

From Mandatory Reporting to Mandatory Supporting?

“Are we throwing the baby out with the bathwater?”

June 2, 2023



Steve Baron, M.A., LMFT (IA)

Sup. Ct., Ret. Director Family Court Services, Santa Clara County

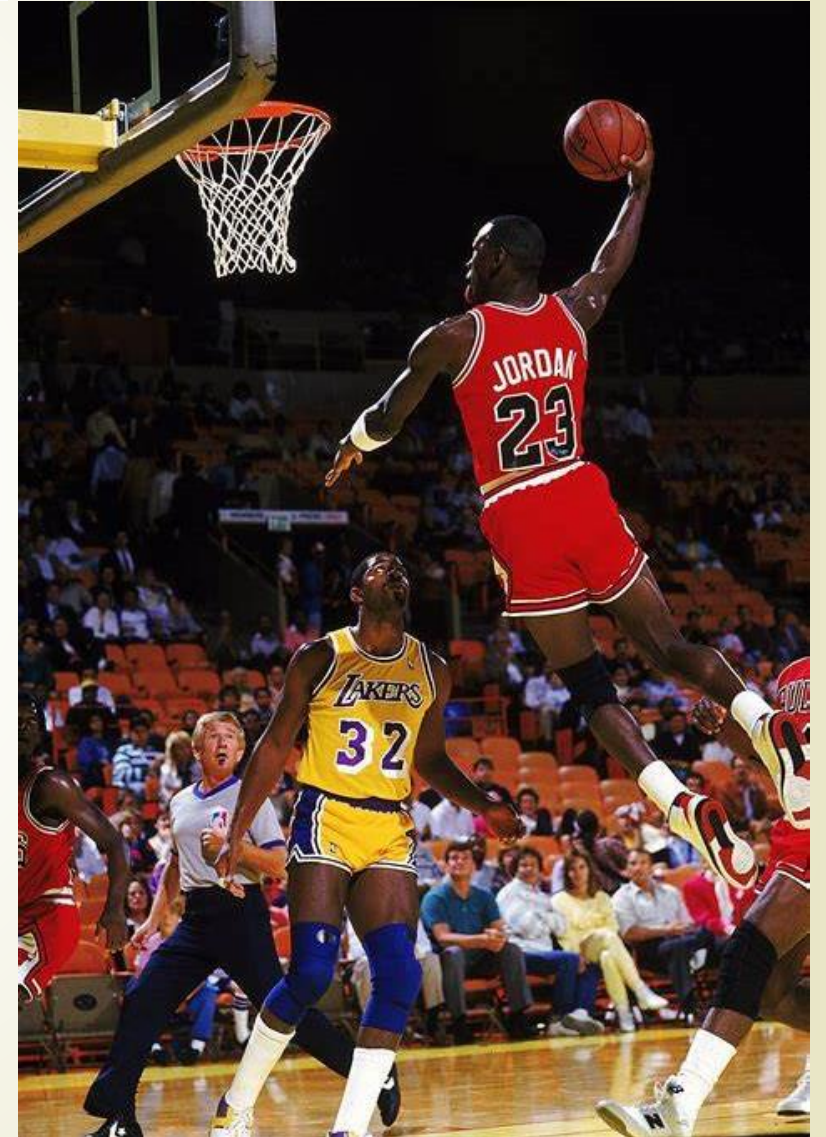
SCC Child Abuse Prevention Council

SCC Child and Domestic Violence Death Review Teams

Prevention...Good!



- Societal efforts to effectively address poverty, racism, and discrimination of all sorts, and equitably support and enhance the health, safety, education, and welfare of all individuals (i.e. reducing Toxic Stress) are all in the service of preventing child maltreatment, as are all other prevention efforts aimed at equitably supporting families and providing them with needed resources.
- That's pretty much a dunk, don't you think? We all agree... though it's not enough.
- *My concern is what is happening **AFTER** the threshold of neglect or abuse has been crossed. Here's some of what's happening...*



Poll Question # 1

The “substantiation” rates of investigated reports of suspected child abuse and neglect over the last 30 years have:

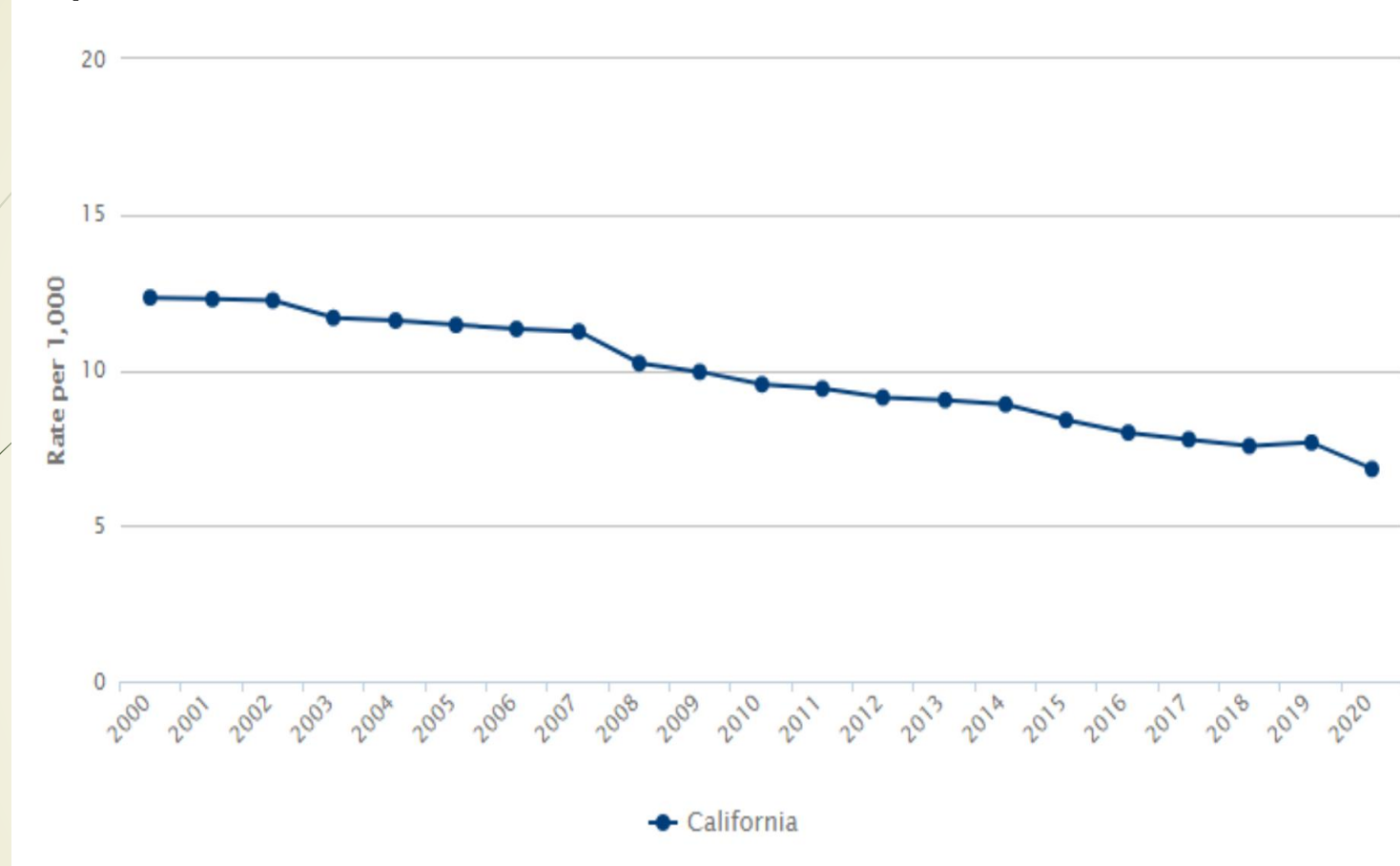
- remained about the same.
- significantly increased.
- greatly decreased.

Historical review of decreasing CPS Substantiation rates of investigated suspected abuse/neglect cases

- Mid-1980's nationally = 30% +
- 2006 = 20% Greater Bay Area
- **Currently:** (Noting one contributing factor: laws have made it more difficult for DFCS to investigate allegations and to interview children alone)
= 13% California. (30.8% "Unfounded" California)
- For many reasons it is intentionally and grossly misleading to imply that in 87% of investigated cases there is no abuse or neglect.

