

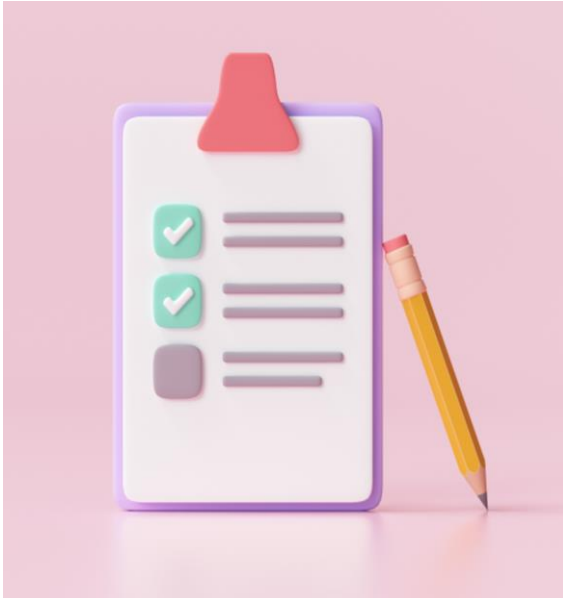


Medical Ethics Related to Child Abuse: Evaluations, Diagnoses, and Reporting

UT Southwestern Ethics Grand Rounds
February 13, 2024

Deborah Lowen, MD

My plan – and a disclaimer



I'll discuss the ethical issues that arise:

- During the medical evaluation of a potentially abused child
- When considering making a report to child protective services
- While working with – and within – child welfare agencies

DISCLAIMER: I am NOT an ethicist!

The medical evaluation of children who may have been abused

Ethical issues at multiple points

Evaluating a potentially abused child

20-month-old previously healthy boy

- Midshaft oblique humerus fracture
- Bruises and abrasions on the forehead, knees, shins



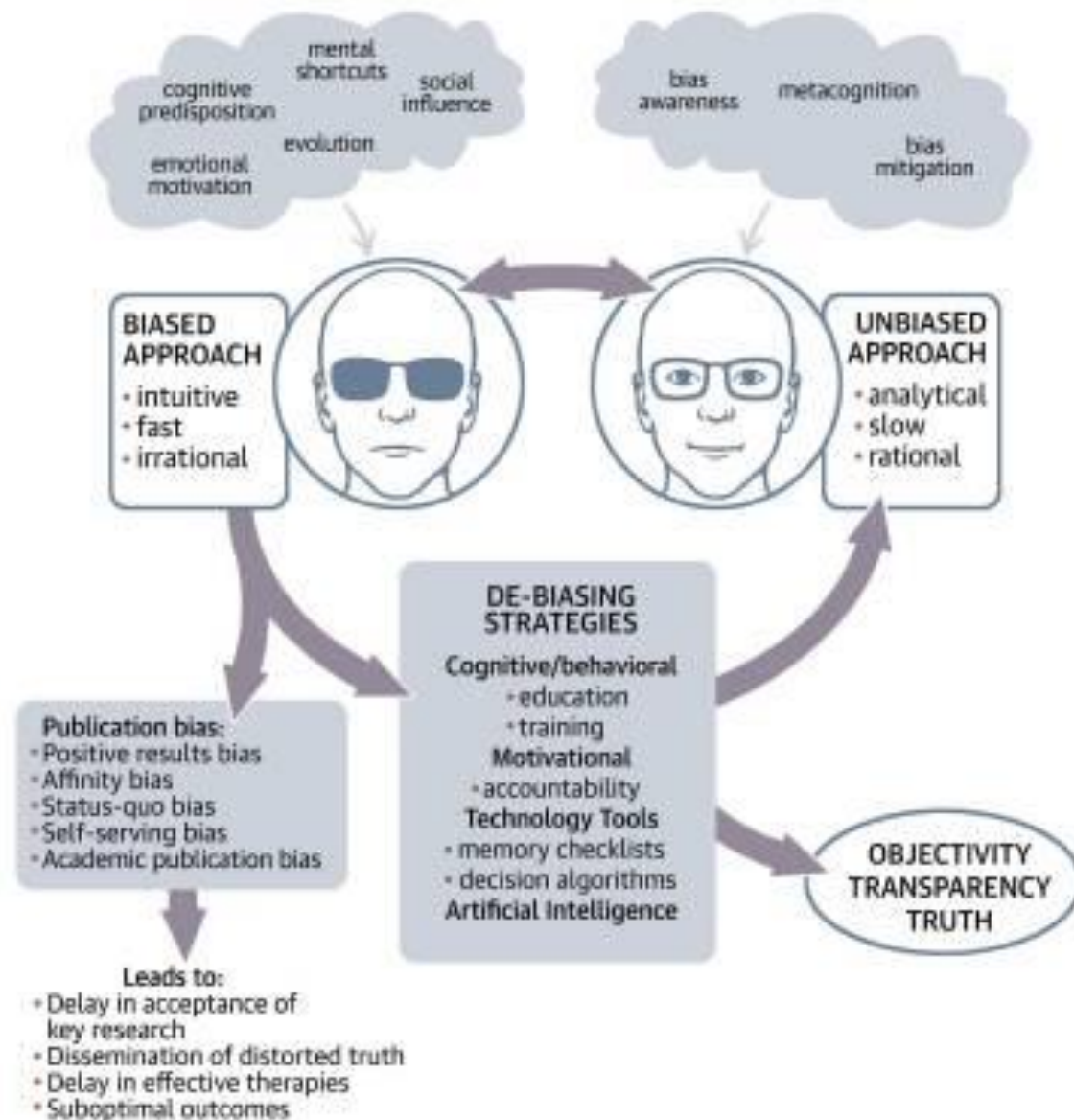
TABLE 1 Common Cognitive Biases in Medicine (1,2,3,5)

