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**An Exploratory Study of the Prosecution of Fatal Child Maltreatment: Criminal Charges
Filed Against Presumed Perpetrators in the United States in 2017**

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Abstract

In the United States child maltreatment fatalities (CMFs) do not usually meet the standard for manslaughter or murder, resulting in convictions of lesser crimes and little jail time. This exploratory study examined the charges brought against suspected CMF perpetrators in 2017. Univariate and bivariate analyses were conducted using data obtained from the Nexis Uni newspaper database, that has over 40,000 high quality media sources, for the year 2017. We found that the most frequently used charges were endangering the welfare of a child and murder, the former of which was more related to neglect-deaths and the latter to physical abuse-deaths. There was no difference between charges for male and female perpetrators. Practical implications for research, policy, and practice are discussed.

Keywords: child maltreatment; child maltreatment fatalities; criminal charges; child homicide

The Prosecution of Fatal Child Maltreatment: Criminal Charges Files Against Presumed Perpetrators in the United States in 2017

During the fiscal year 2017, an estimated 1,720 children or 2.32 children per 1000 in the general population died from abuse and neglect (U.S. Department of Health & Human Services, 2019). There is a growing body of literature that has identified child, family, and household characteristics that place children at risk for experiencing a maltreatment death (Anderson et al., 1983; Douglas, 2015; Graham et al., 2010; Schnitzer & Ewigman, 2008; Stiffman et al., 2002; Yampolskaya et al., 2009). Despite this body of research that highlights the risk factors and prevalence of child maltreatment fatalities (CMFs), there is a dearth of recent literature that focuses on the criminal and prosecutorial side of fatal child maltreatment. This area has remained largely dormant since the 1990s, which is when most of the literature in this area was published, despite significant changes in state statutes and investigative techniques. Given the limited research in this area, this exploratory paper examines the criminal charges brought against individuals deemed to be responsible for CMFs in the United States in 2017 as reported in U.S. newspaper articles. In this paper we examine: (1) the charges brought against alleged perpetrators, and (2) the charges by type of maltreatment and the gender of the alleged perpetrator.

Child Maltreatment Fatalities

A CMF is defined as the “death of a child as a result of abuse and neglect, because either an injury resulting from the abuse and neglect was the cause of death, or abuse and neglect were contributing factors to the cause of death” (U.S. Department of Health & Human Services, 2018, p. 102). Child abuse, regardless of whether it results in the death of a child, on the other hand refers to “any recent act or failure to act on the part of a parent or caretaker which results in

death, serious physical or emotional harm, sexual abuse or exploitation; or an act or failure to act, which presents an imminent risk of serious harm.” (The Child Abuse Prevention and Treatment Act, 2010, §5102(2)). Additionally, neglect is defined as a “failure by the caregiver to provide needed, age-appropriate care although financially able to do so, or offered financial or other means to do so.” (U.S. Department of Health & Human Services, 2018, p. 102).

Of the 1,720 children who were victims of child abuse and neglect in the United States in 2017, 75.4% were victims of neglect and 41.6% suffered physical abuse (U.S. Department of Health & Human Services, 2019). These numbers sum to more than 100% because children who die can experience multiple forms of maltreatment. Furthermore, 80% of child fatalities involved parents acting alone, together, or with some other person, 15% did not have a parental relationship with the perpetrator, and the remaining 5% were perpetrated by someone unknown to the child.

Perpetrators of CMFs

Studies have highlighted many common factors associated with perpetrators of fatal child abuse and neglect. These factors include, but are not limited to, younger age (Herman-Giddens, et al., 2003; Mersky et al., 2009; Smithey, 1998), domestic violence and substance abuse (Douglas, 2016a; Yampolskaya et al., 2009), and mental illness (Rangel et al., 2010). Additionally, the perpetrators’ relationship to the child (Schnitzer et al., 2013; U.S. Department of Health & Human Services, 2019) and gender (Chance & Scannapieco, 2002; Damashek et al., 2013; Hegar et al., 1994; Schnitzer & Ewigman, 2005) have been shown to be associated with CMFs.

