CHILD PROTECTION ASSESSMENT FOLLOWING SERIOUS INJURIES TO INFANTS

Fine Judgments

Peter Dale, Richard Green and Ron Fellows
CHILD PROTECTION ASSESSMENT FOLLOWING SERIOUS INJURIES TO INFANTS

Fine Judgments
This NSPCC/Wiley series explores current issues relating to the prevention of child abuse and the protection of children. The series aims to publish titles that focus on professional practice and policy, and the practical application of research. The books are leading edge and innovative and reflect a multi-disciplinary and inter-agency approach to the prevention of child abuse and the protection of children.

All books have a policy or practice orientation with referenced information from theory and research. The series is essential reading for all professionals and researchers concerned with the prevention of child abuse and the protection of children.
CHILD PROTECTION ASSESSMENT FOLLOWING SERIOUS INJURIES TO INFANTS

Fine Judgments

Peter Dale, Richard Green and Ron Fellows
# CONTENTS

*About the Authors* ........................................................... vii

*Foreword* ................................................................. ix

*Acknowledgements* ....................................................... xi

1 Introduction ................................................................. 1

2 Child Abuse and Child Protection Errors ......................... 7

3 Child Abuse Research .................................................... 27

4 Child Protection Research .............................................. 45

5 The NSPCC Serious Injury–Discrepant Explanation Research .................. 63

6 Parental Perceptions of Child Protection Interventions .................. 87

7 Explanations for Injuries and the Thorny Issue of ‘Denial’ .. 111

8 Child Protection Assessment Contexts ............................... 141

9 Potential for Change .................................................... 163

10 Fine Judgments ........................................................... 185

*References* ................................................................. 213

*Index* ........................................................................... 229
ABOUT THE AUTHORS

Dr Peter Dale trained originally as a psychiatric social worker, and subsequently as a counsellor/psychotherapist. His PhD research was a qualitative study focused on the perceptions of clients and therapists of the therapeutic process for adults who were abused as children (Dale 1999). Peter Dale worked in child and family psychiatric services before joining the NSPCC in 1980, where he was a practitioner, manager and Senior Research Officer until 2002. An established researcher and author, Dr Dale now acts as an independent social work expert witness throughout the UK in care proceedings – specialising in cases where there are serious suspicious injuries to infants. For further information, visit: www.peterdale.co.uk.

Contact details: info@peterdale.co.uk

Richard Green trained as a social worker and family therapist. He has held a number of posts in both local authorities and the NSPCC, including practitioner, manager and evaluation officer. He is currently employed as Senior Consultant within the NSPCC, working with a range of statutory and voluntary agencies to improve the safeguarding of children.

Contact details: rgreen@nspcc.org.uk

Ron Fellows trained originally as a social worker, and subsequently as a family/brief therapist. He worked in mental health and children and family services for various London boroughs. Since joining the NSPCC, he has held posts as a practitioner and manager.

Contact details: rfellows@nspcc.org.uk
This book is about a dilemma at the very heart of child protection practice – how is it possible to avoid ‘false-negative’ and ‘false-positive’ attributions, in which professionals either miss evidence of child abuse or else erroneously accuse parents of maltreatment when none has occurred? On the one hand, 30 years of fatal child abuse inquiries or serious case reviews has revealed recurrent deficiencies in professionals’ approaches to assessment and their management of information about families. There is also evidence of wide variations in practice, with essentially similar cases being handled in very different ways by respective systems. On the other hand, many families report negative experiences of child protection services, in which care planning and care proceedings seem neither fair nor effective. Furthermore, medical diagnostic opinions can be fallible, the risk indicators which are available are not particularly sophisticated, and focusing attention on the dangers of children dying at the hands of their caretakers may distort approaches to everyday practice. Social workers in particular have been criticised over the years for both inaction and overreaction.

This dilemma is brought into sharp relief by cases in which infants have sustained serious, even fatal, injuries, yet their parents deny responsibility for having caused them. Protection of an infant who survives, and of any siblings, depends on expert medical evidence, detailed family assessment, effective care planning and balanced legal proceedings. However, limitations can be found in all of these procedures, as illustrated by well-publicised conundrums surrounding diagnoses of ‘sudden infant death syndrome’ and ‘induced illness’.

