

Zabeth Bayne – The story of my daughter, Bethany

For those of you who are not familiar with our history I want to briefly summarize.

In Sept 2007 our daughter, Bethany received an accidental injury in our home which resulted in us seeking medical help for the next three weeks only to be sent home with her. During that time her head swelled six centimeters due to internal bleeding from the impact injury. Finally following a CT Scan and MRI she received emergency treatment and was on the road to recovery. Our ordeal however was not over and we spent the next four years learning just what happens when a medical misdiagnosis of child abuse leads to the removal and disruption of your family and the subsequent involvement and investigations from Social Services, the RCMP and then lengthy legal process.

Imagine this:

A friend or family member has a child that is a few weeks old, maybe even a few months or a year or two old, and the baby was having some problems. Maybe it was some vomiting or seizures and the concerned parents take the baby to the hospital. The doctors start asking questions about what happened to the baby and the parents know of nothing that would have caused the vomiting or seizures. The doctors tell the parents that the baby has bleeding on the brain, a subdural hematoma, and that only a fall from a high height or a car accident above 35 MPH can explain the injury as accidental. Doctors start saying that they will have to report this to the local child protective services agency and a social worker approaches the parents and interviews them separately. Although they don't explain how, they say the parents' statements are inconsistent. Soon the police are involved and ask to speak with the parents and they even want to search the house. The child protective services agency tells the parents that if the baby survives, the baby will have to be placed in foster care or with relatives. The parents, in addition to having to deal with their child being in intensive care, now understand that one or both of them are being accused of abusing their young child.

The doctors and the hospital staff treat the parents differently, as if they are criminals. They act as if the parents don't even have a right to be in the hospital with their baby. The parents continue to ask if there can be another explanation for the injuries and they are told by a child abuse "expert" that there is no other explanation. The doctor writes a report that says the "injuries are not consistent with the history provided by the parents." The doctor says the only explanation is that the baby was "shaken" or squeezed and that until the parents admit to abuse the baby cannot go home with them. When the baby is discharged from the hospital there is a hearing where a social worker testifies that the hospital's diagnosis of the injury is that there is no other explanation for the baby's injuries other than shaking or shaking and impact and since the parents have no accidental explanation, one or both of the parents is guilty of abuse or knowing about abuse and failing to protect their child.

And just like that, a baby is taken away from his or her parents without any real evidence, or trial. There is no presumption of innocence and the parents are told they must "explain" the baby's injuries. The parents thought it was the doctor's job to figure out what was wrong with their child but the doctor is pointing the finger at them. The

parents know that they did nothing to their child to injure it yet the doctors say they did as if it is a fact.

This story repeats itself many times each year with many variations. Tragically, sometimes babies do not survive and the police charge a parent with murder rather than assault. Sometimes it is a daycare provider that sees the symptoms in the child and alerts the parents or takes the baby to the hospital and that daycare provider is accused. Sometimes a boyfriend of the baby's mother is accused.

This scenario somewhat reflects our experience and has made us very aware of some areas of need within the medical/legal and social systems. Specifically we have identified that there is within the medical system a failure to do differential diagnosis in cases of suspected child abuse. With tragic regularity, innocent parents and innocent caretakers are accused and convicted and have their children taken away due to medically diagnosed crimes. These have been incorporated into our legal system and has resulted in a presumption of guilt towards parents and caretakers in spite of the growing body of scientific evidence that there are many other conditions known to mimic the same symptoms. Also specifically addressing shaken baby syndrome attorney Mark Freeman has put some questions forward I would like to share as follows: Why do these so-called child abuse pediatricians and other doctors continue to render opinions and testify to a hypothesis that has been discredited by most, if not all, prospective scientific studies ever conducted? Why do the medical facilities that host these so called experts continue to tolerate their misguided and unsupported opinions? Why does our justice system continue to arrest, convict and take children away from innocent parents on the basis of a discredited hypothesis? What can be done to stop these tragic injustices?