Both men and women perpetrate CMFs (U.S. Department of Health & Human Services, 2019). That said, there are some differences in perpetration that are tied to gender. Some studies

have implicated males as being more likely to perpetrate physical abuse only or physical abuse and neglect (Chance & Scannapieco, 2002; Schitzer & Ewigman, 2005), in comparison to females who are often perpetrators of more neglect-related fatalities (Klevens & Leeb, 2010). Additionally, the majority of research that has examined the relationship of the perpetrator to the victim has found that one or more parents is most likely to perpetrate CMFs (Crume et al., 2002; Damashek et al., 2013; Lyman et al., 2003; U.S. Department of Health & Human Services, 2019). For example, Damashek and colleagues found that females who were biologically related to the victim of CMF were more likely to perpetrate neglect than abuse; however, Schnitzer and Ewigman (2005) found that fathers and mothers' boyfriends were more likely to be perpetrators of physical abuse fatalities. On the other hand, Yampolskaya et al. (2009) found that being a non-biological related caregiver was the strongest predictor of child maltreatment assaults that resulted in a child's death.

Criminal Charges Definitions

The Child Abuse Prevention and Treatment Act ("Child Abuse Prevention and Treatment Act," 2010) provides a federal definition of child abuse and neglect that operates as a guide for individual states. The legal charges that are generally brought against individuals for perpetrating crimes that result in a child's death are due to state, not federal, statutes. That said, there are similarities between such state laws and we provide general definitions here, using Cornell Law School Legal Information Institute (Cornell Law School Legal Information Institute, n.d.-b); these definitions are based on federal standards, which are used as guides for developing state laws. For example, assault and battery are usually paired together where assault refers to the "the act which causes the victim to apprehend imminent physical harm" and battery refers to the "actual act causing the physical harm" (Cornell Law School Legal Information Institute, n.d.-a).

Child endangerment refers to an individual “who through design or culpable negligence endangers the child’s mental or physical health, safety, or welfare” (§ 919b (119b)). Felony endangerment elevates the severity of endangerment, because anything that qualifies as a felony is punishable by more than a year in prison. On the other hand, manslaughter refers to the “unlawful killing of a human being without malice” (§ 1111(18)). According to the same source, manslaughter can be both voluntary or involuntary. Murder, however, is defined as the “unlawful killing of a human being with malice aforethought” (§ 1111(18)).

Criminal Charges within the United States for CMF Deaths

A small body of research has outlined the challenges associated with the investigation, prosecution, and convictions of child abuse and neglect cases (2016b). Initial challenges include the stigma concerning who is capable of harming a child, a lack of sufficient evidence in maltreatment-related homicides, and limits on the definition of murder (Douglas, 2016a). These factors have created difficulty in legally prosecuting perpetrators of CMFs with serious crimes. As a result, historically, perpetrators of child abuse and neglect fatalities were, more often than not, charged with endangering the welfare of a child (Bendetowies, 1990), manslaughter, or lesser charges (Stewart, 1990). Furthermore, in cases where there was sufficient evidence and the perpetrators were charged, it was challenging to convince a juror that a parent, caregiver, or family member could be capable of harming their own child or children (Bendetowies, 1990; Rainey & Greer, 1994). Beginning in the 1980’s to 90’s, however, the prosecution of CMFs started gaining more attention among policymakers that allowed for more serious penalties to be administered in cases of child abuse and neglect-related deaths (Vollrath, 2012). Despite the availability of more clearly delineated legislative guidelines and investigative techniques regarding the prosecution of perpetrators of CMFs, the research in this area remains limited. As

such, this exploratory paper will expand the small body of literature in this domain and offer a more current perspective concerning charges filed against alleged perpetrators of CMFs in the US, by addressing the following research questions:

1. What are the characteristics of CMF cases where criminal charges are filed?
2. What criminal charges are filed in CMF cases? What is the frequency and type of criminal charges filed?
3. Is maltreatment type associated with the classification of criminal charges?
4. Is gender related to the charges that are brought against the perpetrator?

