

Evidencing Neglect in the Court

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YOU ARE NOW SEEN AS THE EXPERT

- ▶ Report from the Ministry of Justice in November last year stated that the use of independent experts in the Family Court has decreased by 48%
- ▶ You need to be very clear with the court what your areas of expertise are and what they are not - very dangerous to set yourself up as an expert if you are not. You will be eaten alive
- ▶ Experience is very different to expertise

“NEGLECT IS THE HARDEST CATEGORY TO EVIDENCE IN THE COURT”

No it is not and this afternoon I am going
to show you why



EVIDENCE FOR THE COURT

Persistent neglect is very often evidenced through health issues. Manifestations of health-related neglect include:-

- Non-adherence to treatment, jeopardising the child's health
- Delay or failure in obtaining health care - medical, mental, developmental or dental
- Non-organic failure to thrive or severe obesity that is not being addressed
- Recurring injuries or ingestions suggesting inadequate supervision
- Drug-exposed/drug dependent new-born babies and children
- Poor hygiene or sanitation



What is the legal definition of neglect?



NEGLECT

“Neglect is the persistent failure to meet a child’s basic physical and/or psychological needs, likely to result in the serious impairment of the child’s health or development.

Neglect may occur during pregnancy as a result of maternal substance abuse. Once a child is born, neglect may involve a parent or carer failing to:

Provide adequate food, clothing and shelter (including exclusion from home or abandonment)

Protect a child from physical and emotional harm or danger

Ensure adequate supervision (including the use of inadequate caregivers)

Ensure access to appropriate medical care or treatment.

It may also include neglect of, or unresponsiveness to, a child’s basic emotional needs”.

(Working Together to Safeguard Children).



SEVEN ELEMENTS OF CHILD DEVELOPMENT

- ▶ Health
- ▶ Education
- ▶ Emotional and behavioural development
- ▶ Identity
- ▶ Family and social relationships
- ▶ Social presentation
- ▶ Self-care skills

(Framework for the Assessment of Children in Need and their Families)



DIFFERENT FORMS OF NEGLECT

- ▶ Medical neglect
- ▶ Nutritional neglect
- ▶ Emotional neglect
- ▶ Educational neglect
- ▶ Physical neglect
- ▶ Lack of supervision and guidance

(Horwarth 2007)

CAPACITY TO CHANGE

Capacity is made up of two components - motivation and the mental capacity. If one is missing, change is unlikely to happen

HAVE THE COURAGE OF YOUR CONVICTIONS

- ▶ You will know that family a million times better than their solicitor/ barrister ever will
- ▶ You have to take that home, including the atmosphere in the home, what it looks like and the smell to the court

NEVER, NEVER, NEVER!

Never use the words appropriate, inappropriate, attachment, bond or love in anything you submit to the court, or for that matter elsewhere

PRESENTING THE ARGUMENT TO THE COURT

You will need to include:-

1. A detailed multi-agency chronology, with a particular emphasis on health
2. The historical context - the parents / carers detailed history, including any history of abuse / neglect, including being subject to or witnessing domestic abuse. Previous agency involvement



USING RESEARCH IN THE COURT

► Pitfalls

- Quoting research you do not fully understand
- Using a random piece of research

Stick to using research which is accepted across the academic world.

