicial Implementation of Permanency Planning Reform: One Court That Works*. More recently, a second study was conducted in Kent County Juvenile Court in Grand Rapids, Michigan.

The Kent County court has effectively implemented reforms that establish strict time lines for the processing of abuse/neglect cases. Mr. Hardin and Judge Steketee attribute its effectiveness to the following aspects of the court and service delivery systems:

- (1) Intensive in-home services are provided to families to prevent needless placement of children in foster care. Because removals are avoided whenever possible, fewer cases enter the court system.
- (2) Speedy decision-making, with strict time schedules for completion of each stage of the court process, is required. Probable cause hearings are held within 24 hours, dispositional hearings within 42 days, review hearings every 3 months, and, most importantly, the permanency planning hearing within a year of the child's placement. Further, the termination case must be decided within 6 weeks of the filing of the petition. Continuances are not approved except when strictly necessary, and then only for a specific time period. In the Kent County court, the average time from removal of a child to completion of

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TPR is 15 months. With an excellent network of adoption agencies, 90 percent of TPR cases result in adoption within 6 months. According to Mr. Hardin, speedy decision-making is highly cost effective because it shortens the length of children's stays in foster care.

(3) A focus on permanence is facilitated by the permanency planning hearing, which Judge Steketee described as the "fish or cut bait" hearing. This hearing is designed to stop the indefinite continuation of placements and treatment plans. Cases are placed on a fast track for TPR or another avenue to permanence if reunification is found not possible. A permanency planning hearing was distinguished from judicial reviews in that proof of progress is required to continue a plan; specific limits on extensions are included; the agency is required to specify a permanent plan and explain its reasons; and the judge is required to make specific findings relative to the permanent plan.

(4) Services are available and provided on a timely basis. In other jurisdictions judges are at a disadvantage in decision-making because services are delayed or do not exist. When a child enters the foster care system in Kent County, services are well underway.

(5) Every hearing is set for a specific time. Caseworker and other staff "down time" while waiting in court was deemed to be too costly, keeping staff from the important work of helping children and families.

(6) Judicial caseloads are reasonable, enabling the court to hold in-depth hearings and give proper attention to each case. Mr. Hardin emphasized that a meaningful review cannot occur in a 5-minute hearing. If too many cases are assigned to a judge, the results are unnecessary waiting, continuances and diminished quality of hearings.

(7) The same judge hears a case from beginning to end. A number of reasons were cited in support of one-judge scheduling, including:

- ▶ The judge's sense of responsibility for the case is increased;
- ▶ Judge and family know one another better;
- ▶ Parties can't recycle the same excuses and arguments at each court appearance;
- ▶ A judge familiar with the case can grasp the facts and issues quicker;
- ▶ A history of involvement in the case allows the judge to more effectively enforce orders.

Judge Steketee acknowledged that one-judge scheduling may not be feasible in all jurisdictions, but advised that the defects caused by rotation of judges should be addressed in some way.

(8) Judges and attorneys are knowledgeable about abuse and neglect. Child maltreatment cases are heard by

the most experienced judges, who spend a substantial amount of their time on child abuse/neglect cases. Attorneys are required to receive training, and first assist an experienced attorney before being permitted to handle a case on their own. Cross-training among disciplines also occurs.

(9) Joint planning and collaboration is fostered among the court system and involved agencies in order to address systemic problems.

(10) Finally, Judge Steketee emphasized the need to continually review data to determine where cases get stuck. All participants should be held accountable for delays. He suggested analysis of the following:

- Length of time from removal to trial;
- Length of time from removal to filing of TPR petition;
- Length of time from filing of TPR petition to hearing;
- Length of time from filing of appeal to a decision;
- Frequency of continuances;
- Number of dismissed cases that are refiled;
- Length of time from removal until child is returned home;
- Length of time from TPR order until adoptive placement.

Several of the suggestions for good practice, such as emphasis on preventing removal, shorter time frames and the permanency planning hearing, are incorporated into South Carolina's *Child Protection Reform Act*, which will be effective on January 1, 1997. Mr. Hardin described this legislation as "state of the art". Others, such as reduction of continuances, a single judge for each case, and diversion of some cases from the court system, are included in the S.C. Families For Kids plan and implementation is being studied by the Bench-Bar Committee.