Type of Bias	Description
Anchoring bias	Implicit reference point of first data
Attribution bias	Attempts to discover reason for observations
Search-satisficing bias	Tendency to believe that our current knowledge is sufficient and complete
Confirmation bias	Favor of information confirming previous belief
Framing bias	Favor based on presentation of information in negative or positive context
Status quo bias	Favor of options supporting current scientific dogma
False consensus bias	Tendency to overestimate how much others agree with us
Blind spot bias	Tendency to believe one is less biased than others
Not-invented-here bias	Bias against external knowledge

CENTRAL ILLUSTRATION

Cognitive Bias

Numerous Factors, Innate and Adaptive, Predispose Us to



More information



- History: he fell out of mother's boyfriend's pickup truck
- PMH and FH: non-contributory, but child hasn't seen a pediatrician in a year and is behind on immunizations. Developmentally on target.
- Social History: Mother, father, and boyfriend all <20. Mother reports IPV with father. Father hates mother's new BF. None are employed. Mother lives in a trailer on a relative's property. Environmental concerns in living situation. Father and BF both with a history of arrests. All with history of multiple adverse childhood experiences.
- Skeletal survey and cranial imaging both negative for other injuries
- Diagnosis: possibly accidental; multiple other concerns for neglect

Ethical struggles

- Is the medical evaluation for abuse being done for the correct reason?
- How much does bias impact the medical evaluations - and the referrals to child abuse docs?
- Diagnosis of abuse: “reasonable degree of medical certainty”
- On certain cases like this baby:
 - Hoping for another abusive injury
 - Easier to protect
 - Easier for testimony
 - Wishing for a medical condition
 - Both seem antithetical to me as a pediatrician!



Reporting to Child Protective Services

A legal obligation AND
an ethical conundrum

Legal requirement to report



Started in the 1960's,
focusing on physicians



In 1973, with CAPTA,
standards for mandatory
reporting to receive
federal funding



Requirements of who
must report and what
must be reported have
only increased since then

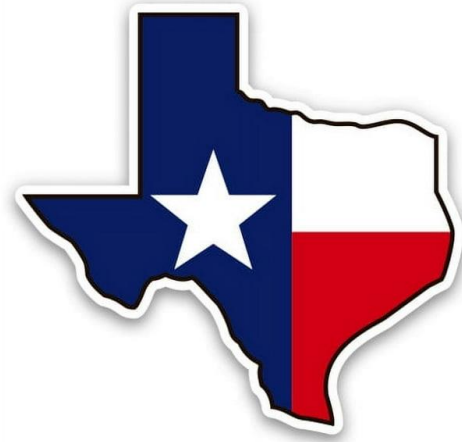


Goal: to identify and
protect as many abused
and neglected kids as
possible

Specific reporting requirements

Texas Family Code. Title 5. Subtitle E. Sec. 261.101(a)

A person having **reasonable cause to believe** that a child's physical or mental health or welfare has been adversely affected by abuse or neglect by any person shall immediately make a report...