Methods

Procedures and Data

Data for this study were gathered from the Nexis Uni (formerly Lexis Nexis) newspaper database for the year 2017. Given the exploratory nature of this study, for an area of inquiry where there is a paucity of research, one year's worth of data were examined; 2017 was selected because at the time of data collection, it was the most recent year for which data were available. Nexis Uni describes this database as having 40,000 high quality media sources. Newspaper databases have been used as the basis for previous research focusing on maltreatment deaths, as a way to measure scandal, the extent of infant abandonment, and even to develop a typology for why women kill their children (Douglas, 2009; Gainsborough, 2009; Meyer et al., 2001; Pruitt, 2008). There are both advantages and disadvantages of using Nexis Uni as a data source in research. Specifically, Nexis Uni provides access to data that are otherwise lacking, including those related to child maltreatment fatalities, criminal charges and [alleged] perpetrators; and availability of a wide range of data across states, thereby increasing sample size and allowing for the creation of criminal typology for review and subsequent analyses (Meyer et al., 2001).

Despite the strengths of using Nexis Uni as a data source, newspaper articles are subject to biases and accuracy of the reporter(s), as is common with most data sources. In the current study, this limitation was mitigated with the researchers using the most up-to-date and current articles available. Further, we cross-checked the information presented in each article for consistency and accuracy. Finally, although legal databases (e.g., public records, police reports) are often considered to be reliable, accurate, valid, and legitimate sources of data, they can also be flawed with reporter biases as is the case with the use of newspaper articles (Meyer et al., 2001). Nexis Uni was used as a data source in this exploratory study, despite its limitations, to obtain a larger sample size and to take a first step toward addressing the gap in knowledge related to criminal charges brought against alleged perpetrators of fatal child maltreatment, for which there is a paucity of research.

Two undergraduate research assistants used Nexis Uni to search for news stories in 2017 that concerned CMF cases where criminal charges were brought against alleged perpetrators. They used the following search terms: “Child death AND charge*,” “Child death AND prosecute,” “Child kill* AND charge*,” “Child kill* AND prosecute,” “Child die AND charge*,” and “Child die* AND prosecute.” The asterisk in search terms allows the user to search for the root of a word and any combinations thereof, for example “kill*” would result in “kill,” “kills,” or “killed.” Each media case was carefully examined for whether it involved a maltreatment death or a death that was not related to physical abuse or neglect. These determinations were made based on the circumstances of the death, the manner in which the child died, the relationship of the perpetrators to the child, and the charges brought against the alleged perpetrators. When students found multiple news stories about a single case, they were

instructed to use the most recent media story. Additionally, if a subsequent news story revealed that the charges had been dropped, then the case was removed from the database.

The students worked in parallel, using the database and the search terms, to search for a single month at a time. When their search for a given month was complete, they met to compare the cases that resulted from their search. They also compared their coding of each case into an Excel sheet. The second author reviewed this work before the students were permitted to continue with the next month. When the students could not reach consensus, they consulted the second author to make a determination. In the end, all student work was double-checked by another student and in cases where there were disagreements, they were resolved by the second author.

Variables and Information Collected

The research team collected the following information from each of the news stories.

Child and victim information. The team collected the name of the child, the date of death, the age of the child, and gender. They also attempted to collect the race/ethnicity of the child, but that information was available in only a handful of cases and was not enough to include in analyses.

Maltreatment type. The team collected information on whether the death was the result of physical abuse, neglect, or both types of maltreatment.

Alleged perpetrator information. The team collected information about the total number of perpetrators, but for the ease of simplicity, only collected detailed information on the first two perpetrators mentioned in each media story. The information collected was the alleged perpetrator name, gender, age, relationship to the child, and the charges that were brought against the individual.

Additional case information. In addition to this, for each case, the team collected information on whether or not child protective services (CPS) had ever been involved with the family prior to the child's death, the state in which the death took place, the date of the news article, the title of the story, and the newspaper in which it was published.

Coding and Analyses

Based on the information collected, the research team developed a coding scheme for escalating categories of crimes that would accurately reflect the criminal charges and also adapt to differences between states. In order to do this, the team consulted with a child abuse prosecutor, online legal libraries such as Cornell University's Legal Information Institute, and statutes in individual states to ensure that the categorizations were accurate and fair across state lines. The analyses for this study include descriptive statistics and bivariate analyses with significance levels set at $p \leq 0.05$.