*A Second Court That Works* (\$15) and *How to Work with Your Court* (\$10) can be obtained from the American Bar Association Publication Orders, P.O. Box 10892, Chicago, IL 60610-0892 or by calling 1-800-285-2221.

## Supreme Court Holds Public Hearing on Proposed Appointment Rule

The South Carolina Supreme Court held a public hearing on July 10 concerning the proposed rule for court appointments submitted by the South Carolina Bar Association. The proposal, described in the previous issue of this newsletter, would provide a uniform method of

appointing attorneys to represent indigents in court. George Cauthen, speaking on behalf of the Bar, advocated for enactment of the proposed rule, stating that the rule would allow lawyers to accept appointments in their area of expertise and provide a fair system for these appointments.

Of the eighty written responses received prior to the hearing, the overwhelming majority were supportive. Many of these contained additional suggestions. Twelve individuals offered oral comments during the hearing, reflecting both favorable and unfavorable positions. The most common comments related to the following issues:

#### Addition of a Fourth List

Several of those responding suggested that a fourth list for free mediators be added.

#### Exemptions

Several government attorneys, included those at the municipal, state, and federal levels, suggested that they should be exempted from appointments, citing conflicts of interest and lack of support staff and resources.

An exemption for attorneys who don't practice law was also suggested. Mr. Cauthen noted that such attorneys could be classified as inactive and would then be exempt from appointments.

#### Appointment of Non-resident Attorneys

Several of those responding suggested that attorneys who advertise or appear in several counties should be subject to appointments in those counties. The appointment of attorneys who live outside of the state but practice in South Carolina was also suggested.

#### Burden on Lawyers in Small Counties

One of the major sources of concern related to the potential burden of appointments on attorneys in smaller counties with few practicing attorneys. Mr. Cauthen noted that judicial circuits had been proposed as the basis for the lists. While larger geographical regions would increase the pool of attorneys, he believed this would require an inordinate amount of travel.

#### Qualifications

Qualifications of the attorney were discussed, with most agreeing that an attorney should make himself qualified for his/her selected list. This was a particular concern regarding the death penalty list, with some participants suggesting that judges should not be limited to a chronological list but have discretion to appoint the most qualified attorney for each case.

#### Requirements for Indigence

Requirements for indigence were also discussed, with the suggestion that individuals should be required to present written documentation in order to obtain an appointed attorney.

The Supreme Court will rule on the proposal after considering the written and oral comments. The court has the following options: (1) enact the rule as proposed; (2) reject the rule; or (3) amend the proposal.

## Research Report: Correlation of Marital Violence and Physical Child Abuse

When spousal violence exists in a marriage, children are also at increased risk of physical abuse, according to a study conducted by the Department of Sociology at the University of New Hampshire.

The study, reported by Susan Ross in "Risk of Physical Abuse to Children of Spouse Abusing Parents," examined a nationally representative sample of 3,363 American parents who had been interviewed for the 1985 National Family Violence Survey. S. Ross, "Risk of Physical Abuse to Children of Spouse Abusing Parents," 20 *Child Abuse & Neglect* 589 (1996). In addition to supporting the growing body of research which suggests a significant relationship between marital violence and child abuse, the study further examines the predicted probability of physical child abuse with increasing levels of marital violence.

The study's respondents were 18 years or older and either (1) presently married (2) presently living as a man-woman couple or (3) a single parent with a child under 18 living with the parent, including divorced or separated parents. Researchers applied the Conflict Tactics Scales (CTS) to measure the incidence of physical child abuse among the respondents which included kicking, biting, hitting with a fist, hitting with an object, beating, burning or scalding, threatening with a knife or gun, or using a knife or gun. The study excluded what it termed "minor acts of violence" such as slapping, spanking, throwing something at a child, pushing, grabbing or shoving because these acts are legal and "normative in American culture," according to the study.