Tennessee Code Annotated § 37-1-403(a)(1)

Any person who has knowledge of or is called upon to render aid to any child who is suffering from or has sustained any wound, injury, disability, or physical or mental condition shall report **such harm immediately if the harm is of such a nature as to reasonably indicate** that it has been caused by brutality, abuse or neglect or that, on the basis of available information, reasonably appears to have been caused by brutality, abuse or neglect.



Reasonable suspicion – what does this mean?

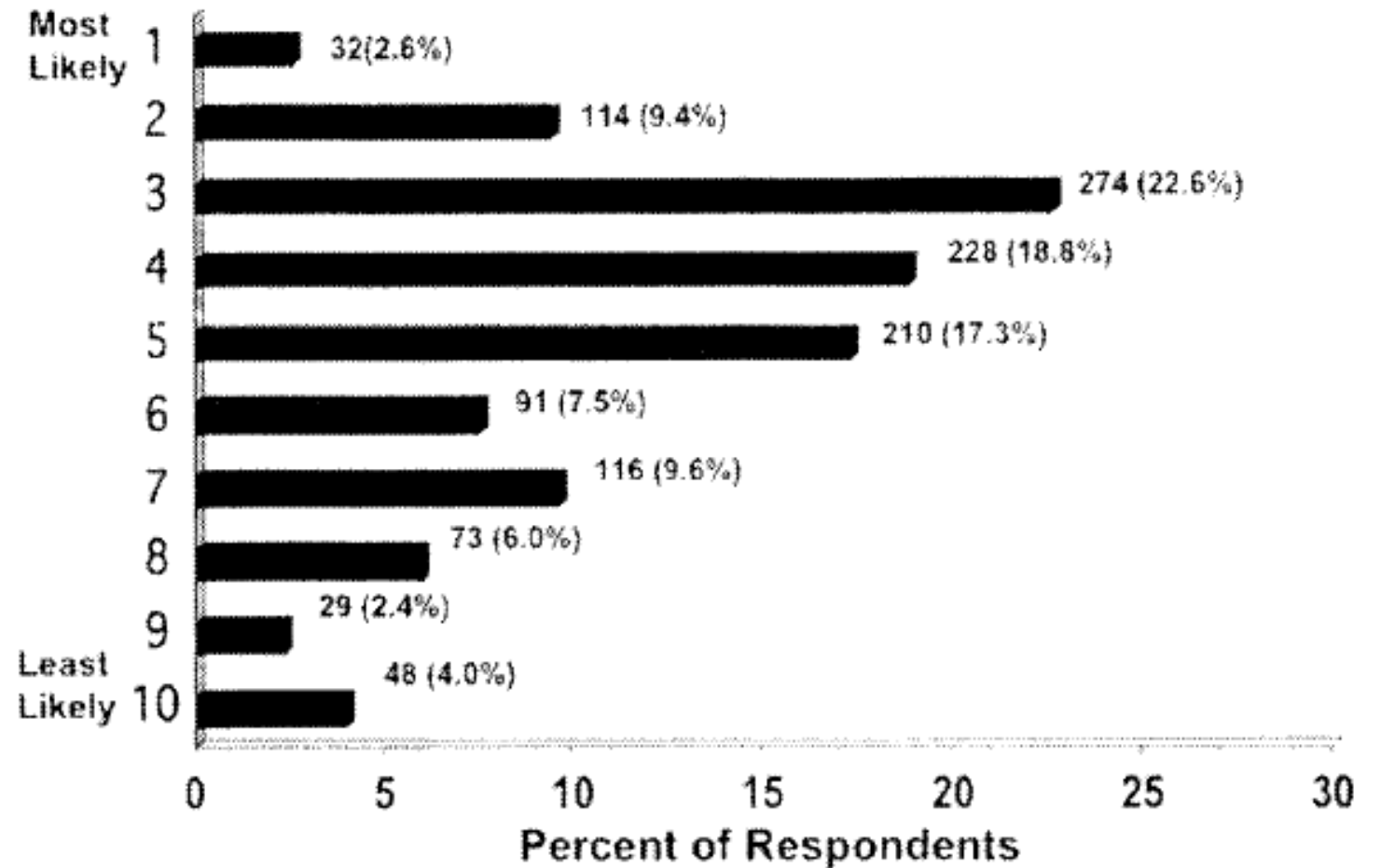
- More clearly defined for things like police searches – not child abuse reporting
- Neither medical nor lay people have been provided a clear explanation of “reasonable suspicion”