Results

Case Characteristics

Table 1 provides the case characteristics where criminal charges were brought against cases of maltreatment-related deaths for 2017. We found newspaper reports for 149 victims in the United States in 2017, along with 193 perpetrators. Almost two-thirds of the children who died from CMFs in this sample were male (65.3%) with a median age of 22.0 months (mean = 31.4 months, $SD = 38.13$). There were more cases of physical abuse alone, at 69.3%, than neglect, at 39%. Cases of physical abuse and neglect occurred among 8.7% of the sample. Perpetrators of CMFs were slightly more likely to be female (52.1%) with a mean age of 30.34 years ($SD = 9.14$). Additionally, most of the cases of CMFs that we found recorded in the

newspaper database occurred in the southern region of the United States (38.1%) and were perpetrated mostly by parents, that is, mothers (32.4%) and fathers (22.3%).

Table 1. Case Characteristics of CMF with Charges Filed

Characteristic	% / Mean/Median (SD)
<i>Child/Victim Characteristics</i> <i>n</i>=144	
Gender	
Male	65.3
Female	34.7
Age (in months)	Median=22.0(38.13)
<i>Case Characteristics</i> <i>n</i>=149	
Types of CMFs ¹	
Abuse Alone	69.3
Neglect Alone	38.9
Abuse and Neglect	8.7
CPS Involvement Prior to Death	
Yes	19.2
No/Unknown	80.8
Region of the US	
Northeast	15.6
South	38.1
Midwest	34.7
West	11.6
<i>Perpetrator Characteristics</i> <i>n</i>=188-193	
Gender	
Male	47.9
Female	52.1
Age	Mean=30.34(9.14)
Relationship to Child	
Mother	32.4
Father	22.3
Caregiver's Partner, Male	16.5
Caregiver's Partner, Female	3.2
Other Family Member	5.9
Foster Mother	5.3
Foster Father	2.7
Babysitter/Daycare Provider	5.3
Other	6.4

Note. ¹Overall percentage may not add up to 100 because of multiple types of maltreatment.

CPS= Child Protective Services.

Types of Criminal Charges Filed

Table 2 shows the criminal charges filed in cases of CMF, which include endangerment/child abuse neglect; felony endangerment; assault/battery/domestic violence/injury to a child; involuntary manslaughter; manslaughter; and murder. Although some perpetrators were charged with more than one criminal violation, the majority of the charges filed fell into the categories of murder (47.6%) and endangerment/child physical abuse or neglect (34.4%). Table 2 displays the remaining charges.

Table 2. Criminal Charges Filed in Cases of Child Maltreatment Fatalities

Charges	Perpetrators ($n=193$) ¹
	%
Endangerment/Child Abuse or Neglect	34.4
Assault/Battery/Domestic Violence/Injury to a Child	13.2
Felony Endangerment	20.1
Involuntary Manslaughter	11.2
Manslaughter	14.8
Murder	47.6

¹ Overall percentages sum to more than 100% because of multiple charges.

Maltreatment Type and Criminal Charges Filed

Table 3 shows the criminal charges by type of maltreatment perpetrated against the victim, using the perpetrator count. The results for six separate 2x2 bivariate chi square analyses are displayed in this table, comparing physical abuse versus neglect cases. We did not include a category for both physical abuse and neglect, because of small cell size. Thus, those cases are excluded from these analyses ($n = 25$). The raw numbers show neglect being associated with higher rates of criminal charges in all areas except for assault/battery/ domestic violence/injury

to a child and for the charge of murder. Bivariate analyses show that criminal charges that are statistically significantly related to maltreatment type were felony endangerment and murder. Cases of neglect were more likely to be associated with charges of felony endangerment ($p < .001$) and cases of murder were more likely to be associated with cases of physical abuse ($p < .001$). There was also a trend toward significance that cases of CMF-related neglect were more likely to be associated with endangerment/ child physical abuse or neglect ($p = .072$). The table also shows 0% cases of assault and battery being related to neglect, which means that one cannot run significance testing on this association. Even without such testing, it is safe to say that assault and battery was 100% associated with cases of physical abuse.