Researchers also applied the Conflict Tactic Scales to measure the incidence of marital violence among the respondents. For this study, marital violence consisted of

throwing something at a spouse, pushing, grabbing or shoving, slapping, kicking, biting, striking with a fist, choking, threatening with a knife or gun, or using a knife or gun. The study not only examined whether the respondents had been the victims of these acts but also the number of times these incidences occurred. Additionally, investigators looked at the age of the selected child, socioeconomic status of the family, race of the respondent, gender of the child and whether the respondent had been the subject of corporal punishment as a teenager.

### ***Study Findings: More Spousal Aggression Means More Physical Child Abuse***

The University of New Hampshire study supports the findings of current literature that marital violence is a statistically significant predictor of physical child abuse. Furthermore, the study found that the probability of physical child abuse becomes greater as the frequency of spousal violence increases.

Though both abusive husbands and wives are likely to physically abuse their children, the study's results suggest that this relationship is stronger for husbands than for wives. The investigators found that the likelihood of child abuse by a violent husband increases from 5% with one act of marital violence to near certainty with 50 or more acts of marital violence. The predicted probability of child abuse by a violent wife increases from 5% with one act of marital violence to 30% with 50 or more acts of marital violence, according to the study.

Study investigators found no statistically significant correlation with the age of the respondent, age of the child or socioeconomic status. However, the study did find a statistically significant relationship between marital violence and the gender of the child who is physically abused. Both violent husbands and wives were more likely to direct their physical abuse toward the male than the female child, according to the study which found that the likelihood that a father will physically abuse his child are 47% greater for a male child than for a female child. The probability that a mother will abuse her child is 27% greater for male children than for female children.

The study also found that perpetration of marital violence combined with a history of corporal punishment during the teenage years reveals a statistically significant link to physical child abuse. The odds that a violent husband who was subjected to corporal punishment as a teenager will physically abuse his child increase by 77%, according to the study. Violent wives who were subjected

to corporal punishment as teenagers show an even more remarkable 164% increase in their odds of physically abusing their children.

### ***Study Limitations***

Though the New Hampshire study is important because it shows a statistically significant relationship between marital violence and child abuse and because it shows how the predicted probability of child abuse increases with higher frequency of violence between spouses, the study is not without limitations. The study's researchers warn that because the 1985 National Family Violence survey did not explore the context in which the violence occurred, the research data allow only for speculation of theoretical differences between male and female violence. Furthermore, the research is based on cross-sectional data from 1985, permitting the establishment of correlation rather than causality. Inferences that marital violence is a cause of child abuse were not explored.

The study is also limited in other ways. Researchers did not differentiate the severity of the various violent acts which were the basis of the marital violence. For example, one firing of a gun received the same score as one slap on the face. Furthermore, the accuracy of the rates of marital violence and child abuse instances are also questionable as this information was collected from the respondents' memories of events which occurred more than a year prior to the 1985 National Family Violence Survey. Additionally, the study did not take into account other factors associated with family violence such as alcohol use, depression and approval of violence. It should be noted also that the study addressed physical abuse only, and did not include other forms of child maltreatment.

## **Share Your Experience**

Although Appellate decisions are reviewed regularly in this newsletter, the sparse amount of South Carolina appellate case law pertaining to child maltreatment prevents our reporting the whole picture. Beginning with the October issue, a periodic column will be initiated which summarizes experiences of Attorneys practicing in South Carolina courts. In each issue, we will announce a topic, and ask you to share with us your experiences in trial court concerning that topic. Together, we can create a picture of how South Carolina's family and circuit courts are dealing with important issues related to abuse and neglect.

The October topic is treatment in South Carolina courts of syndrome evidence, including:

- ▶ Battered Child Syndrome;
- ▶ Battering Parent Syndrome;
- ▶ Battered Spouse Syndrome;
- ▶ Child Sexual Abuse Accommodation Syndrome;
- ▶ Rape Trauma Syndrome.

If you have experience on this topic that you are willing to share with our readers, please call (803) 777-5506, or fax a summary (with identifying information deleted) to (803) 777-8686. This information must be received no later than September 4.