Reasonable Suspicion: A Study of Pennsylvania Pediatricians Regarding Child Abuse

Benjamin H. Levi, MD, PhD*, and Georgia Brown, RN, BSN†

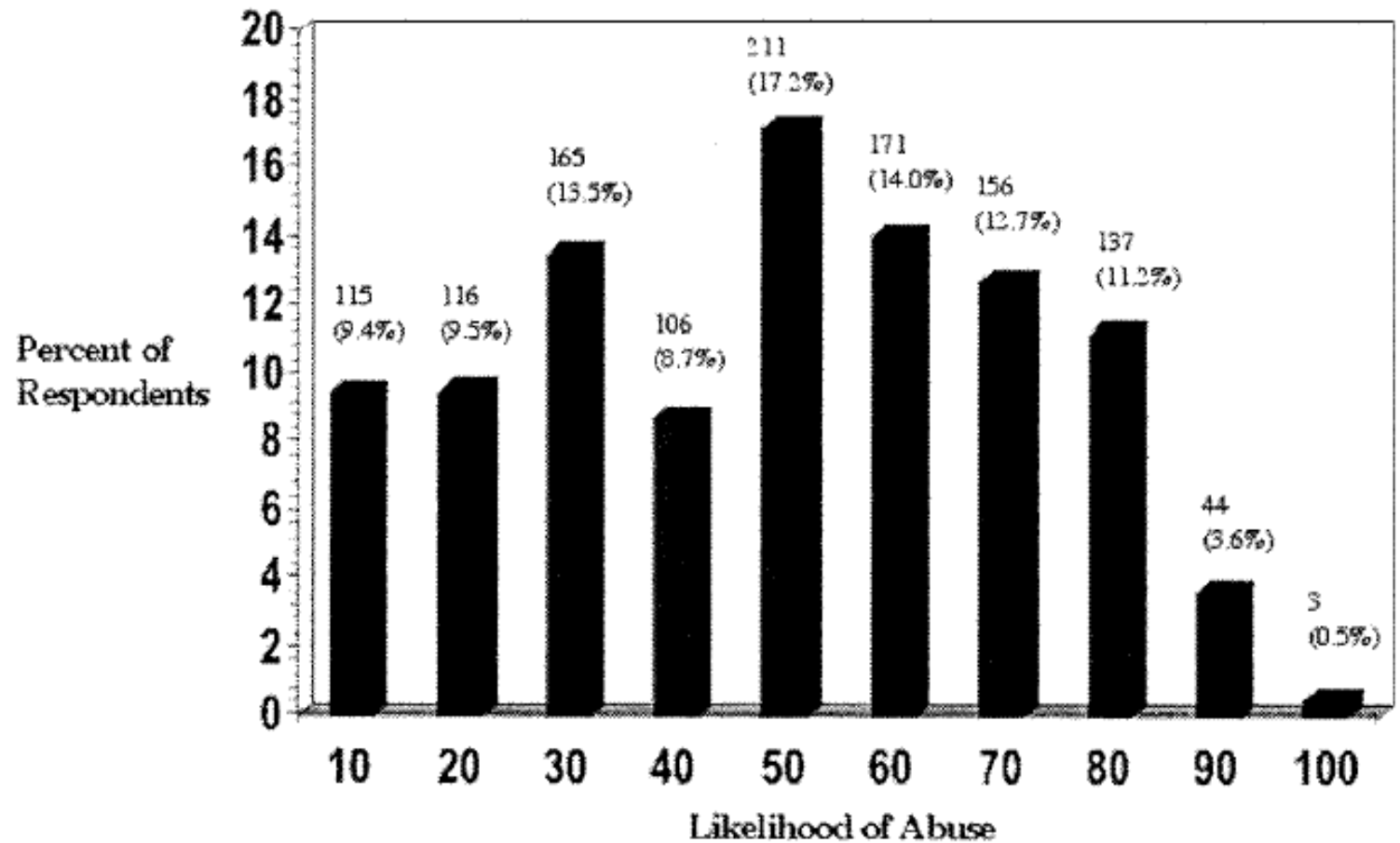
Pediatrics 2005;116:e5-e12

Is “reasonable”
related to
location on DDx?