Substantiated Cases of Child Abuse and Neglect: 2000 to 2020

Rate per 1,000 Kids: 2000 =12.3; 2020 = 6.8; 2022 = 6.0 average



Definition: Number of children ages 0-17 with substantiated cases of abuse or neglect per 1,000 children (e.g., in 2020, 6.8 per 1,000 California children were found to have been abused or neglected).

Data Source: [As cited on kidsdata.org](https://kidsdata.org), California Child Welfare Indicators Project, CCWIP Reports. University of California at Berkeley & California Dept. of Social Services (Oct. 2021).

Historical rates of filing of Dependency Petitions (not necessarily child removals) in Santa Clara County.

- Mid – 1980's = About 1400-1600 per year
- 2004 = About 1,000
- 2010 = About 500-700
- 2018 – 531
- **2019 – 626**
- 2020 – 467 (Covid begins to impact)
- **2021 – 196** (Covid + new efforts to reduce protective custody and dependency filings)
- **2022 – 104** (Kids back in school; lower number result of efforts to reduce protective custody and dependency filings);
-
- **2023 as of March 22 there were 16 children petitioned from 13 families. (This projects the number of petitions in 2023 to be approximately 69, or a 90% decrease since. 2019.**

Central Question

- Where are, and what is happening for the children **who formerly would have been petitioned** and, therefore would have had...
 - **Court supervision;**
 - **mandated services;**
 - **attorney representation for child** and parents;
 - **eligibility for the child to have a Child Advocate;**
 - **parental access to Dependency Drug Court, Dependency Wellness Courts etc., but now do not? = 500+ children in Santa Clara County yearly**

Poll Question # 2

What % of families with substantiated child abuse allegations follow through with CPS voluntary services ?

- 0-30 %
- 30-60 %
- 60-100 %
- Unknown



Answer: Those 500+ children who would have been petitioned in 2019 but are not now....

- **Are either having their cases closed, or**
- **Are being referred to strictly voluntary services** and may, or may, not have at least once per month contacts with a CPS SW.
- **Rates of successful engagement in voluntary services to which they were referred, & rates of successful completion of such services, are currently unknown.**

What we know about voluntary services and their limitations.

- Out of 163 referrals that were referred to Differential Response Services (voluntary) in Santa Clara County in one quarter of 2022, most or all of which probably did not have a Safety Plan or SW monitoring.
- **73% did not successfully engage and were not opened for services.**
- **82.21% did not complete a service plan – some may be in process**

Poll Question # 3

Are you familiar with CA AB 2085 which changed the criteria for the mandatory reporting of General neglect?

- Yes
- No
- Not sure

The shift from Mandatory Reporting to Mandatory Supporting: AB2085 = fewer reports of neglect. (and “mandatory supporting” – no such thing – so changed to “community supporting”)

- A significant majority of all reports of suspected child abuse or neglect are for **neglect**, with disproportionate representation for the impoverished and children of color (except the Asian population).
- This new law limits the definition of **general neglect**, for reporting purposes, **to only include circumstances where the child is at substantial risk of suffering serious physical harm or illness, AND provides that general neglect does not include a parent’s economic disadvantage** (how are these determinations made?) = fewer reports will be accepted by CPS.
- Effectively discourages the reporting of child neglect in that the reporter must demonstrate the child is at substantial risk of suffering serious physical harm or illness, that the “neglect” is not the result of a parent’s economic disadvantage, and/or the intake SW must assess for these issues.

Poll Question # 4

Do you know how to report child neglect in a way that “does not include a parent’s economic disadvantage” AND demonstrates “the child is at substantial risk of suffering serious physical harm or illness.”

- Yes
- No
- Not Sure

AB2085 contin.

- ▶ The Legal Brief used, as justification for supporting the law, the fact that 80% of reports following investigation were Unsubstantiated. **But this does not mean there was no abuse or neglect in those cases.**
- ▶ Cases are categorized as unsubstantiated for a wide range of reasons including, but not limited to: could not locate family; family refusal to participate in the investigation; denial; healed injuries; poor quality of investigations, all resulting in insufficient evidence to substantiate.
- ▶ Also, children can now only be interviewed by CPS with consent of parents and are otherwise interviewed in front of them.
- ▶ Additionally, note that DFCS is precluded by law from accepting neglect reports for non-attendance at school which factor is often associated with neglect.