The Impact of Neglect

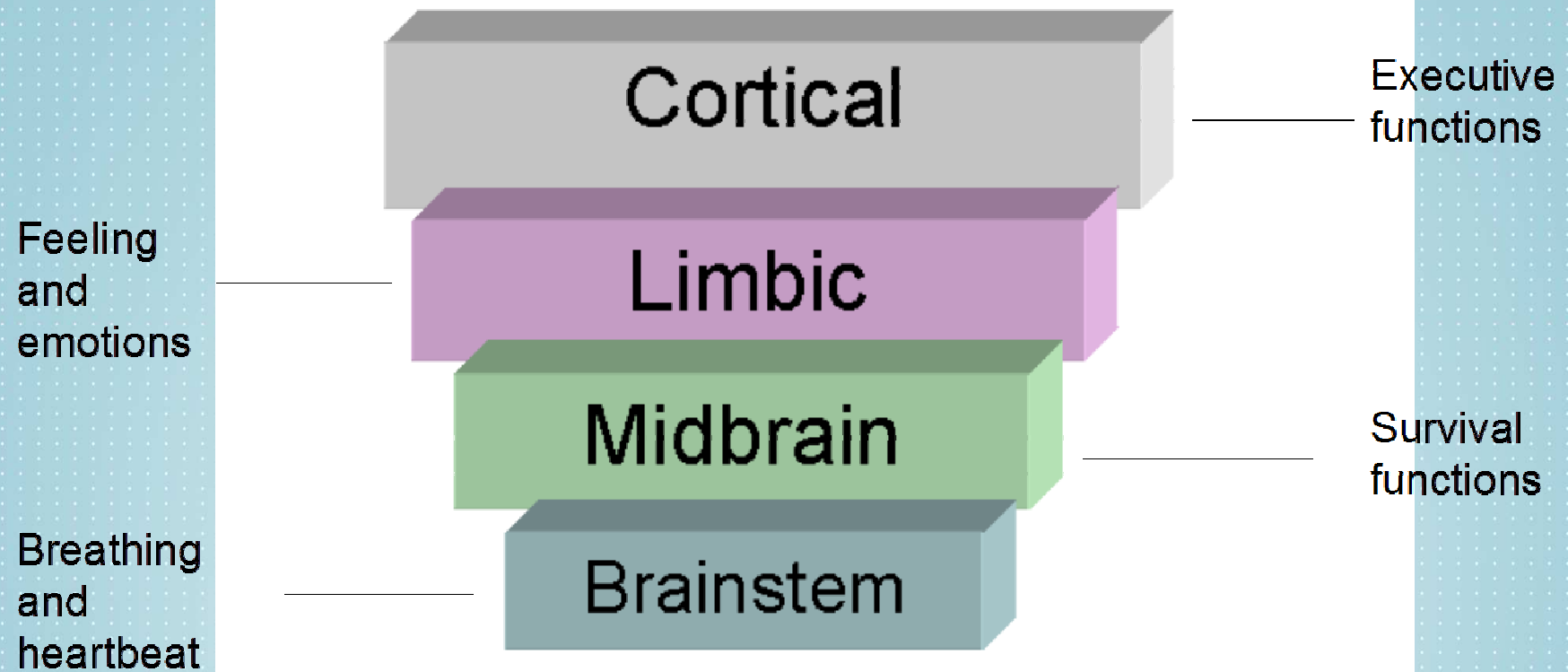
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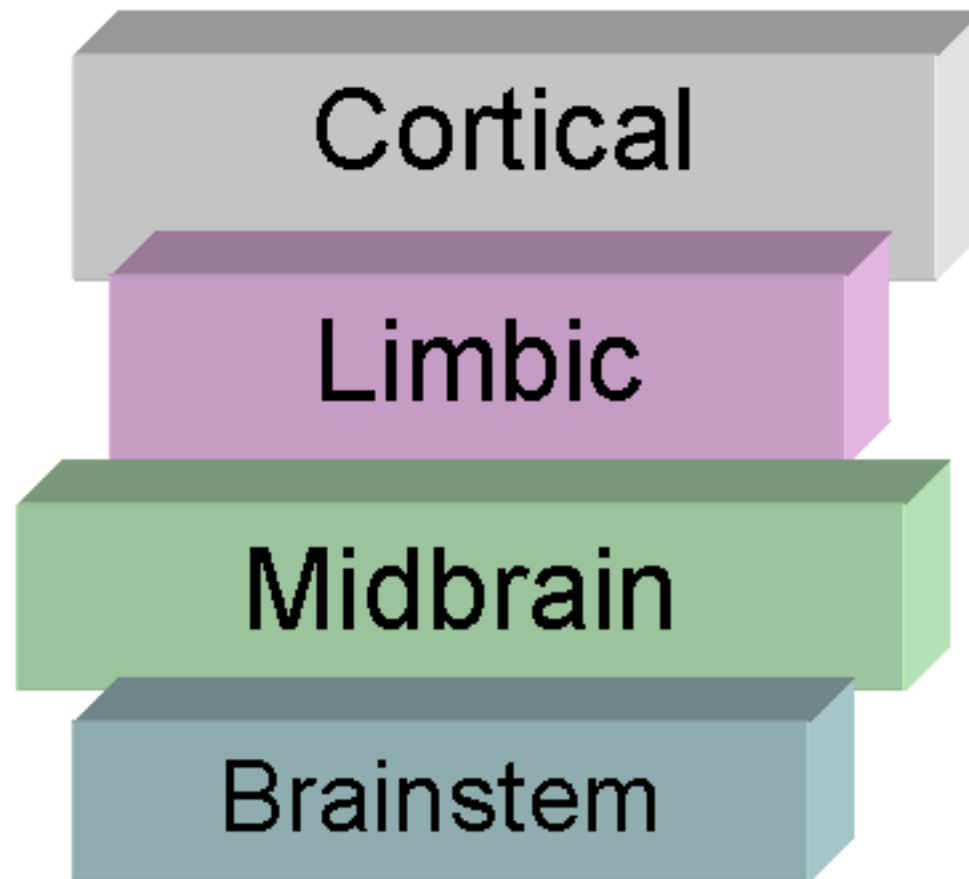