Nope!

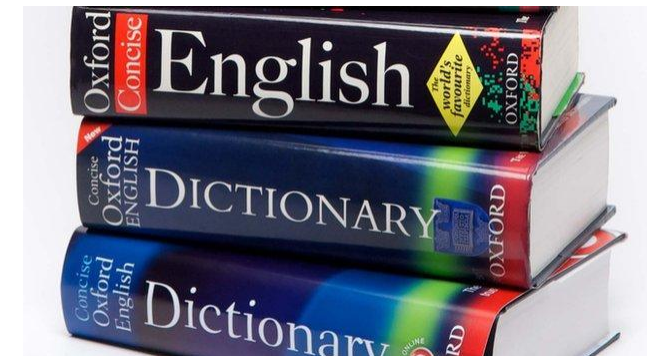
Is “reasonable”
related to
probability?



Also no!

“Reasonable” suspicion problems

- It is well recognized, studied, and published that medical providers do not report all suspected cases of abuse
- Internal inconsistencies abound
- Racism and bias play a role
- If theoretically intelligent, scientifically-minded medical folks don't understand the “reasonable suspicion” then why do we think lay folks would?



Is mandated reporting even appropriate?

- Big debate in the social science, legal, and some medical communities about this issue
- Related to the child welfare abolitionist movement (CW = “Family policing”)
- Shouldn't we try to cast a broad net, so as not to miss cases of abused and/or neglected kids?
 - High sensitivity but lower specificity, like many medical screening tests
 - Those of us in the field have numerous stories of children severely abused or murdered after a prior injury for which no report was made **

Arguments against mandatory reporting

- Difficulty measuring positive impact of mandatory reporting
 - Rates of substantiation across jurisdictions: apples ≠ oranges
 - No evidence that more investigations leads to better detection of abuse -- or better outcomes for children
- For medical professionals, nonreporting remains a challenge
 - Multiple factors: recognition, lack of trust in child welfare, relationship with family, fear of legal consequences, individual biases
 - Not due to legal mandate itself
- Real risk of negative consequences

Negative consequences of mandated reporting

Expansion of mandated reporting:

- Usually doesn't come with increases in funding to child welfare agencies
- Child welfare agencies are already overworked and overburdened

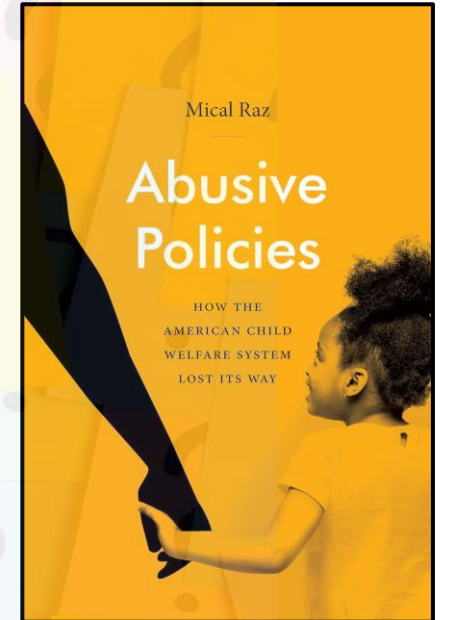
Concerns about increases in “low-quality” reports

- Diverts resources from higher, more acute needs
- Disproportionate targeting of low-income and minority families, due to biases
 - Systems
 - Workers
 - Resources
- Many cases of neglect could be served by provision of resources; child protective services is often not equipped or appropriate

Placement of children into foster care is not without risks

What's the answer?