Poll Question # 5

Do cases reported for suspected child neglect often also involve other forms of child maltreatment such as physical or sexual abuse, exposure to domestic violence (emotional abuse) and other familial problems contributing to maltreatment such as substance abuse and mental illness.

- Yes
- No
- Not sure.

What Does Child Protective Services Investigate as Neglect? A Population-Based Study

Article in Child Maltreatment · July 2022

Lindsey Palmer, PhD¹, Sarah Font, PhD¹, Andrea Lane Eastman, PhD², Lillie Guo², and Emily Putnam-Hornstein, PhD^{2,3}

- “Most child protective services (CPS) investigations involve allegations of neglect. Broad and vague definitions have led to concerns that CPS-investigated neglect is driven by poverty-based material hardship.”
- “In a representative sample of 295 neglect investigations in California in 2017... **common risk factors identified in neglect investigations were parental substance use (41%), domestic violence (21%), mental illness (18%), and co-reported physical or sexual abuse (29%).**”

“What Does Child Protective Services Investigate as Neglect? A Population-Based Study” continued

- **“Nearly all investigations of physical neglect (99%) included concerns related to substance use, domestic violence, mental illness, co-reported abuse or an additional neglect allegation (i.e., abandonment).”**
- **“Given concerns identified in neglect investigations, economic supports are likely insufficient without an array of behavioral-health supports.”**
- ***Comment: But now, fewer such neglect reports and investigations will occur, and fewer co-occurring forms of abuse and family problems requiring intervention will be identified leaving those children to accumulate trauma.***

Jerry Milner and David Kelly
“Family Integrity & Justice Works”

This article appears in “Poverty, Race, and Child Welfare” (Volume 99, Numbers 3 & 4), a special double issue of Child Welfare journal, to be published in December 2021.

- This article argues that **dismantling and replacing the current child welfare system—which the authors describe as reactive and as perpetuating trauma through unnecessary separation of families who are poor and families of color—requires a justice framework.**
- It maintains that until decision-makers at all levels recognize that the need for child welfare exists in the space **where poverty, public health, and civil rights** intersect, and **address the root causes** that leave families more vulnerable to child welfare involvement (AGREED), the system will continue to achieve poor results

The “Dogma” which is not to be challenged.

The article recommends a new national child welfare policy and professes to focus on the issue of “**unintentional neglect,**” which is presumed to always be associated with poverty or other forms of social inequity or injustice – but is never really defined. It posits that child removal is usually more traumatic than leaving the child with a parent with provision of needed services. **AND the article basically dismisses the significance of child fatality cases and discourages “knee jerk” reactions to them. (Treated as “collateral damage”?)**

It ultimately calls for the divestment and dismantling of the current child welfare system, including the active monitoring or supervision of child safety which is referred to as “surveillance,” with the redirection of most of those funds to upfront services in a manner which will impair and reduce the response to all forms of A&N.



"Before a 4-year-old boy's (Noah Cuatro) killing, authorities wavered on rescuing him"

Los Angeles Times, by Matt Hamilton, Garrett Therolf, Daniel Lempres
Aug. 19, 2021

- ▶ "An investigation by the Los Angeles Times and the Investigative Reporting Program at UC Berkeley found that errors, misjudgments and bureaucratic conflict within the child welfare system — including among top supervisors — blocked multiple opportunities to protect Noah."
- ▶ **"His life and tragic death offer a sobering window into how race and ethnicity, cultural sensitivity, and trust collided inside the agency....In Noah's case, his parents and Johnson's (the Social Worker who wanted to protect Noah) own colleagues accused her (Johnson) of bias and having "an agenda," according to DCFS records and internal emails."**
- ▶ "The charge of "bias" pointed to DCFS' reckoning with a history of inappropriately separating children from their parents, especially in Black and brown families."



L.A. Times article on re: Noah Cuatro contin.