The authors base discussions of all these issues on their long practice experience, wide literature reviews, and studies they have undertaken. Therefore, this book is especially welcome because of the scholarship and thoughtfulness that are evident throughout. These are particularly exemplified by their consideration of parental denial, which is said to have multiple possible origins, including the numbing and amnesia associated with post-traumatic stress and, of course, genuine absence of responsibility because the accusation is incorrect. The context of ‘denial’ (a term they
Numerous case examples illustrate the demands inherent in the assessment and decision-taking processes, for which the Department of Health’s Assessment Framework guidance is considered inadequate. It is suggested that the prevalence of both false-negative and false-positive attributions is too high and can be reduced by greater consistency in child protection practice. The authors’ wide-ranging discussions go beyond the issue of assessment and into the even more intricate realm of making fine judgments. For example, practice experience has taught the authors that parents’ initial responses to abuse allegations may be crisis oriented and not necessarily indicative of their general level of functioning.

The many recommendations for improvement include better written explanations to parents about the professional system assessing them, greater use of independent, therapeutically oriented expert assessments, a tighter use of attachment concepts, and attempts to appraise parent’s capacity to change by an integrative approach.

This book will probably have the most immediate resonance with social workers, who regularly face the practice dilemmas discussed. They are guided to be reasonable, honest and humane in engaging with parents, but also to be well informed about psychological and family processes so that their assessments are thorough and balanced. This is a valuable message for all other practitioners involved with child protection.

Peter Reder
(Child Psychiatrist, London)
There are too many people to thank individually for the support they have given over many years in respect of the various projects that underpin this book. However, we wish to acknowledge the long-standing support of the NSPCC for resourcing large parts of the research; and the NSPCC library, in particular, for a service which remains unsurpassed.

This book contains material relating to many family tragedies. We wish to pause to reflect upon this; and to acknowledge that we have illustrated and analysed tragic family details in the hope that we can have a small impact in helping avert future similar family catastrophes.

At a personal level, our own families have had to put up with our preoccupation. Thanks go to Veronica and the Dale/Locke children; to Karen, Laura and Alex Green; and to Pauline, Lawrence and Alice Fellows.
INTRODUCTION

Child protection involvement with families after the discovery of serious injuries to infants is a matter of continual public concern and controversy. How do child protection professionals and courts undertake assessments and make judgments whether injuries are due to abuse? If injuries are considered to be the consequence of abuse, in what circumstances can it be considered safe for the infant to return home?

In the modern history of child protection practice, countless numbers of vulnerable infants have been protected from further harm through the provision of effective support and therapeutic interventions to enable their parents to care for them more appropriately. Moreover, the lives of innumerable children have undoubtedly been saved by decisions that it could not be considered safe for them to remain within their natural families. Such effective practice in child protection is largely invisible.

In contrast, child protection errors have a continual high profile as matters of public concern. Over the past four decades, tragedies have regularly made headlines in cases where children have been re-injured and even killed when parental violence recurred notwithstanding (inadequate) child protection interventions. More recently, public concern has become acute regarding miscarriages of justice in cases where child abuse was wrongly believed to be the cause of injuries or deaths of infants. Concern is also growing about the increased use of compulsory adoption as an alternative to the provision of sophisticated family support and therapeutic services.

In this book we are concerned with promoting good practice in child protection interventions in cases where infants have suffered serious injuries that give rise to child protection concerns. We assert that the consistency and quality of child protection work needs to improve in two ways:

1. Infants need more effective protection from sources of real risk.
2. Child protection systems need to be more consistent in not intervening in families in unnecessary, inappropriate, disproportionate and damaging ways.
We will highlight a conclusion from this book at this early stage in our introduction: in our view, child protection systems currently are far too inconsistent in the ways that cases of serious injuries to infants are dealt with – particularly the cases where there are ‘uncertain perpetrators’ or discrepant explanations of the cause of the injury. Essentially similar cases can be handled in contradictory ways. For example, in our own research sample (see Chapter 5), the outcomes for two seriously injured babies in very similar family circumstances were quite different although based on the same rationale: one baby was returned home to natural parents explicitly because there was no understanding how the injuries occurred (that is, the parents were given the benefit of the doubt). The other baby was compulsorily adopted because there was no understanding how the injuries occurred (parents were denied the benefit of the doubt). This cannot be considered to be satisfactory or acceptable.