- Neglect is the most prevalent form of child maltreatment in the UK
- Neglect has short and long-term medical, mental health and social consequences
- Neglect is on the increase (NSPCC, 2007)
- Between 2007-2011 45% of all children subject to child protection plans were as a result of neglect (NSPCC, 2011)
- We would not leave young child in a home where there was evidence of persistent physical or sexual abuse
- Consider the significance of the cumulative effect of each incident of neglect
- The overwhelming effect of poverty is strongly associated with neglect, as is the corrosive power of an accumulation of adverse factors
- Neglect affects children's development to an extent that signs should be apparent to professionals
- 80% of the brain develops before a child is three.

PROPORTIONED DEVELOPMENT OF THE BRAIN



DEVELOPMENTAL NEGLECT AND TRAUMA



FINDINGS FROM RESEARCH

- ▶ Neglect is itself a neglected subject
- ▶ Neglect is difficult to define. Often seen as a judgement
- ▶ Little research from the UK. Mostly from the US. Early research was mostly done on institutional neglect
- ▶ Neglect is the most prevalent form of abuse in the UK
- ▶ Neglect usually coincides with parental substance misuse, domestic abuse and/or mental ill-health
- ▶ There is often a link with parents with learning difficulties, poverty and social isolation
- ▶ “The earlier and more pervasive the neglect is, the more devastating the developmental problems for the child”. (Perry)
- ▶ “when early life neglect is characterised by decreased sensory input (e.g., relative poverty of words, touch and social interactions) there will be a similar effect on human brain growth”. (Perry)

THE IMPACT OF NEGLECT (1)

- ▶ Persistent neglect has significant neuro-developmental consequences
- ▶ It has a profound effect on the developing brain of a young child, potentially affecting all areas of cognitive, social and emotional functioning.
- ▶ Neglectful parenting can be linked to non-organic failure to thrive in babies and young children and to injuries and fatalities resulting from lack of supervision
- ▶ There is a significant and enduring connection between neglect and a child's cognitive ability and educational performance
- ▶ Neglected children have more discipline problems, school exclusions and repeat years.

THE IMPACT OF NEGLECT (2)

- ▶ The internal world of the child, which underpins emotional development, identity and relationships is also rendered vulnerable by neglect:-
- ▶ Parental apathy, lack of stimulus and attunement can result in children developing an internal model of powerlessness and lack of belief in self-efficacy
- ▶ Children more likely to develop insecure attachments and show impaired social competence
- ▶ Children less likely to be resilient. Resilience = a secure base, good self-esteem and a sense of self-efficacy. Resilience acts as a buffer to adversity
- ▶ Appearance and poor hygiene can lead to social isolation and undermines the social skills required for social integration

(Research in Practice. 2010)

THE ATTACHMENT BOND (1)

“Attachment theory and research offer a useful framework for understanding the dynamics of maltreatment and why it is so often passed from one generation to the next”.

Child Neglect. Erickson and Egeland. 2011



THE ATTACHMENT BOND (2)

The infant brain is profoundly influenced by the attachment bond. When the primary carer can create a loving, stress-free environment, where the needs of the child are prioritised above their own the child's nervous system becomes "securely attached." The strong foundation of a secure attachment bond enables the child to be self-confident, trusting, hopeful, and able to deal with conflict and stress. The child will feel safe and be able to develop meaningful connections with others. The child will be able to balance emotions make sense of their life and create positive memories and expectations of relationships