- "But without a way to effectively deal with those accusations in Noah's case, **the debate over bias paralyzed the agency, clouded the view of his family, and sidelined the staffers who knew him and his family best.**"
- "The months leading up to Noah's death also raise questions about a signature policy implemented by the L.A. County Board of Supervisors and touted by DCFS Director Bobby Cagle. **This policy, which guided administrators' decisions, is in line with a national movement calling for a less adversarial approach to parents, respect for diversity, and a shift in focus away from the family's weaknesses and toward its strengths.**"
- "**The full scope of DCFS' missed opportunities** came into relief six months after Noah died, when L.A. County prosecutors summoned his family, social workers and medical experts to testify before a grand jury.... "The County and DCFS put a lot of roadblocks in front of me. Even the ones I called [to testify] were difficult to get into court " (District Attorney) Hatami said "

KABC NEWS



- ▶ LOS ANGELES (KABC) -- When 10-year-old Anthony Avalos was rushed to the hospital in June of 2018 not breathing and with no pulse, first responders were somewhat perplexed. They could not see injuries to his head that appeared severe enough to explain the little boy's near-death state.
- ▶ Anthony's body was covered in bruises, abrasions and burns - but his cause of death is from blunt force trauma to the head -- where the only visible exterior injuries were a purple bruise on his left ear and abrasions to his nose and cheek.

“...Prosecutors sum up torture allegations in Anthony Avalos’ death.”

Los Angeles Times: By Noah Goldberg, Feb. 23, 2023

- “Anthony, along with his siblings, had survived four years of abuse documented in numerous reports to law enforcement and the L.A. County Department of Children and Family Services. He was malnourished, suffered from cuts and burns and was repeatedly hit with belts. At times, he was forced on wounded knees to kneel on uncooked rice, nails and concrete. Still, neither he nor his siblings were removed from the home.”
- **“Despite 13 separate reports of abuse of Anthony filed with county officials, (and after having been assessed as “high risk,”) the boy was allowed to remain in the home.”**
- “In the midst of the abuse, Anthony wrote a suicide note, according to records previously reviewed by The Times.”
- **“Nobody believed the children and nobody in authority did anything,” (DA) Hatami said during his closing argument. “The children were terrified that they would be next.”**
- The investigation detailed how DCFS missed clear signals and failed to follow protocol in Anthony’s case, leaving him in the custody of Barron and Leiva.”



Child Abuse/Neglect National Fatality Rates- Child Maltreatment 2021 –

U.S. Department of Health & Human Services Administration for Children and Families
Administration on Children, Youth and Families Children's Bureau

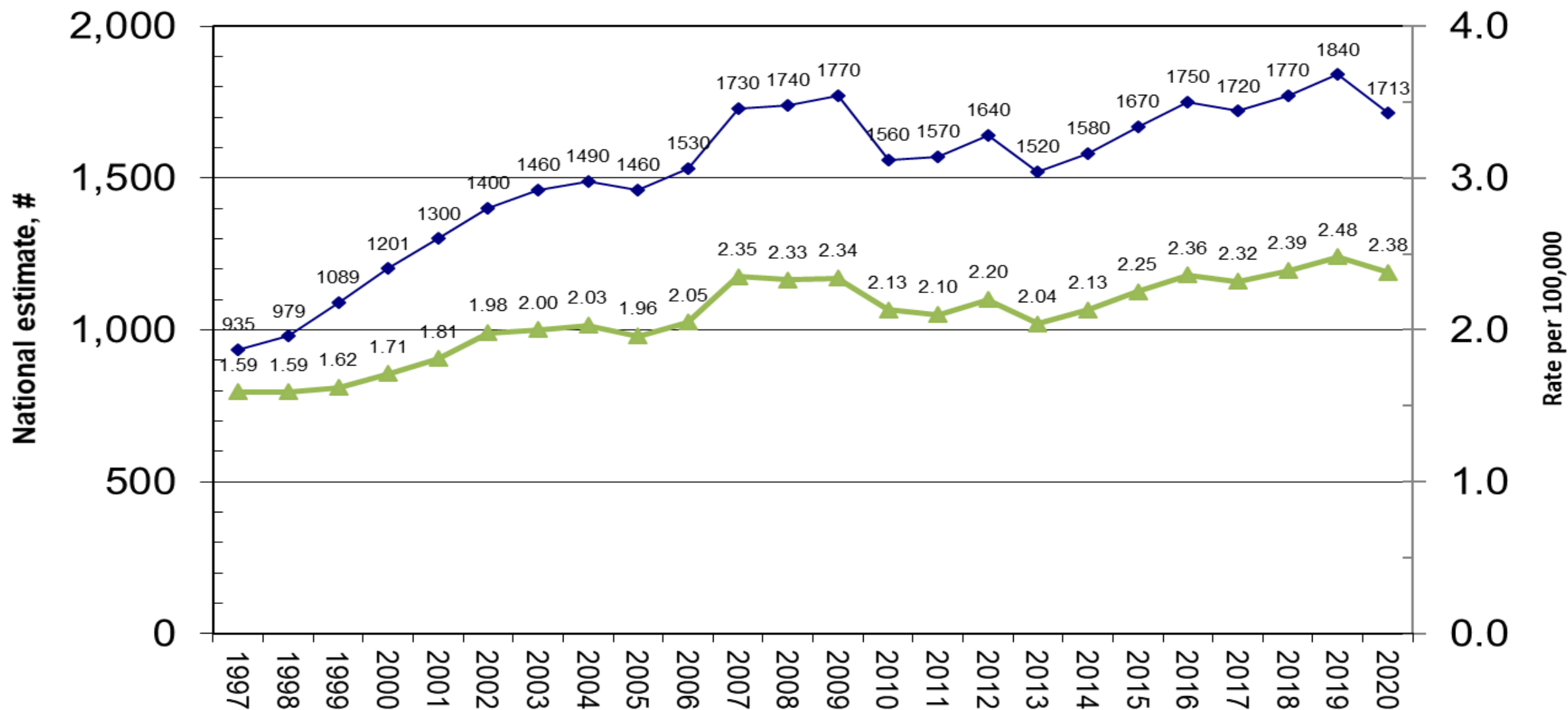
Year	# Reporting States	Child Fatalities	Rate Per 100,000 Kids	National corrected est.
2017	51	1,691	2.28	1,690
2018	52	1,765	2.39	1,765
2019	52	1,825	2.48	1,825
2020	51	1,742	2.37	1,770
2021	50	1,753	2.46	1,820