How do we understand the nature of such discrepancies and inconsistencies in child protection practice? How do we make sense of the continuing level of both types of child protection errors? Just as child abuse itself is the unpredictable result of a volatile interaction of multidimensional factors, the nature of child protection practice is also determined by a range of complex (and often confusing) forces. In particular, child protection services are provided in a context of multiple influences that include political pressures, social policy expectations, legislation, government guidelines, contrasting professional cultures, technical issues relating to risk prediction, resource availability, and the idiosyncratic beliefs and behaviours of individual practitioners and professional groupings. We shall comment on these factors throughout this book.

There will be times in this book when we express our concern about inappropriate and disproportionate child protection interventions and outcomes. We are concerned that a culture of practice is developing whereby families are increasingly mistrusted by professionals, and where both motivation and resources for family support and therapeutic interventions that could keep some families intact are diminishing. Compulsory adoption is a much simpler (and cheaper) ‘solution’ than the uncertainties and more visible risks that are inevitably attached to more resource-intensive, successful reunification programmes. However, this concern about unreasonable child protection interventions also sits within a context of the undeniable reality of fatal and severe maltreatment of children.

**AUTHORS’ CREDENTIALS**

The professional knowledge and practice experience of the authors upon which this book is based include:
● undertaking initial investigations of reports of abuse
● providing independent specialist assessment services
● providing a range of preventive therapeutic services (e.g. a therapeutic service for adults who were abused as children, and a brief therapy service)
● providing therapeutic services for children and families after reunification
● undertaking child protection research studies
● undertaking commissioned evaluations of child protection services
● chairing and participating in Part 8 Reviews (fatal case reviews)
● management of assessment services and supervision of practitioners
● providing expert-witness, independent social work reports in care proceedings.

The views expressed are the result of the cumulative professional experience of the three authors, all of whom have been involved in various facets of child protection work for nearly three decades.

THE STRUCTURE OF THE BOOK

Chapter 2 illustrates the graphic nature of severe physical maltreatment of infants, and outlines the types and consequences of errors that occur in child protection practice. False-negative errors result in failure to intervene effectively to protect infants in real danger. False-positive errors occur when child protection interventions are mistaken, unnecessary or disproportionate.

Chapter 3 is a selective research review of factors known to be associated with serious and fatal physical abuse. It considers what is known about the individual personality and family characteristics of parents who are found to be responsible for such events.

Chapter 4 discusses research into the effectiveness and ineffectiveness of child protection systems. It examines the processes and outcomes of child protection interventions after referral to social services, the issues that arise when cases become subject to legal proceedings, and communication problems between professionals and agencies that are noted to arise (in fatal cases). Finally, research is discussed that provides knowledge about reunification rates (the proportion of injured infants who are subsequently returned to the care of their parents) and re-injury rates (the proportion of such infants who are subsequently re-injured).

Chapter 5 focuses on the authors’ own research in child protection case management of infants with serious injuries where there are discrepant parent/carer explanations. This was a research project sponsored by the National Society for the Prevention of Cruelty to Children (NSPCC) which examined the characteristics of two samples: first, a sample of 17 families
where 19 infants had died from suspicious injuries; second, a clinical sample of 21 families referred to an independent assessment service.

Chapter 6 examines the views of parents and other family members about child protection interventions they have been subjected to. Key themes from the body of parental perceptions research are presented and discussed, and space is provided for the voices of parents and family members to convey their (predominantly critical) views about child protection services. Some professionals will find this chapter to be an uncomfortable read.

Chapter 7 discusses diagnostic issues and dilemmas in relation to expert medical witnesses concluding whether serious injuries were caused by abuse, or whether there are less probable non-abuse explanations in certain cases where otherwise the injuries to the infant mimic abuse. This chapter also considers the varied reasons why some parents/carers ‘deny’ responsibility for the injuries to the infant (one of these being that they are wrongly accused on the basis of a ‘false-positive’ error). The chapter concludes that the notion of ‘denial’ is unhelpful and often counter-productive in child protection assessment and case management.

