

Differential Response: A Dangerous Experiment in Child Welfare

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A powerful coalition of forces is pushing our nation's child welfare system toward a "reform" they generally call Differential Response (DR). The idea is to divert the vast majority of all cases now dealt with by child protective services (CPS) to an entirely voluntary system that leaves parents free to refuse to participate without fear of any consequence.

Other names for Differential Response systems include Alternative Response, Family Assessment Response, Dual Track, Multi-Track, Multiple Response, and in an earlier era, Community Partnership. The term Differential Response is often used to refer to the overall system that includes two tracks—one the new Alternative Response Track, and the other the traditional CPS track. Some systems have a third track for cases that would normally be screened out by CPS based on a conclusion that there is no apparent need for CPS intervention to protect children. I use Differential Response or DR to refer to the overall system; Alternative Response (AR) and Traditional Response (TR) refer to the two tracks used for cases that normally would be screened in by CPS.

DR constitutes the latest fad in extreme forms of family preservation promoted over recent decades. It is expanding rapidly throughout the country. One comprehensive analysis of DR notes that the "development of a national advocacy team and access to significant federal and foundation resources" make DR "one of the more widely replicated child welfare reform efforts in recent history." An important 2014 report summarizing recent research indicates that DR has already been implemented in a majority of states. The federal government gave DR a boost in 2010 by reauthorizing CAPTA legislation with language requiring states to include "differential response in triage procedures for the appropriate referral of a child not at risk of imminent harm to a community organization or voluntary preventive service."

The wealthy and powerful Casey Family Programs has combined with the American Humane Association, the Institute of Applied Research (IAR), and the Kempe Center

for the Prevention and Treatment of Child Abuse and Neglect to promote DR, provide technical assistance in implementing DR, and design and implement the research used to claim that DR is an evidence-based success story.

Casey Family Programs has played a central role. Its policy team maintains a major presence on Capitol Hill, in state governments, and in major child welfare policy forums around the country. Its financial and human resources provide a unique ability to influence policy. It has supported DR in a major way since 2003 when it sponsored a Breakthrough Series Collaborative on DR, and "formed a partnership with [California counties] . . . to develop, test and begin implementing differential response."

One observer summed up the current situation:

Perhaps the most important common thread has been the extent to which Casey Family Programs has been the primary proponent and funder of [the DR and related finance reform movement along with other family preservation efforts]. Casey has at various times used vast sums of its human and financial resources in support of each. Notably, all . . . possess at their core a commitment to reducing out-of-home placements. This supports Casey's 2020 goal of reducing foster care caseloads by half, and helps explain why Casey has invested so heavily . . .

This kind of family preservation movement has enormous power to shape the child welfare system. It is designed to change the way CPS systems use their broad discretionary power to decide whether or not to intervene in families to protect children against parental abuse and neglect. It may or may not be translated into formal law requiring CPS systems to implement DR. But regardless, it operates effectively as law, changing the nature of our child protection systems. As such it constitutes an end run around legislation such as the federal Adoption and Safe Families Act of 1997 (ASFA), which was designed to reduce family preservation bias and make child safety and well-being a higher priority. So, for example, ASFA tells state CPS systems and courts that children must be removed from parents found responsible for certain forms of dangerous child maltreatment, but those ASFA requirements are inapplicable if CPS never intervenes to make such findings.

The DR movement promotes two interrelated ideas. First

is to divert the vast majority of all cases now on the CPS track to a purely voluntary, “family-friendly” track. For family read parents, because the basic idea is to be friendly to parents accused of maltreating children. These parents would be free from intervention by CPS, intervention that can take the form of monitoring to ensure child safety at home, requirements to cooperate in rehabilitative treatment, removal of children to foster care as needed for their protection, and in the most extreme cases, termination of parental rights and placement of children in adoption. DR advocates say that their friendly approach will serve children better than the CPS system because it will more likely engage parents, and they point out that the CPS system fails to provide most of the families on its caseload with any helpful services. They also argue that when CPS uses its power to remove children to foster care it often does more harm than good.

The second idea is to finance the DR system with funds diverted from the traditional CPS system. Those promoting DR are pushing for what they call child welfare finance reform. The major focus is on changing the federal finance structure so as to shift federal funds now going to support foster care to the new DR system. In addition, DR advocates encourage the redirection of state and local funds allocated for CPS general operations to the DR system. This finance reform idea again cuts against the principles animating ASFA. ASFA’s goal of getting CPS and courts to put a higher priority on child interests and child protection would presumably call for an increase, not a decrease, in CPS resources.