RESILIENCE

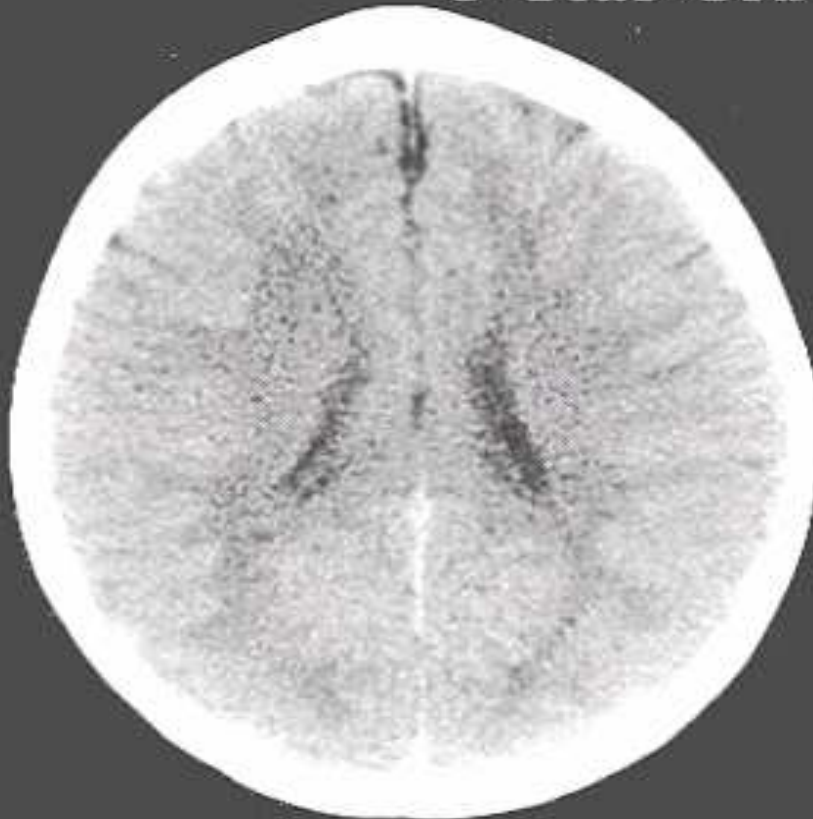
Resilience is the ability to
withstand and rebound from
disruptive life challenges,
strengthened and more
resourceful

(Research in Practice. 2010)



THE IMPACT OF EXTREME NEGLECT

3-Year-Old Children



Normal



Extreme Neglect

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THE RESEARCHERS

Kathryn Hildyard, Ph.D. Professor of psychology. Department of Psychology, University of Western Ontario. Professor Hildyard has done a considerable amount of research in the field of neglect.

David Wolfe Ph.D. Professor of psychology and psychiatry at the University of Toronto His work focuses on child abuse and domestic violence. He chairs the research facility, the Children's Mental Health and Developmental Psychopathology, Centre for Addiction & Mental Health in Canada and the Child and Adolescent Mental Health Centre for Prevention Science in Ontario. He is also Professor of Psychiatry and Psychology at the University of Toronto. Since 2007 he has served as Editor-in-Chief of Child Abuse & Neglect: The International Journal. Professor Wolfe is also a prolific author with many publications to his name.



THE RESEARCHERS

Martha Erickson, PhD. A developmental psychologist and professor in both child psychology and family social science. She specialises in parent-child attachment, child abuse prevention, and children's mental health. A former Co-Chair, President's Initiative on Children, Youth, & Families, University of Minnesota; founding Director of the Children, Youth, & Family Consortium; founding Director of the Infant and Early Childhood Mental Health Certificate Program. Erickson is a prolific author with many publications to her name.

Byron Egeland PhD. Professor of child psychology who continues to conduct a longitudinal study of high risk children and their families which he founded in 1975, the Minnesota Longitudinal Study of Parents and Children research. Co-Director, Irving B. Harris Training Centre for Infant and Toddler Development since 1996. Professor, Child Development and Educational Psychology, University of Minnesota since 1987. Egeland has over sixty publications to his name.



FINDINGS FROM ERICKSON & EGELAND'S RESEARCH (1)

The Minnesota Parent-Child Project

A longitudinal study that has followed a sample of 267 children since 1975, born to mothers identified as being at risk of parenting problems due to unstable life circumstances, youth, poverty, lack of support and low education. A major focus has been on the antecedents of abuse and neglect, as well as the long-term consequences of maltreatment on children's development. Each of the maltreatment groups were compared with non-maltreatment groups. The children were identified as suffering physical abuse, physical neglect and emotional neglect.