- Probably depends on your perspective
- Would further clarification of wording help?
- Would further education help?
- Can benefit be assessed?
- Helper Society debate



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Working with, and within, Child Welfare

Cooperating with Child Welfare

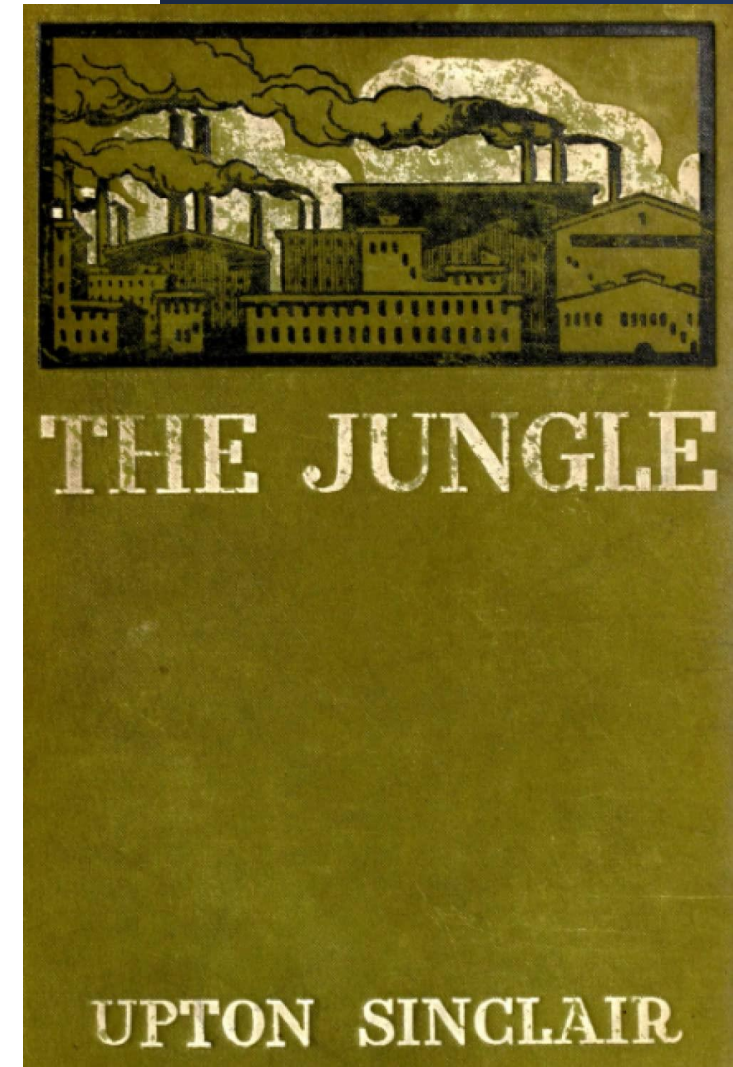
- Medical professionals should be willing to cooperate with Child Welfare
 - On individual cases
 - Education
 - Pediatric expertise and advocacy
- Working within Child Welfare theoretically should help children
- What if the work exposes ethical issues?
- What if the work causes ethical dilemmas?



“How the sausage gets made”

- There are many, many committed child welfare employees at all levels
- But 3 factors have outsized influence:
 - Leadership styles
 - Media and public perception
 - Politics

3 examples of ethical problems I encountered



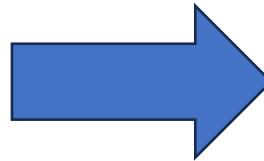
1. The Mature Minor Doctrine and Vaccines

Tennessee's top vaccination official fired after she came under scrutiny for mature minor doctrine



Tennessee officials have fired the state's top vaccination official, who had been facing scrutiny from Republican state lawmakers over her department's outreach efforts to vaccinate teenagers against COVID-19.

<https://www.newschannel5.com/news/tennessee-fires-top-vaccination-official-amid-pandemic> July 12, 2021



Tennessee Governor Signs Parental Rights Bill Counteracting Mature Minor Doctrine

May 19, 2023 0 Comments Children, Governor Lee, healthcare providers, Janice Bowling, Jeff Yarbrow, John Ragan, Mature

<https://tennesseeconservativenews.com/tennessee-governor-signs-parental-rights-bill-counteracting-mature-minor-doctrine/> May 19, 2023

2. Conditions at “transitional” placements

DCS whistleblowers claim ‘cover-up’ of ‘dangerous’ conditions in state-run homes

Workers say DCS leadership wants to hide conditions at homes for abused and neglected children



DCS employees say they were told to cover-up dangerous conditions inside a state-run home where abused and neglected children stayed.

<https://www.newschannel5.com/news/newschannel-5-investigates/dcs-investigations/dcs-whistleblowers-claim-cover-up-of-dangerous-conditions-in-state-run-homes> Nov 13, 2023

Solving these ethical dilemmas

What's the best
course of action?

What advice to
give to others?

What's the best
course for me?



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