The history here is important in understanding the nature of this new movement and the risks it poses to children. DR is a successor to two earlier “reform” movements similarly designed to keep more children at risk of maltreatment at home with their parents: Intensive Family Preservation Services and Racial Disproportionality. All three movements have engaged in a similar strategy, impressive in its sophistication. The advocacy groups involved in each movement have promoted the policy reform initiative, promoted the self-serving but fundamentally flawed research designed to give the impression that the new policy was successful, launched campaigns to persuade a broad range of players from policy makers to academics to media of its wisdom, and promoted implementation by child welfare administrations throughout the nation, and by state and federal legislatures.

In the past these reform initiatives have largely collapsed as the research has been found flawed and fraudulent, and the risks to children have become obvious. But memories in the child welfare field seem short.

History is repeating itself with the DR movement. DR advocates make the familiar claim that DR is evidence-based, that it will save money by reducing foster care and

thus costs to the state, but magically that it will not put children at any risk.

However, the flaws in the DR research and the risks posed to children by the DR program are blatantly obvious. Research shows that children on the traditional CPS track are at enormous risk of repeat maltreatment by their parents. If kept at home, most will continue to be abused and neglected. If removed to foster care and then returned home, most will be again abused and neglected. The large majority of the CPS caseload that DR is designed to move to the voluntary track are not minor “dirty house” or “mere poverty” cases as advocates often contend. Most poor families do not abuse or neglect their children—indeed only a very small percentage does. CPS legislation is designed to protect poor parents from state intervention based on circumstances beyond the parents’ control. The cases in which CPS intervenes generally involve serious drug or alcohol abuse, or both, forms of neglect that are known to destroy children’s chances for normal development, and situations where serious violence exists but may not be obvious.

We do need to protect children better. Families on the CPS caseload are not receiving the supportive and rehabilitative services they need. Children are not receiving the protection they need.

But there is no reason to believe that simply removing the power of CPS to monitor these families, to require cooperation with rehabilitative treatment, and to remove children from parents will work better to protect children. Research reveals that while it is hard for parents to free themselves from drug and alcohol addiction, coercive pressure to engage in treatment does sometimes work. Polite requests to engage in treatment on a purely voluntary basis are not likely to work better or indeed as well.

We need to strengthen the CPS system, provide it with more resources to monitor parents, and provide more parents with more rehabilitative services. We need to do a version of differential treatment, but within, not outside, the context of the CPS system, so that rehabilitative treatment can be required, not just suggested, and so that children can be protected in cases in which parents are unable or unwilling to take the necessary steps to become capable of nurturing.

CPS should of course be targeting different kinds of family situations with different types of treatment—and to a great degree CPS does that now. For many families that means keeping the children at home with supportive and rehabilitative services. But CPS will need more resources to do its job better. It keeps many children at home now with few if any services provided in significant part because it is forced to do triage and devote most of its limited resources to the most serious cases.

We also need to strengthen CPS by improving its ability to

protect children through removal and through termination of parental rights and adoption, as needed. Nobody wants children to go through the disruption of removal to foster care. But research reveals that foster care operates to protect children against the risk of death and other serious harm at home. It would work better for children if more often it were followed by timely termination of parental rights and adoption. Adoption works well for children generally but works best when they have not suffered lengthy periods of maltreatment or foster care drift.

DR proponents claim that by removing significant numbers of children from the CPS system, they will free that system to do a better job for the most serious abuse and neglect cases. But DR is designed not simply to remove children from the CPS system, but to weaken that system. The goal is not simply to divert children but to divert resources from the already resource-starved system to fund the new voluntary track system. Such diversion would leave CPS less, not more, able to appropriately handle the most serious cases.

There are reasons why many child welfare leaders keep promoting extreme family preservation movements. Child maltreatment is generally rooted in poverty and in the conditions associated with poverty, including unemployment, substance abuse, and devastated neighborhoods. Those committing child maltreatment are often themselves victims. Many advocates for extreme forms of family preservation see CPS intervention, including in particular removal to foster care and adoption, as yet another form of victimization. And they see the kinds of financial support family preservation programs like DR provide as at least some help in alleviating some of the financial needs of poor parents.

But DR cannot be justified as an anti-poverty program. It provides pathetically limited financial stipends to a small and irrationally selected subset of the poor—those who abuse and neglect their children. This will do nothing significant to change poverty conditions in our society.