FINDINGS FROM ERICKSON & EGELAND'S RESEARCH (2)

The Minnesota Parent-Child Project

Findings -

- At age 1 2/3 of the neglected children had an anxious, or insecure attachment to their primary carer. (Highly dependent on but unable to be soothed by their primary carer).
- At age 2 neglected children were easily frustrated, non-compliant and displayed considerable anger
- At 3 ½ neglected children displayed poor impulse control, rigidity, a lack of creativity and more unhappiness than any of the other groups.
- At 4 ½ neglected children displayed poor impulse control, extreme dependence on their teachers and general maladjustments in the classroom.



FINDINGS FROM ERICKSON & EGELAND'S RESEARCH (3)

The Minnesota Parent-Child Project

Findings -

“ In many ways our study shows the consequences of emotional neglect to be even more profound than physical neglect, or other types of maltreatment. At 4 ½ their nervous signs, self-abusive behaviour and other behaviours are all considered to be signs of psychopathology.

Although the maltreatment they suffered was the most subtle of all the groups, the consequences for the children were the most striking”.



FINDINGS FROM ERICKSON & EGELAND'S RESEARCH (4)

The Minnesota Parent-Child Project

Findings -

As the children became older the neglected children were more socially withdrawn, unpopular with their peers and became more aggressive and less attentive as they grew up. They performed significantly lower than their peers academically. Only 5% of the children were not receiving some level of special education.

When they became adolescent the children whose primary carer was psychologically unavailable scored highly in terms of delinquency, aggression and social problems and were more likely to attempt suicide than all the other groups.



FINDINGS FROM ERICKSON & EGELAND'S RESEARCH (5)

The Minnesota Parent-Child Project

Findings -

At age 17 ½ 90% of the maltreated children received a diagnosis of mental illness. The highest rate was the “psychologically unavailable” group in which all but one child received a diagnosis of at least one psychiatric disorder and 73% were diagnosed with 2 disorders, or more.

The physically neglected children had high rates of school drop out and academic failure.

“Maltreatment in the early years had devastating consequences for the children’s overall functioning in adolescence”.



FINDINGS FROM ERICKSON & EGELAND'S RESEARCH (6)

Antecedents of Neglect

Research tends to be around maltreatment generally, not specifically neglect.

- 40% of the mothers who were maltreated during their own childhood abused or neglected their children in their early years. A further 30% were borderline cases
- No single factor is sufficient to explain maltreatment



FINDINGS FROM ERICKSON & EGELAND'S RESEARCH (7)

Antecedents of Neglect

Four major factors distinguished between the mothers who broke the cycle of maltreatment and those that did not:-

1. The presence of a loving, supportive adult during their childhood
2. A supportive partner at the time they became parents
3. Therapeutic interventions that enabled mothers to come to see resolution to their early issues and achieve greater emotional stability and maturity
4. The mother's integration of the maltreating experiences into a coherent view of self



CASE MANAGEMENT AND OUTCOMES FOR NEGLECTED CHILDREN RETURNED TO THEIR PARENTS. A 5 YEAR FOLLOW-UP STUDY (1)

(School for Policy Studies, University of Bristol, 2010)

138 neglected children from 104 families who were returned to their parents during a 1 year period.

Findings

- The plans made during care proceedings did not work out in 3/5 of cases....an over-optimistic view of the possibility of parental change in the face of long histories suggesting the contrary
- Decisive action in cases of neglect often awaited a trigger incident of physical or sexual abuse or severe domestic violence
- Assessments were infrequent overall except in care proceedings
- Lack of knowledge about this history of the case and key past events



CASE MANAGEMENT AND OUTCOMES FOR NEGLECTED CHILDREN RETURNED TO THEIR PARENTS. A 5 YEAR FOLLOW-UP STUDY (2)

- There were difficulties in engaging over 2/3 of the mothers and 1/2 of the fathers, with some cases being closed as a result
- The return home to a parent of children on care orders broke down in 87% of the cases
- Many of the factors associated with the children's outcomes were related to how their cases were managed
- For every year of increase in the child's age, at the start of the study, the odds of not being in a stable placement 5 years later increase by a factor of nearly 1.5



IMPLICATIONS FOR POLICY AND PRACTICE

What Affects Case Management?

A range of factors are always likely to affect case management over time and need to be deliberately interrupted. (Normalising and minimising abuse and neglect. Incidents seen in isolation. Downgrading referrals from the community. Not recognising the cumulative impact, lack of awareness of the history, not being able to maintain an accurate perspective on the extent of the children's difficulties and developing a fixed view of cases which is not affected by contrary information.)

► Solutions -

1. "Fresh eyes"
2. Senior managers doing regular case audits



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