## Recent South Carolina Cases

### Discoverability of Notes Concerning Counseling of Victim

State v. Trotter, No. 24470 (Filed July 22, 1996)

The Supreme Court affirmed the conviction of a father for sexually abusing his daughter over a 22-year period. The father's appeal claimed error by the trial court in its failure to exclude testimony by a rape crisis counselor who had seen the victim in over 35 individual and group sessions. Following cross-examination of the victim, the prosecutor had called the counselor to testify as an expert to explain inconsistencies between the victim's behavior and the allegation. The father argued that the testimony was based on a mental examination about which he had not been given notice as required under S.C. Rules of Criminal Procedure, Rule 5. The Supreme Court held that there was no Rule 5 violation. The court reasoned that the rule would have required that the defendant be permitted to inspect and copy any results or reports of an examination but that there was no such examination in this case. The court distinguished "supportive counseling" from "examination".

### Admission of Testimony Under Hearsay Exception for Child's Out-of-court Statement

S.C. Department of Social Services v. Wheaton, No. 2550 (Filed July 29, 1996)

The Court of Appeals reversed a family court decision finding that the appellant had sexually abused a child. The finding was based on hearsay statements from the seven year old child who was not present at the trial. The appellant argued that testimony concerning the child's statements was not admissible because there had been no

finding as to the unavailability of the child to testify as required by S.C. Code Ann. §19-1-180 (B)(2). The trial court had admitted the statements based on a finding of trustworthiness. The Court of Appeals held that the trial court's treatment of the "particularized guarantee of trustworthiness" as a separate basis for admitting the testimony was error. The court stated that the test for admissibility of hearsay under the statute requires both a finding of unavailability and particularized guarantees of trustworthiness to the out-of-court statement.

## The Impact of Joint Law Enforcement - Child Protective Services Investigations in Child Maltreatment Cases

Joint investigations by law enforcement and child protective services can result in better outcomes for children and families in cases of serious child abuse, according to a recent study conducted by the Center for Policy Research.

In its study, *The Impact of Joint Law Enforcement - Child Protective Services Investigations in Child Maltreatment Cases\**, funded by the National Center on Child Abuse and Neglect, researchers compared outcomes of joint investigations to independent investigations and examined administrative and institutional barriers to joint investigations. Joint investigations were defined as those in which a caseworker and law enforcement official interviewed a third person on at least one occasion during the investigation.

Researchers sought to determine whether these joint efforts decrease trauma to the victim and improve family outcomes by examining the experiences of team members and families with joint investigation experience. Researchers examined 1,828 cases of intrafamilial sexual abuse and serious physical abuse at five joint investigative sites: Las Vegas, Denver, Colorado Springs, Honolulu and DuPage County, Ill.

### Major Findings: Which Cases Receive Joint Investigations

The study identified case-specific factors that differentiated independent and joint investigation cases in the sample, including number of days elapsing between the abuse incident and the report, the type of abuse reported, seriousness of the allegations, presence of multiple forms

of abuse, necessity of emergency medical treatment to the victim at the time of the report, and sex and age of the victim and perpetrator. Predictably, researchers found that joint investigations were more likely to occur when the reporter was a law enforcement official, in cases of sexual abuse and serious physical abuse, when the victim required emergency medical treatment at the time of the report, when the victim was female, and when the perpetrator was male or nonfamilial.

Surprisingly, the study found that joint investigations were less likely to occur in cases involving multiple forms of child abuse. Investigators suspected many families with multiple forms of child abuse were dysfunctional in so many ways - socially, economically and intellectually that they were viewed primarily as social service cases in need of therapeutic rather than criminal justice interventions and were, therefore, more likely to undergo independent agency investigation.

#### **Joint Investigations and Case Processing**

Joint investigations affect case processing in several ways. The study concluded that cases involving joint investigations are initiated sooner and require more time to complete, but are more thorough, than independent investigations. Caseworker response time was significantly shorter in joint investigation cases than in independent investigation cases. The average number of days elapsing between the report and start of child protective services was 1.6 days in joint investigation cases compared to 3.3 days in independent investigation cases, according to the study. Researchers attributed decreased caseworker response time to the fact that joint investigations are typically utilized in cases involving serious allegations which often receive higher priority.

The study also found that caseworkers in joint investigations made twice as many contacts as caseworkers in independent investigations - independent investigations averaging 4.8 and joint investigations averaging 8.9. Joint investigations result in more face-to-face with non abusive caretakers, but not more repeat interviews with victims, perpetrators and others.