► California 2021 = 135 from Agency files.

Maltreatment Types of Child Fatalities, 2021

<u>Maltreatment Type</u>	<u>Child Fatalities</u>	<u>Percent</u>
Medical Neglect	120	8.1
Neglect	1,149	77.7
Other	4	0.3
Physical Abuse	633	42.8
Psychological Maltreatment	35	2.4
Sexual Abuse	12	0.8
Sex Trafficking	?	?
Adds up to more than 100% because some cases have multiple categories of maltreatment.		

U.S. Child Maltreatment Deaths (NCANDS)



U.S. National Commission to Eliminate Child Abuse and Neglect Fatalities, 2016

► Findings & Recommendations

- Child abuse deaths are undercounted by 30-40%
- Need to identify children and families most at risk.
- Need to know injuries associated with fatal abuse.
- Agencies need to be accountable.
- Federal government should provide leadership and funding
- Conduct fatality reviews using similar process across jurisdictions

Within Our Reach

A National Strategy to Eliminate
Child Abuse and Neglect Fatalities



Child maltreatment fatalities grossly underestimated.

“Why doesn’t U.S. have an accurate count of child-abuse deaths,”
by Dan Hurley, 12-12-19, The New Yorker, News Desk.

- The Child Maltreatment report includes only those maltreatment types that have a disposition of substantiated or indicated. “Neither child maltreatment nor homicide is typically entered as the cause of death on the death certificate...because investigations...have not been completed at the time the death certificate is filed....”
- “The numbers could easily be three times or four times higher than what’s reported,” Emily Putnam-Hornstein –Director, Children’s Data network in California. “Whatever’s being reported to [NCANDS) is an undercount.”

Opinion/Commentary

I propose that:

- ▶ The policies recommended by **Jerry Milner and David Kelly** “**Family Integrity & Justice Works**” are consistent with current California state policy and supported practice, which have contributed to:
 - ▶ the dramatic decrease in substantiation rates of investigated cases of all forms of abuse or neglect over many years;
 - ▶ **the minimization of the impact of child neglect on healthy childhood development and its nexus to other forms of child maltreatment;**
 - ▶ the dramatic decrease in protective custody cases in recent years, and;
 - ▶ **the massive decrease in Dependency Court cases of all forms of abuse and neglect along with a gross reduction in related monitoring of child safety, and that;**

Opinion/Commentary continued.