Chapter 8 outlines key approaches to undertaking child protection assessments in cases where infants have sustained serious suspicious injuries. It is noted that the Assessment Framework (the government-promoted assessment tool in England and Wales) is inadequate in this context, and specialist assessment interventions are required. We outline common specialist assessment contexts, and discuss necessary professional skills for intervening effectively with families in specialist assessment practice.

Chapter 9 highlights the necessity of assessing potential for change, and considers to what extent are identified family problems that are commonly associated with serious suspicious injuries amenable to change. It also considers what theories, approaches, skills and services can help facilitate such changes. The chapter provides indicators of positive change potential from assessment interventions, and outlines the factors that suggest that potential for change is absent or significantly limited.

Chapter 10 describes how in the course of child protection interventions families and child protection services may behave in either reasonable or unreasonable ways. We conclude in view of this that courts should take into account the reasonableness and unreasonableness of child protection interventions and case-management practice when forming judgments about the long-term futures of seriously harmed infants. We review the options open to courts at the final stage of care proceedings, and critically discuss the apparently increasing trend toward enforcing compulsory adoptions.

Drawing on original practice-based research and extensive experience of undertaking independent child protection assessments, this book provides an essential reference for all professionals involved in the child protection
process in cases where infants have suffered serious suspicious injuries. The book is written for a wide audience, including social workers, health workers, solicitors, barristers and the judiciary. It is hoped that it will also be a valuable resource for parents and families who find themselves involved in child protection and legal proceedings after injuries to their child.
CHILD ABUSE AND CHILD PROTECTION ERRORS

In this chapter we consider the nature of serious and fatal physical abuse of infants, illustrating this with several highly unpleasant examples that are in the public domain. We go on to consider the nature of child protection errors that arise from professional interventions – or the absence of them.

In a book with a commitment to effective and proportionate child protection practice, it is important to keep in mind that babies, infants and children of all ages are injured and even killed by accidental events on a far greater scale than by being abused. Underlining this point, in a major UK medical child abuse handbook, a leading paediatrician reminded readers that ‘accidental injury is extremely common in childhood’ (Hobbs et al. 1999, p. 101). Given the prevalence of accidental injuries to infants, it is essential that professionals undertaking child protection investigations of serious suspicious injuries to infants consider carefully the possibility of unusual accidental events and rare medical conditions that can mimic signs of abuse. We shall discuss non-abuse explanations for suspicious serious injuries in more detail in Chapter 7.

While accidental injuries to infants are common, research also indicates that certain types and combinations of injury have a much higher likelihood of being the result of maltreatment than accident. Statistically, the first year of life reflects a peak risk level for being non-accidentally killed or seriously harmed, and this occurrence is most likely to be at the hands of a parent/carer. A major study in Wales recently concluded that 1:880 babies of this age is subject to serious physical abuse (Sibert et al. 2002). Across England and Wales, there is a consistent figure of approximately 30 recorded homicides of infants aged 0–12 months per year. Several commentators estimate the actual figure to be at least double (e.g. Wilczynski 1997). It is also estimated that 200 children are killed each year by their parents or carers (NSPCC 2001).

In addition, unknown numbers of adults live with physical, intellectual and neurological impairments stemming from abuse-related brain injuries
acquired in infancy. One study reported that 78% of infants with non-fatal, abuse-related head injuries were left with significant long-term neurological and developmental abnormalities (Barlow & Minns 2000). One of our concerns in this book is to consider to what extent such tragedies could be preventable with improvements to the efficacy and consistency of child protection practice.

Public health campaigns have had notable successes in reducing the incidence of certain types of serious and fatal accidental injuries to infants. For example, the incidence of sudden infant death syndrome (SIDS) in many countries has diminished significantly after ‘Back to Sleep’ campaigns. The numbers of toddlers drowning in unguarded domestic swimming pools has been reduced in Australia and the USA by public awareness campaigns coupled with regulatory and legislative changes. Such campaigns are demonstrably more effective in reducing infant deaths from accidents than from abuse (Kemp & Coles 2003). The incidence of child abuse has proved to be stubbornly less susceptible to public health prevention activities.