Table 3. Summary Statistics for Two Chi-Square Analyses Demonstrating an Association Between Maltreatment Type and Criminal Charges of CMF Perpetrators

Charges	Maltreatment Type ($n=166$)		χ^2	p
	Abuse ($n=111$) %	Neglect ($n=55$) %		
Endangerment/Child Abuse or Neglect	27.9	41.8	3.233	.072
Assault/Battery/Domestic Viol/Inj. to a Child	20.7	0.0	--	--
Felony Endangerment	13.5	36.4	11.541	.001
Involuntary Manslaughter	9.0	16.4	1.963	.161
Manslaughter	13.5	20.0	1.171	.279
Murder	64.9	14.5	37.297	<.001

Gender and Criminal Charges

Table 4 shows the relationship between gender and criminal charges. The raw numbers show that males had a higher proportion of charges of murder (54.4%) and assault/battery/domestic violence/injury (20.0%) in comparison to females. The raw numbers also show that females had a higher proportion of charges in the areas of endangerment/CAN

(35.7%), felony endangerment (23.5%), and manslaughter (15.3%). Bivariate analyses showed, however, that men were only more likely to be charged with assault/battery/ domestic violence/injury to a child ($p = .009$) and that none of the other differences were statistically significant. There was a trend toward significance with regard to the charge of murder.

Table 4. Summary Statistics for Chi-Square Analysis Demonstrating Association Between Gender and Criminal Charges of CMF Perpetrators

Charges	Gender ($n=188$)		χ^2	p
	Male	Female		
	% ($n=90$)	% ($n=98$)		
Endangerment/Child Abuse or Neglect	33.3	35.7	0.118	.732
Felony Endangerment	16.7	23.5	1.346	.246
Assault/Battery/Domestic Viol/Inj. to a Child	20.0	7.1	6.726	.009
Involuntary Manslaughter	11.1	10.3	.031	.859
Manslaughter	14.4	15.3	0.027	.868
Murder	54.4	41.8	2.988	.084

Discussion

This study is the first to systematically examine criminal charges brought against caregivers who were deemed to be responsible for the death of a child due to physical abuse or neglect. The analyses that we presented in this paper allowed us to explore the relationship between type of maltreatment perpetrated and charges filed, and if there was a relationship between perpetrators' gender and charges filed. We found that the charge of child endangerment/child physical abuse or neglect and the charge of murder were the most common charges. Moreover, we found that there was very little difference between gender with regard to criminal charges.

The results suggest that the child death laws that were passed in the 1990s may have been implemented and are potentially being used by prosecutors as intended. Almost 50% of CMF cases included a charge of murder, something that was reportedly rarely used before the passage of laws making it easier to charge individuals with murder, even if the crime does not meet the legal criteria for murder (Rainey & Greer, 1994).

Research and legal writings from the later part of the twentieth century clearly documented that caregivers who were charged with, prosecuted for, and convicted in the deaths of children in their care were held accountable for crimes that were not considered especially serious and that did not yield substantial jail time (Bendetowies, 1990; Rainey & Greer, 1994; Stewart, 1990). Public outrage and frustration from prosecutors resulted in legislation being passed across the country that responded to these concerns and to the limitations of the state criminal statutes that existed at that time (Douglas, 2016a). The usefulness or implementation of these laws has remained a question. Some multidisciplinary child death review teams have documented criminal outcomes of CMF cases (Douglas, 2016a). Moreover, a limited number of studies (or investigative journalism) have examined whether or not similar crimes with child versus adult victims result in differing convictions or jail time (Augé & Mitchell, 2012; Hewes et al., 2011) with mixed results. Thus, across a variety of domains, the criminal charges and outcomes associated with CMFs remains a point of interest. This area of research and practice continues to need updating to reflect current laws and also remains under-examined. The results of our analyses provide some insight into this inquiry where we found that individuals responsible for children's deaths were likely to be charged with serious crimes that come with serious consequences. We recommend that the next stage of research should focus on determining whether those charges result in convictions.