- ▶ This is being done with little evidence that these efforts at **diverting cases from the Juvenile Dependency Court child protection system, which has been deemed to be more traumatic than the abuse or neglect which created the referrals**, has resulted in successful engagement or completion of voluntary services, or; that the neglect or abuse has abated over time (safety monitoring relabeled “surveillance” discouraged), or that children have received needed services.
- ▶ **As well meaning as these policies are, they are serving too often to render large numbers of children INVISIBLE with respect to continuing abuse and neglect and the accumulation of trauma due to the absence of an effective child protection response.**
- ▶ *And because of the potential political, agency, and funding fallout, those who agree with these concerns are most typically reluctant to speak out or are actively silenced.*

My concern is that the current movement to dismantle the existing child welfare system is undermining the need for:

- **The EARLY IDENTIFICATION of, and EFFECTIVE INTERVENTION in child abuse and neglect cases to first insure the child's SAFETY;**
- **Confronting the minimization of the impact of neglect, child endangerment, exposure to domestic violence, & physical abuse on child development;**
- **The effective monitoring of child safety and adequate care in child abuse and neglect cases prejudicially labeling it "Surveillance."**
- **Recognizing the LIMITATIONS OF VOLUNTARY SERVICES vs. Court supervision & mandated service provision in high-risk cases.**
- **Making somebody RESPONSIBLE & ACCOUNTABLE for insuring the above. "Mandatory supporting?" There's nothing "mandatory" about it. It was a fraudulent semantic device to support a policy.**

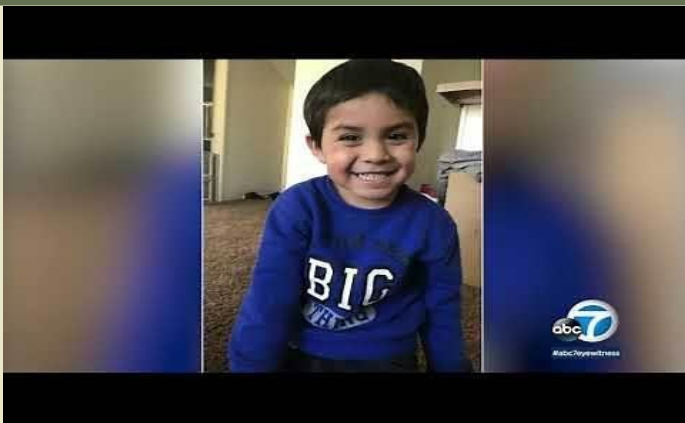
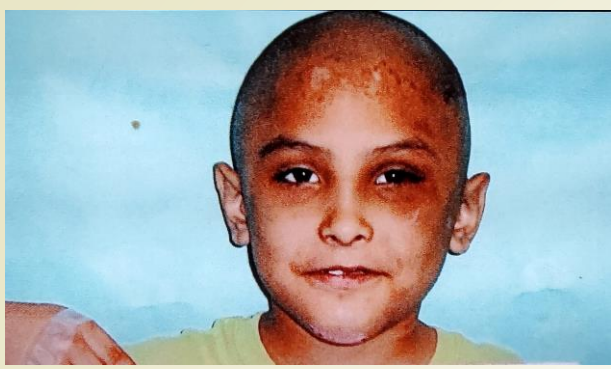
Which approach do you think is more appropriate



Are we going to recognize the jeopardy when the child first falls into neglect or abuse and concretely intervene to insure safety, adequate supervision and care with the minimally intrusive level of intervention THAT WORKS, or



