

**A BRIEF HISTORY OF CHILD PROTECTION LEGISLATION:
FROM 1874 TO 2003
William Doverspike, Ph.D.
Drdoverspike.com
770-913-0506**

In 1874, a charity worker whose name has long been forgotten heard about the plight of a child named Mary Ellen who was repeatedly beaten by her caretaker after being abandoned by her biological mother. Upon arrival at the New York City house where the child was being kept, the social worker found a 10 year old child chained to a bed like an animal, covered with bruises and scars. Her head had black and blue marks left by her “foster” mother’s whip, and the left side of her forehead was disfigured by a cut that had been inflicted when her foster mother had sliced her with a pair of scissors.

Because there were no laws to protect children from abuse, the social worker persuaded the Society for the Prevention of Cruelty to Animals (SPCA) to intervene in court on the child’s behalf. The SPCA had been founded eight years earlier (1866) by Henry Bergh, a philanthropist and diplomat who had been concerned about the inhumane treatment of animals. Ten year old Mary Ellen McCormack did not even know her own age when she testified at her foster mother’s trial. After she told her story in court, her foster mother was prosecuted on charges of assault and battery.¹ Eight months later, in April of 1875, a small group of concerned citizens came together with the assistance of Henry Bergh and formed the first organized child protective organization in the world—The New York Society for the Prevention of Cruelty to Children (NYSPCC). Almost immediately, other states created child protection agencies.

Mary Ellen McCormack grew up and provided her own daughters with love and happiness she never knew as a child.² She died in 1956 at the age of 92. Yet even by the late 1950s, the reporting of child abuse was not required by law. Reports of abuse usually originated only from incidents that involved serious physical injury or death.

In a 1962 issue of the *Journal of the American Medical Association*, Dr. Henry C. Kempe described “The Battered Child Syndrome” and urged physicians to report suspected child abuse. In large part due to Dr. Kempe’s focus on child abuse as a medical condition, 150,000 cases of child maltreatment were reported to authorities during the next year (1963). Many states responded by making child abuse a criminal act. In Georgia, the first child abuse statute was based on a model proposed by the Children’s Bureau of the United States Department of Health, Education, and Welfare. However, even in the early 1960s the reporting of child abuse was still not required by law, and most incidents of suspected abuse remained behind closed doors that were neither opened nor acknowledged. Societal changes occurred on a national level in 1974 when the federal government enacted The Child Abuse Prevention and Treatment Act (CAPTA), which provided model legislation for states to pass mandatory child-abuse-reporting laws.

What does this story have to do with us today?

During the summer of 2002, a Georgia psychologist discovered a medical malpractice lawsuit that had already reached the Georgia Court of Appeals. The case involved the statutory immunity provision of the mandated child abuse reporting requirement which protects doctors and others who report suspected child abuse (§ OCGA 19-7-5). The statutory immunity provision essentially protects mandated reporters from legal retaliation when they have made a good faith effort to report suspected child abuse. In reversing the trial court's interpretation of the protection provided by statutory immunity, the Appellate Court had ruled that the "good faith" statutory immunity provision was a legal matter that could be litigated on a case-by-case basis in court. If allowed to stand, this ruling would have had a chilling effect on the behavior of mandated reporters such as ourselves. Those of us who would first have to make a good faith effort in filing a mandated report of suspected child abuse would then have to wait and see if our "good faith" efforts were good enough to shield us from malpractice litigation by angry perpetrators and their ambitious attorneys.

So, what does this story have to do with us today?

Many of you got involved. With the Georgia Psychological Association's (GPA) funding, forethought, and planning, our attorney crafted an amicus brief that unified the support of a host of organizations ranging from the Medical Association of Georgia (MAG) to the Georgia Professional Counselors Association (GPCA). On June 30, 2003, the Supreme Court of Georgia (SO2G1784 O'Heron et al. v. Blaney et al.) supported our position by affirming the provision of statutory immunity. In a ruling

signed by Chief Justice Fletcher, the high court reversed the decision of the Appellate Court, thereby upholding the statutory immunity provision of Georgia's mandated reporting requirement. In other words, children in Georgia will continue to be protected from abuse, while doctors and others who are required by law to protect children and report suspected child abuse will continue to be protected against angry perpetrators and their ambitious attorneys.

This story is an example of psychologists and social activism—turning human wrongs into human rights. One year ago, none of us felt like we could make a difference, yet one of us took a stand. One of us decided to make a difference. We joined in giving ourselves to a cause that was greater than ourselves. Collectively, we made a difference that no one of us could have made alone.

Join me in giving a part of yourself so that we can make a difference. It is not "giving ourselves" to our profession that makes the difference, so much as it is the living ourselves through the vision and ideals that we hold in common. As the voice of professional psychology and the people we serve, we can make a difference.

William F. Doverspike, Ph.D.
President

Dr. Doverspike was President of the Georgia Psychological Association from July 1, 2003 until June 30, 2004.

Notes

1. The following is an excerpt from Mary Ellen McCormack's testimony in court in 1874: "My name is Mary Ellen McCormack. I don't know how old I am.... I have never had but one pair of shoes, but I can't recollect when that was. I have no shoes or stocking this winter.... I have never had on a particle of flannel. My bed at night is only a piece of carpet, stretched on the floor underneath a window, and I sleep in my little undergarment, with a quilt over me. I am never allowed to play with any children or have any company whatever. Mamma has been in the habit of whipping and beating me almost every day. She used to whip me with a twisted whip, a raw hide. The whip always left black and blue marks on my body. I have now on my head two black and blue marks which were made by mamma with the whip, and a cut on the left side of my forehead which was made by a pair of scissors in mamma's hand. She struck me with the scissors and cut me. I have no recollection of ever having been kissed, and have never been kissed by mamma. I have never been taken on my mamma's lap, or caressed or petted. I have never dared to speak to anybody, because if I did I would get whipped. Whenever mamma went out I was locked in the bedroom.... I have no recollection of ever being the street in my life."

2. After Mary Ellen told her story in court, her foster mother was prosecuted on charges of assault and battery. Mary Ellen was placed in a new home in upstate New York where she reportedly grew up a normal child. She became a favorite to all of those who knew her. At 24, she married and had two daughters of her own. She also adopted a third orphaned child. Her daughters reported that Mary Ellen was always reluctant to speak of her past, but she did show them the scars of burns on her arms. Throughout her adult life, the scissors scar was always noticeable on her face. It was her pride and joy to be able to provide her own daughters with a happy childhood in contrast to the tortuous days she had suffered as a child. Mary Ellen died in 1956 at the age of 92.

References

O'Heron v. Blaney (2003). 583 S.E.2d 834 (Ga. 2003)

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