The child protection agency is supposed to carry the burden of proof in legal proceedings where children have been removed, yet their burden of proof is so very low and where a medical opinion has been rendered the burden shifts to the parent or caregiver. The courts as gatekeeper need to ensure that evidence based practice from both medical and social professionals are adhered to. To not do so is a failure to those who are innocent.

Paul and I have started an organization called Evidence Based Medicine and Social Investigation to provide assistance. Since launching EBMSI we have assisted in cases both for falsely accused parents and caregivers seeking assistance and defense counsel who have contacted us regarding their cases. As we are involved with the Innocent Network, which consists of over 45 medical experts and defense counsel we have been able to make the necessary referrals to the experts able to provide reviews in these cases. We also provide counsel with the medical research relevant to their case and are able to connect them to attorneys who advise them further with case law and cross examination direction. We are pleased that this year we are now connected with the Legal Nurses Association of British Columbia and work with a number of the nurses on cases that come to us for assistance.

At the annual conferences we bring parents who have wrongfully lost their children in order to connect them personally with the experts needed in their case and provide them with defense information for their attorneys.

There are literally hundreds of individuals currently serving prison sentences based on these allegations and thousands whose lives have been destroyed and families torn apart.

Attorney Zachary Bravos stated: The legal and medical systems are resistant to change, but our persistent belief in the power of truth and science convinces us that we will eventually prevail. Our only question is how many more lives will be affected before Shaken Baby Syndrome takes its rightful place in the dustbin of history.

For those interested the Journal for the Illinois Bar Association published an article *A Critical Look at Shaken Baby Syndrome*, which shows how the syndrome has come under attack both medically and legally as to its validity.

We do feel however that we play a very small part of such a big picture of the vast network of those who are on the frontlines of this fight and without whose efforts none of this would be possible. It is truly the work of the incredible variety of medical and legal experts who have devoted so much of their time in these efforts. Also we have discovered a vast network of parents, some of whom have come through their own tragic circumstances and those who are still in the midst of their fight who are a very supportive community to each other and to those experts working in the name of justice.

Evidence Based Medicine and Social Investigation Group

The Evidence Based Medicine and Social Investigation Group was founded four years ago to provide support and education for families and caregivers who have been accused of abusing infants and children in their care.

Although child abuse is a real and serious problem so is over diagnosis of abuse. A long list of medical conditions including pregnancy complications, prematurity, metabolic and genetic disorders infections, vitamin deficiencies and short falls can cause intracranial symptoms similar to the brain injuries often seen in battered children. When parents or a caregiver cannot explain what looks like a non accidental injury not only are they accused of abuse but their child may not receive the medical care he or she needs.

EBMSI is a bridge between families and the medical and legal experts who can help ensure a just and healthy outcome for everyone. Doctors familiar with the mimics can often identify the true causes of a child's condition or recommend tests that have not been done. Lawyers can help protect not only the safety of the child but also the right of the family. We have hosted annual conferences designed for both families who have been falsely accused of child abuse and professionals and paraprofessionals who work with child abuse cases. The faculty includes physicians and attorneys, expert witnesses and advocates as well as social service professionals. These experts come prepared to work with those needing assistance.

The goals of EBMSI are:

- To maintain a database of the evolving medical research
- To coordinate second opinions with the experts from a variety of fields
- To coordinate legal assistance in both family and criminal court
- To provide social support for families
- To organize annual conferences that bring together experts from the range of specialties that inform this troubling arena

The annual conference curriculum covers the fundamentals of evidence based medicine and its role in improving how investigators and decision makers handle suspected abuse cases. The goal is to help child protection services truly meet the needs of children and their families and to help the legal system handle these difficult cases more justly.

Topics include:

The evolving child abuse medical literature

Medical mimics of abuse

Defending against abuse allegations in both family and criminal court

The standards and guidelines for child protection investigations and process

The challenges of creating a bureaucracy to handle family matters

The faculty includes:

Physicians from a variety of specialties

Neurosurgery

Pediatrics

Neuroradiology

Biomechanics experts

Defence Attorneys

Social service professionals

Parents who have survived the system

Forensics