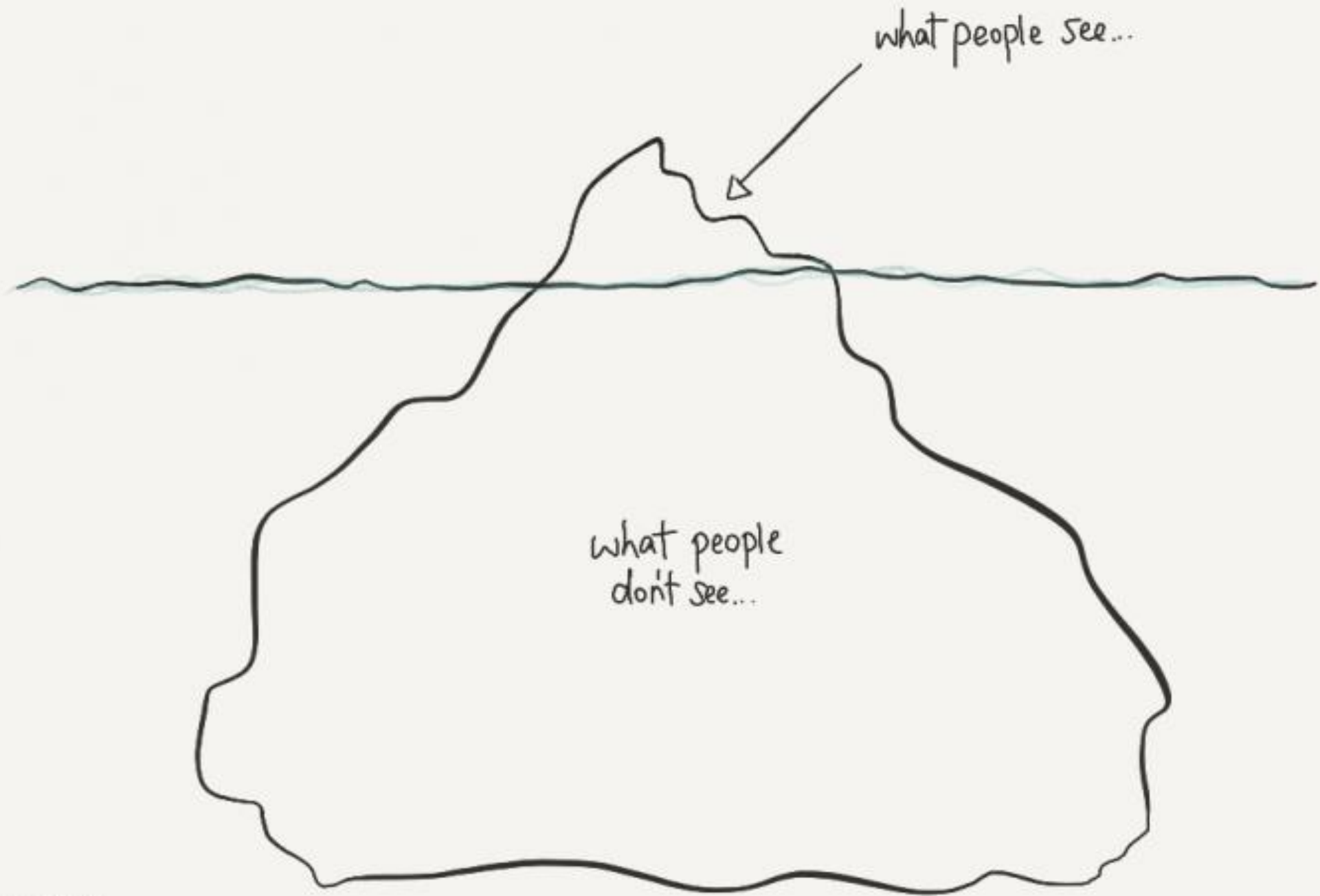
Should we take the risk of waiting until the child floats into the rapids, or maybe goes over the falls, accumulating more trauma and terror along the way.....



Missed Opportunities for Early I.D. of Abuse/Neglect and Effective Intervention.


- ▶ Are you familiar with the cases of:
 - ▶ **Gabriel Fernandez,**
 - ▶ **Sofia Mason,**
 - ▶ **Noah Cuatro,** or
 - ▶ **Anthony Avalos?**

Or how about the hundreds, and thousands of children in California with less catastrophic but still tragic outcomes, who survive but suffer all the negative ACE outcomes because of missed opportunities to provide early identification and effective intervention into trauma related to abuse and neglect – The children where the abuse and neglect is ignored, minimized, or simply denied, the response is inadequate or non-existent, and everybody pretends that it will all be OK. And the kids become.... **INVISIBLE**



what people see...

what people
don't see...



A child cannot heal from abuse and neglect, until the abuse and neglect is halted, and they are.... SAFE.

“
I was invisible, that's how I used to think of myself. It helped me to cope
”

Michael O'Brien
Child abuse victim

Thank you...
for showing up.