Worse, DR sacrifices this subset of poor children, condemning them to a childhood of suffering that will also limit their life opportunities as adults. If our society honored children as of equivalent moral worth to adults, and honored child human rights as equivalent to adult human rights, we would not tolerate the extreme family preservation policies that regularly reappear. Children would be seen as having a fundamental human right to grow up with nurturing parents, of equal importance to the adult right to raise children free from state intervention.

We do need to address the conditions of poverty that help create child maltreatment, but we need to address them in a serious way through radical social change. In the meantime, we need to develop targeted maltreatment prevention programs designed to reach parents before they fall into the

dysfunction associated with child maltreatment. And for those children victimized by serious maltreatment, we need a CPS system strengthened so that it can provide adequate protection through supportive services and also through required rehabilitation programs, as well as through foster care and adoption.

The Underlying Politics: Why the Resistance to Child-Friendly Child Welfare Policies?

Why this DR movement? Why has it gotten such traction given all the obvious risks to children and flaws in the research? Why this succession of extreme family preservation movements with similar characteristics? Understanding all this is key to making the future of child welfare different.

The real reasons for these policies must be different from the reasons given. Those given are too obviously questionable, and the research cited in support of these policies is too obviously flawed. So, for example, with Intensive Family Preservation Services, it's hard to believe that those promoting these policies really thought that child maltreatment was typically just a six-week crisis that could be solved with social worker support and house cleaning. With Racial Disproportionality, it's hard to believe that those promoting the racial bias theory really thought that blacks could just overcome through their unique family strengths the poverty and related conditions that for other groups predict maltreatment. And now with Differential Response, it's hard to believe that the proponents really think that parents caught up in substance abuse, mental illness, domestic violence, and related child maltreatment will magically become nurturing parents simply because family-friendly social workers hand them a rent payment.

Some would say that family preservation simply reflects deeply held values about family privacy in our society. We value individual autonomy in ways that few other nations do, and this is reflected in constitutional and other policies protecting the family against state intervention.

But family privacy is not always sacrosanct. Women's rights advocates fought the idea of family privacy when they saw women victimized by domestic violence and felt the need for protective intervention by the state. They fought the idea that relationships in which women were victimized were the kinds of families that deserved preservation. And they have achieved dramatic changes in policy over recent decades expanding state intervention with the goal of liberating women from families that don't function the way families should.

Why have children not been seen as entitled to similar liberation?

Children Have No Rights

Unlike women, children have no rights. This is true in the literal sense that they—especially the most vulnerable among them—can't speak for themselves, demonstrate on the streets, vote, get themselves elected to office or appointed as judges, and do the other things that adults do both in expressing their rights and in pushing for the establishment of additional rights.

As a formal legal matter, children have no rights under federal or state constitutional law to nurturing parents. By contrast, parents have powerful constitutional rights to hold onto and raise their children free from undue state intervention. This constitutional framework both reflects our societal values and helps shape our entire CPS system. It makes extreme family preservation policies seem right and just.

The rest of the world thinks of children as having rights, at least as a formal matter. Virtually all other countries have ratified the Convention on the Rights of the Child (CRC), a Convention that accords children equal status with adults as rights holders. Under the CRC, children have rights to nurturing parents, rights to be protected against abuse and neglect. Under the CRC, nations have duties to protect children against maltreatment and to ensure that children receive appropriate nurturing. These aspects of the CRC are part of the explanation for why the United States has not ratified the CRC.

The Left-Right Bargain: A Cheap Version of the War on Poverty

Many of those advocating for extreme family preservation policies appear to be using children to promote an anti-poverty agenda. The children at risk for abuse and neglect are disproportionately the children of the poor. Left-wing forces committed to helping poor people and historically oppressed racial minority groups often see efforts to intervene in families to protect children as yet another attack upon already victimized groups. They often see family preservation services as providing at least some financial and other support for poor families in a society reluctant to provide enough such support.

Family preservation programs do as a general matter provide financial stipends and related forms of support for a subset of poor families. If children identified as at risk for abuse and neglect are kept at home, or returned home from foster care, the parents often receive supportive services. Intensive Family Preservation Services programs offered housekeeping, childcare, transportation, and other services and many other family preservation programs offer similar assistance. Differential Response programs pride themselves on providing financial stipends.

