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We must treat it like the heinous crime it is

By RANDY BURTON

On Aug. 13, 2-year-old Linda Gloria Padilla died from beating injuries inflicted by her father including a fractured skull, pelvis, ribs and leg, black eyes, and bruising over her entire body. Doctors also found evidence of sexual abuse including rectal tearing. Some of her injuries were older than others. Frank Javier Padilla has confessed to both the physical and sexual abuse and is being held in the Galveston County Jail on a \$1.5 million bond.

Like so many other child murders in our state, the death of this little girl could have been prevented if Child Protective Services had aggressively investigated this case and immediately intervened to save her. We now know that a pizza delivery man had reported signs of abuse two months ago to the statewide CPS Child Abuse Hotline, but nothing was done.

CPS has called this a horrible, horrible mistake. This statement gives the wrong impression that such mistakes are isolated examples of poor judgment, and, thus, are unpredictable. In fact, they are symptomatic of system-wide problems at CPS -- problems that have not been cured since a statewide investigation into CPS in 1988 at the request of Houston-based Justice for Children.

Since that investigation and certain legislative attempts to remedy the situation, Texas has continued to lead the nation in the number of children who have been murdered (most at the hands of their parents). And every year, CPS was aware of the problem prior to the death of these children roughly 50 percent of the time. The No. 1 problem in preventing child abuse in Texas is the continued focus of CPS and other agencies on preserving sick families and rehabilitating offenders. What is amazing is that this policy has been blindly pursued despite the total lack of evidence that it protects children from further abuse.

Family preservation programs are predicated on the assumption that all child abuse is a treatable illness, not a crime, and that the best place for treatment is in the home. A CPS Risk Management Handbook claims that inadequate parenting and child maltreatment are ecological phenomena influenced by personal, social and societal factors. Most often they represent examples of failure and despair, rather than willful premeditated behaviors. Therefore, child abuse and neglect are principally social rather than legal problems. Punishing parents will do little to resolve the causes of the problem and such action is not the responsibility of CPS staff. Most so-called child abuse prevention programs make similar assumptions.

The distinct impression one gets from such statements is that if you are poor or under a lot of stress, you are more likely to fracture the skull of your child or sexually abuse her. It is as though the child abuser contracted an illness and can simply be cured with therapy, support and parenting classes. The illness model of abuse wrongfully assumes, however, that perpetrators really have no responsibility for their actions.

The other major problem with the illness theory of abuse is that it ignores the fact that there is no known cure for child abusers. Evaluations of large national parent rehabilitation programs reveal that, according to the parents' own psychotherapists, less than 50 percent of abusive families may be expected to stop physical maltreatment. Moreover, none of the successfully rehabilitated perpetrators was found to have a potential for becoming even a marginally nurturing parent.

There is even less reason to believe that child molesters can be successfully treated regardless of therapy. After years of attempting to rehabilitate criminally dysfunctional families and the expenditure of billions of tax dollars, Texas CPS has no evidence to show that the agency has reduced the incidence of abuse. Just the opposite is true. When child abuse is viewed solely as an illness, children are likely to be re-abused.

Although child abuse may be an illness, and certainly is a social problem, it is also a crime. The current system of dual reporting and investigation of child abuse cases by CPS and law enforcement has resulted in duplicated efforts, lost evidence, conflicting evidence and lost cases against child abusers. It is counterproductive, wasteful and has created an identity crisis evidenced by the numerous structures, both expensive and unnecessary, that we have developed to deal with this problem.

The solution is to make all reports of crimes against children directly to local law enforcement agencies for their investigation. The priority of law enforcement has always been to protect the child victim who is the complaining witness in their case, not the family unit.

There should be only one investigation of the child abuse case, and the people who are best trained for that function, the police, should perform it. By doing this, we would eliminate repetitious investigations of child abuse at local child welfare agencies, eliminate the obviously flawed statewide CPS-controlled Child Abuse Hotline, and save money all at the same time.

It is impossible to predict and, thus, prevent the first act of abuse. But, it is inexcusable to leave a child in a home after the abuse is discovered. Additional crimes against the child can be prevented only through aggressive intervention, investigation and placement of the child with a foster or adoptive parent.

The death of Linda Padilla provides Texans with an object lesson on the urgency for reform in our state. If we are truly interested in fixing the problem of child abuse, we must choose between child abuse prevention programs and real child protection. If we truly place children first, we must place their protection ahead of a self-perpetuating system that time and again has jeopardized the health and well-being of the very children it is designed to protect.

Burton, a Houston attorney, is founder of Justice for Children. He has attained national recognition for his child advocacy work.