In the UK, no national figures are collated regarding the incidence and severity of serious (but non-fatal) physical injuries (or re-injuries) to young children. Child protection registers do not record the severity of injuries or rates of re-injury to children. There are no reliable data by which to monitor incidence and re-injury trends and the effectiveness of prevention and intervention programmes. Consequently, it is not known to what extent young children have been effectively and appropriately ‘rescued’ from further acute risks. Nor is it known to what extent infants have been unnecessarily separated from their natural families in the name of ‘protection’, or the proportion who subsequently have had disrupted experiences in adoptive families. The reason why the answers to such fundamental questions are not known is that (notwithstanding their massive overall financial cost) the nature and ratio of benefits/harms stemming from child protection services are significantly underevaluated.

SEVERE MALTREATMENT OF INFANTS

Some infants are subjected to extreme forms of maltreatment. In contrast to more obvious single-factor reasons for many accidental deaths (such as children being unrestrained in motor vehicles), the cause of serious child abuse is complex, multifactorial and debatable. There is no doubt that some infants are chronically maltreated in sadistic ways in seriously disturbed families where there can be very little potential for sustained genuine positive changes. As the following international, public domain examples illustrate, the phenomenon of much fatal and serious abuse of infants can be difficult to comprehend, let alone to anticipate and prevent.
The UK

‘Baby tossed ‘like a rag doll’’. A mother told yesterday of her horror after the man she caught hurling her one-year-old baby around like a rag doll walked free from court. Jamie Thompson, 28, was secretly filmed tormenting the child after the mother left a video camera running in the lounge of her home…. The video shows Thompson walking into the room and yanking the child from where it [sic] was sitting on the sofa. Clutching one of her legs, he swung the child around as she screamed hysterically. (The Times, 19/5/04)

A father who punched his baby son to death, and afterwards blamed a gang of youths for the attack, was yesterday convicted of manslaughter…. MacDonald (25) gave no explanation of why he turned on his five-month-old child Connor while waiting at a station…. The baby’s mother said she no longer had any feelings for MacDonald, but acknowledged that he had been a ‘very good father’. (The Guardian, 9/2/01)

A man from Loughborough who headbutted his eight-month-old baby has been jailed for three years…. Leicester Crown Court heard how the child suffered several bouts of abuse at the hands of her father and was violently shaken when her crying became too much. The man said he was sorry, and said he had been unable to cope when the child would not stop making a noise. (BBC News website, 20/9/02)

A mother has been jailed for life for deliberately pouring boiling water over her two-year-old daughter – ten years after injuring her son with an iron. The 39-year-old took a full saucepan and tipped it over her little girl’s chest and thighs. The younger suffered horrific injuries needing weeks of hospital treatment which need more surgery when she gets older. (Hastings Observer, 31/1/03)

A mentally-ill mother who killed her two babies by smothering them was ordered to be detained in hospital. The mother, 29, put her hands over the face of her nine-month-old daughter. Years later, she did the same thing with her eight-month-old son. (The Guardian, 2/2/01)

A mother killed her baby daughter while under the supervision of a social services department. The eleven-week-old baby died after being punched. The mother put make-up on the baby’s bruised head as she tried to conceal her crime. (Daily Mail, 24/11/01)

The USA

A woman has been jailed for five years in New York for killing her month-old son by putting him in a microwave oven and turning it on…. Relatives told police that she appeared detached from her son but there were no signs that she wanted to harm him. (The Guardian, 15/12/00)

After a long and moving speech in which he touched on personal responsibility, human nature and why people hurt one another, Cook County Judge
John J. Moran sentenced a young father to 20 years in prison for shaking his 4-month-old infant son to death. Authorities said he died from such violent and sustained shaking that his left leg was fractured in two places and dozens of blood vessels in his eyes and brain had burst. The defense attorney had argued that the baby had been choking due to a severe cold and the father had unintentionally injured him while performing ‘lifesaving techniques’. (*Chicago Tribune*, Internet Edition, 8/12/01)

The father of a 7-week-old boy clinging to life at Children’s Hospital admitted he shook the child hours before the infant was found convulsing from a head injury, court records show. Mark Schnabel, 32, told investigators he shook his son, Cadin, because the boy was fussy during his 3 a.m. feed. Doctors found the boy’s twin sister Kylie, also had a broken arm and leg. Schnabel said he was rougher with Cadin than Kylie because ‘he is a boy’. (*Denver Post*, 11/7/02)