Right-wing forces often see family preservation policies

as a way to reduce government and save money. Those promoting family preservation provide evidence and arguments to support the cost-saving goal. And short term, these policies often do save money. Eliminating CPS jurisdiction over families eliminates the costs of social worker monitoring. Reducing foster care eliminates the cost of foster parent stipends as well as CPS administration. Most family preservation policies including both IFPS and DR have been sold in significant part on the basis of such cost savings arguments.

But there are problems with this left-right bargain that should trouble people on both sides of the political spectrum. For the left, this is a pathetically limited anti-poverty strategy. Providing poor people and oppressed racial minority groups the limited financial subsidies available in these family preservation programs is no road to empowerment.

Moreover, if the best we can do today are limited poverty alleviation efforts, it's wrong to choose one that comes at the expense of the most powerless subset of the poor, the children victimized by abuse and neglect. And it may ultimately be counterproductive: Children so victimized are disproportionately likely to grow up impoverished themselves; in the ranks of the homeless, the unemployed, and the drug and alcohol addicts; and to victimize their own children, thus continuing the vicious cycle into future generations.

It is also perverse to select that small subset of the poor who abuse and neglect their children as the beneficiaries of this limited anti-poverty campaign. Most poor people do their flat-out best to raise their children well, providing loving, nurturing care despite the oppressive conditions of their lives. Why should they be denied the financial benefits that abusive parents get in the form of family preservation services?

For the right, extreme family preservation policies may look cheap, but in the long run, they are very expensive. Children denied appropriate nurturing end up in disproportionate numbers unemployed, on welfare, in prisons, and suffering emotional and physical disabilities. These children are in the long run very, very expensive.

Private Wealth Dominance Over Policy Advocacy and Research

For the past several decades, a small group of enormously wealthy and powerful organizations has dominated both policy and research in child welfare. In the 1980s through 1990s, it was the Edna McConnell Foundation and the Annie E. Casey Foundation leading the charge on IFPS. In this century it has been a combination of the Casey Foundations, primarily the Annie E. Casey and the Casey Family Programs Foundation, leading the charge on Racial Disproportionality and Differential Response.

Research is desperately needed to guide policy. This is always true, given the difficulty of knowing how different policy ideas will play out in the real world. It is particularly true in child welfare given the danger that policies that purport to serve child interests will actually be motivated by various adult interests.

It is extremely dangerous to have one set of wealthy private players dominating both policy advocacy and research to the degree they have.

Future Directions for Reform

Children's Rights

We need a radical upending of the rights hierarchy in this country, so that children are valued equally with adults and their most fundamental rights to grow up with nurturing parents are valued equally with adult rights to raise their children.

Ratification by the United States of the CRC, or some other dramatic move to grant children equal status with adults as rights holders, would be a meaningful step forward in changing the dynamics of child welfare.

But it would not in itself solve the problem. Even with formal rights, the fact that children are inherently powerless as compared to adults makes a difference. Adults like to think that they love and appreciate children, but there is always a risk that those with more power will exploit and oppress those with less. And there is always a risk that adults claiming to represent children will be using children to promote various adult agendas. We need to acknowledge the challenge of granting children truly equal recognition in law and policy, and begin to design new ways of holding accountable the adults who in the end will still make so many decisions about children.

Maltreatment Prevention: Racial Social Reform, Early Supportive Intervention, and CPS Reform

The DR proponents are right in saying that maltreatment is generally rooted in poverty and social injustice. They are right in saying that we should focus more on early prevention of maltreatment. But they propose a solution that fails utterly to meet the mark. Providing rent stipends and other financial benefits to the tiny subset of the poor who maltreat their children is no empowerment strategy. Nor will it do much to prevent maltreatment.

We need a true war on poverty of the kind that President Lyndon Johnson announced but that no President since has renewed. We need serious programs to address poverty and the conditions associated with poverty, including unemployment, substance abuse, mental illness, and blighted neighborhoods.

Critics of the earlier family preservation movements that preceded this DR movement noted that those movements also constituted cheap and, in the end, utterly inadequate attempts to address the issues of poverty and injustice underlying child maltreatment. They noted that we needed a far more radical engagement with these issues, a true war on poverty. One of the authors of a landmark critique of Intensive Family Preservation Services (IFPS) concluded in a later article that IFPS was doomed to failure because the problems producing child maltreatment were “rooted in poverty, unemployment, inadequate housing, substance abuse, and severe and persistent mental illness.” My 2009 article on the Racial Disproportionality movement argued that it was similarly misdirected, proposing a false solution that avoided the real problems and the need for truly radical social reform.

