

Non-whites receive harsher sentences for inflicted traumatic brain injury of children

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Non-white defendants are nearly twice as likely to receive harsher prison sentences than white defendants in North Carolina criminal cases stemming from inflicted traumatic brain injury of young children.

That's the conclusion reached by researchers from the Injury Prevention Research Center at the University of North Carolina at Chapel Hill, who tracked down what happened in every such case prosecuted in North Carolina in 2000 and 2001. Their study appears in the June issue of the journal *Pediatrics*.

Inflicted traumatic brain injury is a specific form of child abuse, which includes but is not limited to shaken baby syndrome.

"We expected to find that whether or not the child died would be the factor most predictive of the punishment that was imposed," said Dr. Desmond K. Runyan, the study's senior author, professor and chair of the social medicine department in UNC's School of Medicine. Runyan is also a professor in the pediatrics department and an adjunct professor in the School of Public Health's epidemiology department.

"But we found instead, much to our surprise, that the race of the defendant was the most predictive factor," Runyan said. "Death of the child didn't matter nearly as much in terms of the sentence, and neither did any of the other factors we examined."

Defendants whose race was defined as non-white (which included

African Americans, Hispanics and Native Americans) were 1.9 times more likely than white defendants to receive a severe sentence. For the purposes of the study, severe sentences were defined as 90 days in prison or longer. Sentences defined as not severe included probation, community service and prison time of less than 90 days.

Runyan said the study raises serious questions of public health and social policy, including whether or not harsh prison sentences for the perpetrators of traumatic brain injury in young children is the most beneficial way for society to deal with this problem.

"In most of these cases the perpetrators are not acting with the intent of hurting the baby. Instead they are usually frustrated young parents who respond to a crying baby with 30 seconds of stupidity, because they weren't educated about the dangers of shaking a baby," Runyan said. "In my view, harsh prison sentences may not be the most appropriate response in this situation, and we need to seriously consider other ways of dealing with what is a significant public health problem."

The study's lead author is Heather T. Keenan, Ph.D., who was a graduate student at UNC and now is an associate professor at the University of Utah. Maryalice Nocera, a research nurse with the UNC Injury Prevention Research Center, is a co-author.

"It is difficult to know what the appropriate judicial response should be to these cases as the value of the child's lost life or abilities need to be recognized," Keenan said. "However, it is clear that the response should not be based on the defendants' race or ethnicity."

This study follows up on an earlier study by the same researchers, which was published in the Journal of the American Medical Association in 2003. Their goal this time was to find out how the justice system treats suspected perpetrators of one specific form of child physical

maltreatment, inflicted traumatic brain injury.

They found 75 substantiated cases of inflicted traumatic brain injury among children ranging from infants to 2-year-olds. Of these, criminal charges were filed in 54 cases. Forty-one of the defendants pleaded either guilty or no contest to the charges and 10 defendants went to jury trial. Three were found not guilty, leaving 48 defendants with criminal convictions. Of these, 30 (63 percent) were sentenced to time in prison.

Whether or not the child died was found to have an effect on the severity of charges that were filed; defendants faced more serious charges when the child died. However, even in cases where the child died sentencing outcomes varied widely, ranging from probation to life in prison.

Several other potential predictive factors of sentencing outcomes were examined, including perpetrator age, gender, relationship of the perpetrator to the child and whether or not the child died, but none were found to be statistically significant.

Runyan said these findings raise many questions for additional research, including whether or not the quality of the defendants' legal representation made a difference in sentencing outcome. Many of the defendants were poor and thus were represented by court-appointed attorneys.

Source: University of North Carolina at Chapel Hill

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