**New Zealand**

Another child has been bashed to death in a bleak ‘family’ home… The pathologist’s evidence showed that over 20-odd minutes 3-year-old Tangaroa Matiu’s stepfather hit the child around 100 times. Favourite spots were places that hurt terribly but would not kill – until he miscalculated and whacked Tangaroa’s head so hard that blood spattered the toilet walls. When the child’s bottom slipped into the toilet, Mahanga hauled him out and hit him again. When the boy’s mother came down the hall, far from saving him, she slapped him a couple of times too, then stepped back to let her boyfriend carry on… (*New Zealand Herald Online*, 29/8/00)

These disturbing accounts highlight the extent of catastrophic violence endured by some very unfortunate babies and young children. The cases demonstrate that both male and female parents can inflict severe, sadistic injuries on their children. Assaults may be sudden and single incidents. Alternatively, infants may be subjected to prolonged torture and fatal neglect. Such cases of appalling abuse and neglect of young children understandably stir powerful emotional reactions. However, it is important that general child protection policy and practice are not overdetermined by such relatively rare ‘hard cases’. To do so leads to overzealous forms of child protection practice that also can result in ruinous harm to families.

**FOUR OUTCOMES OF CHILD PROTECTION INTERVENTIONS**

There is general social consent that child protection services should intervene promptly and appropriately to make enquiries when a report is
received that a child has been harmed or is thought to be at risk. As shown in Figure 2.1, there are theoretically four types of outcome of child protection interventions – two of which are desirable (true-positives and true-negatives), and two of which generate adverse outcomes (false-positives and false-negatives). We shall consider and illustrate each of these in turn.

**DESIRABLE OUTCOMES OF CHILD PROTECTION INTERVENTIONS**

**True-positive Outcomes**

Ideally, the desired outcome of the child protection system is to prevent abuse and re-abuse. Family needs and stresses are identified at an early stage, and effective interventions are offered which prevent difficulties escalating into episodes of child abuse. This requires the provision of easy access, non-stigmatising family support and therapeutic services. Children at acute risk of significant harm and those who have been harmed are quickly identified. Their circumstances are promptly and competently investigated and assessed. Interagency protection plans are instigated which secure children’s safety either in their own homes or, if necessary,
in appropriate substitute care. Risk is acute and protection is effective. True-positive outcomes are largely invisible, as they involve interventions that prevent children re-experiencing serious and escalating abuse. The generally low public reputation of child protection services is in part due to a lack of published material and media attention which illustrates effective child protection practice. The public is largely unaware that child protection systems which have developed over the past three decades do work well for thousands of children each year.

For example, an independent survey in Victoria, Australia, found that 80% of children interviewed reported that their ‘life had got better’ as a consequence of child protection interventions (Gleeson et al. 2001). Another study of 282 parents who had received child protection interventions (also in Victoria), reported significant positive progress in many parents who, at the beginning of interventions, were not highly motivated to change (Trotter 2004). In 2002, in the south of England, the first author undertook a file review audit of a very busy social services intake and assessment team. The report (Dale 2002b) commented on significant aspects of good practice:

I have noted what appeared to be high levels of good practice in two-thirds of the closed cases. I felt that one-third of these amounted to excellent practice. ‘Good practice’ in this context predominantly represents combinations of the following factors:

- Prompt and effective response to referral
- Very effective inter-agency liaison
- Demonstrable good skills in working with parents and children
- Good recorded observations (developmental and behavioural) of relevant children
- Provision of effective practical advice and support to families. (p. 2)

Out of sight, skilled and diligent professionals arrange vital protection for vulnerable children and provide or organise effective support for their parents and wider families. As we shall discuss in more detail in Chapter 6, views of parents who have benefited from child protection services are not often publicly heard. A small parents’ perceptions research project, also conducted by the first author, concluded:

In the study reported in this paper half of the participants reported that their experiences of child protection interventions had been either very helpful or helpful to some extent. Some of these cases involved remarkable stories of the lives of parents and children being transformed through