Joint investigations involve significantly longer amounts of time than independent investigations. On average, joint investigations lasted 26.8 days from the date the first contact is made to the disposition of the report compared to 20.8 days for independent investigations. Though joint investigations take more time, the study reported that police and caseworkers agree that joint

investigations are more thorough than independent investigations. This thoroughness provides investigators with more information about the family's socio-psychological dynamics and leads to better outcomes for children and families experiencing child abuse. The study also concluded that joint investigations resulted in more perpetrator confessions, victim corroborations, dependency filings, criminal filings and criminal convictions.

#### **Practitioners' Views of Joint Investigations: Second Opinions, Back-ups and Stereotypes**

Joint investigations prompted a variety of viewpoints among child protective practitioners interviewed during the study. For example, caseworkers revealed that joint investigations provide opportunities for obtaining valuable second opinions. Though investigators practicing in independent investigation settings may also get second opinions from co-workers and supervisors in their respective agencies, these may be unavailable when investigators need to make on-the-spot decisions in the field. Furthermore, joint investigations can be an important resource for emergency back-up when a conference with a family becomes hostile or when safety concerns arise.

Caseworkers also reported that joint investigations offer a source of mutual support which can be beneficial when investigative responsibilities and tasks need to be divided. This support also has proven beneficial when partners process the emotional stress associated with investigating reports of child abuse, particularly cases involving serious injury or fatality, according to the study.

Perhaps most importantly, joint investigations enable both caseworkers and law enforcement officials to discard stereotypical perceptions of the other profession. Law enforcement officials and caseworkers have divergent ideologies which can lead to differing opinions with regard to case disposition. Caseworkers may view law enforcement personnel as "callous bubbas" eager to take someone into custody and punish whereas police may view caseworkers as "bleeding heart do-gooders" leaning to heavily on treatment, the study reported. However, the study revealed that these views are more commonly held by caseworkers and police working independently rather than in joint investigative settings.

Caseworkers in joint investigative settings reported that joint investigations often prevented removals because law enforcement presence at the interview led to perpetrators leaving the home. Caseworkers also believed that criminal prosecution was the only way to ensure that a

perpetrator would cooperate with treatment plans, according to the study. The data revealed that in joint investigative settings, more perpetrators left the home during the investigation, more perpetrators confessed and more court-ordered treatment and criminal prosecutions occurred.

### Obstacles to Implementation

Though findings from the study indicate that joint investigations not only result in good outcomes for children and families but also benefit practitioners, barriers exist in implementing the joint investigative model. The study sights the low priority assigned by society to child abuse in general as a major obstacle. Another is the lack of resources, including a disparate ratio of caseworkers and police detectives available to investigate child abuse reports which makes it difficult to conduct joint interviews.

Furthermore, the lack of cooperation between child protective services and law enforcement officers because of divergent ideologies held by both disciplines is a major obstacle to implementing joint investigations, according to the study, which added that this opinion was notably absent at sites where police and caseworkers had a close working relationship. Finally, the study reported that lack of leadership in getting joint investigations off the ground stood as another major barrier. Practitioners in joint investigative settings reported that persistent and effective leadership of an influential and political person within the community was integral to implementation of the joint investigative approach.

### Recommendations

The study recommended that jurisdictions throughout the country develop strategies for jointly investigating reports of physical abuse and neglect. Researchers hope that by doing so, physical abuse and neglect cases may attain the same level of societal abhorrence and urgency as sexual abuse cases.

Furthermore, the study recommended that the joint investigative model should be adopted even in jurisdictions not adopting a pro-prosecution posture. The study concluded that children and families are not the only ones likely to experience favorable outcomes from joint investigations. By developing respect for each other's role and improving their investigative practices by working together, child protective practitioners will also benefit.

\*Prepared by Patricia G. Tjaden, Ph.D. and Jean Anhalt,

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## Battered Child Syndrome

Because of its wide recognition and acceptance in both the medical and legal communities, courts have generally treated Battered Child Syndrome testimony as admissible to prove that a child has been abused.