It is not surprising that we found that neglect-related deaths are more likely to be associated with child endangerment charges and physical abuse-related deaths are more likely to be associated with murder charges. Generally, physical abuse-related deaths are more violent than neglect-related deaths and would result in a more serious criminal charge. Our finding that there was no difference in charges between men and women perpetrators is consistent with a previous study which examined jail time, not the filing of criminal charges, and gender (Rodriguez et al., 2006). That 2006 study found that when it came to violent crimes, including causing death to another human, men and women received jail time at similar rates. The authors did find that women received shorter sentences than men, however. This is also an area for future research with regard to CMF-related crimes.

Limitations and Directions for Future Research

Despite the fact that this study is among the first to capture charges brought against individuals because of crimes related to physical abuse and/or neglect, it is not without limitations. One, study findings are limited to the use of reported cases of criminal charges published in newspapers for the year 2017. Future studies should include data for multiple years to allow for greater comparisons of criminal charges filed against alleged perpetrators.

Two, data were retrieved using searches in Lexis Nexis (currently known as Nexis Uni). This does not account for articles published in other databases; therefore, these articles are not a census of all CMFs for the year under review. Furthermore, based on the search terms used, some articles might have been excluded during the search. For example, because “Child” was used as a search term, articles that included more than one child may have been excluded. Further research should include more comprehensive search terms to allow for a more inclusive and extensive article search. Although the Nexis Uni is a large database that provides articles

from a wide range of media sources, it is unknown how representative the reports are of all criminal charges for CMF cases in 2017. More specifically, there may have been factors that contributed to the likelihood of some cases being reported in the newspaper than others. This methodological approach is consistent with previous research that has examined maltreatment deaths by using newspaper article databases (Gainsborough, 2009; Meyer et al., 2001; Pruitt, 2008). That said, more complete records would be obtained through a database of criminal charged and we recommend that researchers may want to consider alternate databases for additional investigations conducted in this area.

Three, our study is limited by the small sample size. Future studies could incorporate other databases to allow for a larger sample size and for the data to be more representative of the United States. Four, this exploratory study is limited by the fact that there is no inter-rater reliability for the coding between the students. That said, every case was coded by two students, who then served as checks on each other's work. Further, this work was closely supervised by the second author. Future studies, with more data and a longer period of data collection, should track coding reliability information.

Five, the data presented in this study represents charges filed and not convictions, therefore this does not account for the conviction rates or changes made to these charges. As such, given the findings of this study, future research could focus on both criminal charges filed, convictions, and sentencing to assess if there are differences between gender of perpetrator and by type of maltreatment. Six, this study did not include any data on the patterns of criminal charges prior to the change in laws, resulting in a lack of knowledge concerning the effectiveness of such legal changes in relation to the charges brought against presumed CMF perpetrators. This limitation could be addressed in future studies by examining criminal charges filed before and

after the wide-spread implementation of laws which allow or encourage the use of more serious criminal charges in CMF cases. Finally, the varying definitions of criminal charges (e.g., murder, endangerment/child physical abuse or neglect, felony endangerment etc.) by states somewhat limit the consistency within which the charges are filed. That said, we examined individual state statutes and made comparisons in order to find comparable charges when state laws differed.

Conclusions

In closing, this exploratory study concerning criminal charges that were brought against presumed perpetrators of CMFs in the year 2017 shows that state-level legislation passed in the 1990s has potentially changed the landscape of criminal charges that are used in CMF cases. This is an important finding for those in the fields of social work, criminal justice, law, and social policy. These researchers, but mostly practitioners, face scrutiny from the public and state legislatures, who express concern that the systems in place to “hold perpetrators accountable” fail when children die from maltreatment (Douglas, 2016a; Regehr, 2003; Regehr et al., 2002). As a result, professionals on the frontline can be the targets of public outrage as well as increased scrutiny within their agencies (Dill, 2007; Regehr, 2003; Regehr et al., 2002). The findings from this exploratory study suggest that when the criminal justice system does respond, their actions result in significant criminal charges against alleged perpetrators. In the policy sphere, our research suggests that state-level legislation can potentially have an important impact on the actions carried out by professionals within the legal system, who seek outcomes that are more just for vulnerable victims of abuse and neglect, something which has been difficult to achieve through other means (Cross et al., 2003).

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