Although such reform is sadly not on the immediate horizon, programs exist that could make a major difference that would not require radical social changes or overwhelming financial commitments. We should embrace these. So, for example, we should expand the programs that target parents at risk for maltreatment early on, before they fall into the kind of dysfunction that breeds maltreatment. This is the stage at which we have evidence that prevention efforts have the best chance of working. There are at least a number of early home visitation programs with powerful evidence of success in reducing maltreatment and reducing important predictors for maltreatment. We need to devote massively increased resources to these programs and to developing other promising programs similarly targeted to early prevention.

We also need to do some version of Differential Response, but within the framework of the traditional CPS system. For this we need new resources devoted to CPS, since a major reason that it provides so little in the way of services to the families on its caseload is the inadequacy of resources. Additional resources are also needed to enable CPS to protect the children at highest risk through monitoring, mandated rehabilitative programs for parents, removal to foster care, and adoption.

Resources will be hard to come by. Part of the allure of all family preservation proposals is that they promise to save money.

But, we can't protect children adequately on the cheap. And we are not saving state funds by allowing children to be abused and neglected. Many studies demonstrate the overwhelming long-term costs involved when children grow up in the absence of appropriate nurturing.

Research Reform

Major challenges have been raised regarding the quality and persuasiveness of the research touting DR as a success story.

An increasing number of critics have given voice to their concerns both about the nature of the advocacy research and about the substance of DR programs. This gives hope for better research in the future, providing a better guide to policy makers as to whether DR is the right direction for child welfare reform or, instead, just the wrong direction. It gives hope for research making child well-being the primary focus, and research comparing DR not simply to the current inadequate CPS system, but to a strengthened CPS system with enhanced power to protect children.

But even if this hope for better research is realized, and even if the DR movement is brought to a halt, fundamental change in the dynamics of child welfare research is needed if history is not endlessly to repeat itself. We have now had many decades in which different forms of extreme family preservation have been promoted, supported by research designed simply to validate the ideological view of those promoting the policy programs. Although there is some excellent independent research in the child welfare field, there is not nearly enough, and often it takes years for this research to surface, years during which advocacy programs are propagated based on false claims of success.

The child welfare field needs a new tradition of truly independent, neutral research, free from any advocacy agenda, committed to finding the objective truth. We need new sources for research funding, sources that have no commitment to predetermined policy directions. We need social scientists to be able to pursue the truth, and to ask questions and come to conclusions that challenge orthodox thinking, free from fear of retribution of any kind, including limits on future research opportunities. We need research that will place a new focus on child interests, research that can provide a meaningful guide to policy makers interested in doing the right thing for children.

Without this kind of fundamental change in the field's research dynamics, we can predict that even if the DR reform movement is derailed, another similar movement will take its place and will enjoy years of success based largely on the same kind of self-serving research that has historically played such a harmful role.

Conclusion

Differential Response represents a dangerous direction for children. But it's a familiar dangerous direction. The dynamics that have produced this latest fad are the same dynamics that brought us the Intensive Family Preservation Services and Racial Disproportionality movements.

There is some indication now that this latest fad may be fading. One recent report lists nine states as having decided to eliminate or limit expansion of their DR programs. Florida, one of the first states to adopt DR, dropped it after some five years' experience. Illinois just recently dropped

its DR program, close to the end of the QIC-DR research study. The Illinois CPS department justified this decision to the legislature based on concerns that DR had caused safety problems by diverting staff from the traditional CPS system, and noted that the soon-to-be-released QIC-DR report found children on the DR track more likely to experience maltreatment recurrence than children on the TR track.

Michigan concluded that DR research provided insufficient support for the program, and thus it decided in 2013 and again in 2014 not to implement DR. In Los Angeles, a report by the County Counsel's Children's Special Investigative Unit in 2012, triggered by a rash of child deaths, found that "under-informed investigations and an over-reliance on L.A.'s differential response experiment . . . , contributed to the majority of the deaths." Los Angeles eliminated its DR program in 2012 based on these and related concerns that the program's diversion of resources from the traditional CPS system put children at undue risk. Minnesota, one of the early DR states, formed a Task Force to assess the dangers to children posed by its child welfare system, including its emphasis on DR and the related assignment of a large percentage of reported cases to the AR track.

Differential Response may be increasingly discredited and even derailed in the coming years. But we can expect DR to be followed by another similar movement. A radical change in the dynamics of the child welfare field, and in our thinking about children's rights, is a prerequisite for any true, long-term reform.

About the Author

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