### What is the battered child syndrome?

"The diagnosis of battered child syndrome is used in connection with young children and is based upon a finding of multiple injuries in various stages of healing, primarily multiple fractures, soft tissue swelling or skin bruising. Also pertinent to the diagnosis is evidence that the child is generally undernourished, with poor hygiene, and that the severity and type of injury is inconsistent with the story concerning the occurrence of the injuries offered by the parents or others who were caring for the child." Commonwealth v. Rodgers, 364 Pa. Super.477, 528 A. 2d 610 (1987).

The syndrome was first described in an influential 1962 article by Dr. C. Henry Kempe et al, The Battered Child Syndrome, 181 JAMA 17. In the years that followed, the syndrome became a recognized medical diagnosis. Physicians and other health care professionals, now trained to look for the Battered Child Syndrome among children who are brought to emergency rooms for treatment of injuries, are often called upon to give expert testimony concerning this diagnosis.

### Admissibility of Battered Child Syndrome Testimony in Abuse and Neglect Cases

Virtually every appellate court to consider the syndrome has approved its admission to establish that the child's injuries were inflicted by other than accidental means. Following the national trend, South Carolina courts also admit testimony concerning the Battered Child Syndrome to prove non-accidental infliction of injury. State v. Lopez, 306 S.C. 362, 412 S.E.2d 390 (1991). The Lopez court stated, "Under the South Carolina Rules of Criminal Procedure, Rule 24, if scientific, technical or other specialized knowledge will assist the trier of fact to understand the evidence or determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training or education may testify thereto in the form of opinion or otherwise." Id. At 366. Noting that the

Battered Child Syndrome was developed as a result of extensive research and has become an accepted medical diagnosis in other jurisdictions, the court ruled that testimony regarding Battered Child Syndrome is admissible when given by a properly qualified expert and that such testimony may support an inference that the child's injuries were not sustained by accidental means. *Id.* At 367.

## Battering Parent Syndrome

Unlike the Battered Child Syndrome, which is a recognized medical diagnosis, the battering parent syndrome does not appear in the medical literature as such, and the psychiatric profession does not recognize the battering parent syndrome. Although a number of studies have identified characteristics that are prevalent among abusive parents, there are variations in the lists of characteristics cited.

These variations have shown up in testimony concerning "battering parent syndrome". For example, in *Sanders v. State*, 251 Ga. 70, 303 S.E. 2d 13 (1983), the expert described abusive parents as those who were themselves subjected to childhood abuse and who as adults suffer from environmental stress leading to an inability to cope and explosive behavior. In *State v. Loebach*, 310 N.W. 2d 58, 62-63 (Minn. 1981), the expert characterized abusive parents as having low empathy, short fuses, high blood pressure, inability to communicate, strict authoritarianism, low self-esteem and lack of trust. The expert in *Duley v. State*, 56 Md. App. 275, 467 A.2d 776 (1983) testified to characteristics such as immaturity, socio-economic stress, immature emotional development and childhood abuse.

A greater problem than the variations in the lists of characteristics is the lack of probative value, in that the same characteristics exist in many persons who do not abuse their children. As a result, most courts have refused to permit testimony concerning "battering parent syndrome". Irrelevancy and the likelihood of prejudice outweighing the probative value are the major reasons given for rejecting this evidence. Furthermore, a plurality of opinions exclude the battering parent syndrome because it conflicts with the explicit dictates of the character evidence rule now adopted in the Federal Rules of Evidence. This rule prohibits the state from raising the issue of the defendant's character to prove that he or she "acted in conformity therewith on a particular occasion." Fed. R. Evid. 404(a). Typical is *State v. Maule*, in which a Washington Appeals Court held that admission of such evidence was more prejudicial than probative, stating "Such evidence invites a jury to conclude that because the defendant has been identified . . . as a member of a group having a higher incidence of child sexual abuse, it is more likely that the defendant committed the crime." The battering parent syndrome has yet to be tested in any South Carolina cases.

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**Children's Law Office**  
**Carolina Plaza, 12th Floor**  
**University of South Carolina**  
**Columbia, South Carolina 29208**  
**Phone: (803) 777-1646**  
**Fax: (803) 777-8686**

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