As published on the Children and Young People magazine and web site, December 2004

http://www.childrenwebmag.com/chdec2004/pragnell.htm

Theoretical basis of FII is unsound

By Charles Pragnell

In 2001, following continuing contention regarding the existence, definition, and application of the term Munchausen Syndrome By Proxy and many complaints by parents claiming to have been falsely accused of child abuse, the UK Department of Health issued guidelines to child protection workers in an attempt to give a form of credibility and validity to Munchausen Syndrome By Proxy and introduced a new title of Fabricated and/or Induced Illness in Children .[FII].

The DoH Guidelines rely heavily on published articles by Professor Sir Roy Meadow and by Professor David Southall and were drawn up without the DoH conducting any independent and scientifically based research or inquiry to substantiate their respective theories and contentions. The guidelines merely regurgitated the unsubstantiated opinions of Munchausen Syndrome By Proxy/FII proponents, in complete disregard of conflicting opinions and without even an acknowledgement that MSBP/FII had been the subject of immense dispute in the medical and social work professions for over a decade and is not therefore generally accepted by the child protection professional community.
The term Fabricated and/or Induced Illness [FII] is therefore a variant on what has variously been titled in Munchausen Syndrome by Proxy [MSBP]; Meadow's Syndrome; Polle's Syndrome; Factitious Disorder/Disease By Proxy, and several other titles. A general definition of these titles and terms are that it is a form of child abuse whereby a carer (usually the mother) fabricates or induces an illness in a child in order to attract the attention of a medical practitioner for him/herself.

The original theoretical base for the term was contained in an article by Professor Sir Roy Meadow which first appeared in the Lancet medical journal in 1977. [Hinterlands of Child Abuse]. On examination of the article, it can be found that no form of research methodology was used and no research protocols are apparent. The contentions of Meadow were anecdotally based on only two cases of children under his medical care and he has never made available any records of his `research' for independent analysis and examination. Nor has there been any peer review of his propositions. His findings can therefore best be described as his personal conjectures and speculations and the procedures he used show a lack of scientific integrity and can at best be described as a set of beliefs and suppositions.

Meadow has stated in subsequent articles that MSBP is not a disease or illness of either an adult or a child [BMJ – 1995], but is a form of child abuse which can only be diagnosed by paediatricians, and that it is not a form of mental illness. However, some psychiatrists have entered the dispute regarding its definition, claiming it is a psychiatric disorder, while there are recorded cases of psychotherapists, physiotherapists, anaesthetists, nurses, social workers and teachers all claiming to be able to make an MSBP diagnosis. Munchausen Syndrome By Proxy does not appear as a psychiatric illness in DSM IV (U.S. Manual of Psychiatric Disorders) although it is referred to in the appendix as Factitious Disorder By Proxy and requiring further research.

The problem of flawed and scientifically inadequate research regarding MSBP/FII is not however confined to Meadow's research but can be found in the offerings of other MSBP/FII proponents. In Pediatrics Vol. 113 No. 6. June 2004, Dr. Herbert Schreier, an eminent psychiatrist in the U.S.A. and a stalwart MSBP/FII proponent, admits regarding the best known works and oft-quoted research by McClure RJ, Davis PM, Meadow SR, and Sibert JR, that, "…..not all cases reported in the incidence findings were MBP cases. Some were deliberate poisoning and suffocation outside of the dynamics of MBP, and some of the MBP cases were not suffocation and poisoning." The McClure et al research also included a case where a father had murdered his two children and committed suicide and did not involve any allegation of MSBP/FII.

Schreier admits of an article written by himself [Munchausen By Proxy Defined – Pediatrics 2002. 110 985-988] that, "I quoted a study of the epidemiology of MSBP from England and extrapolated those results to the United States in an erroneous way. I compared the incidence reported in the under-16 population in England to the total population of the United States." These studies by McClure et al and by Schreier are often quoted in other articles and research.

In a letter to the British Medical Journal in October 2004 concerning child abuse research, Patrick E. Lantz, a forensic pathologist at Wake Forest University Health Sciences in North Carolina, U.S.A, and forty other physicians and scientists stated that,
"Evidence based medicine is the conscientious, explicit, and judicious use of scientific evidence in making medical decisions and cautions against unsystematic, untested reasoning and institution-based clinical applications".

It may be reasonably contended therefore that there is a strong body of opinion in the medical scientific community that is concerned about the lack of scientific rigour in theories of child abuse.

Practice concerns

It is claimed that FII/MSBP usually occurs in circumstances where a child presents to a medical practitioner with symptoms of an illness for which no medical explanation is apparent. However, logic suggests that where no medical explanation is apparent, an explanation would first be the limitations of medical science and secondly in the individual level of knowledge of the medical practitioner (See 2 below).

In many cases of alleged FII/MSBP the following factors are notable :
1. The physician making the diagnosis has not carried out a thorough and exhaustive investigation of the many possible causes of the child's illness e.g. for genetically inherited disorders, birth injuries, surgical injuries, poisoning by toxic substances in the environment, severe allergic reactions, vaccine damage, reactions to prescribed medications (e.g. cisapride/propulsid – this drug was withdrawn by the U.K. Government after at least five recorded deaths of children and several hundred children had been caused serious harm. The manufacturer, Jannsens, have offered $US90m in damages to families worldwide) or a combination of such medications, viral infections, or disorders such as chronic fatigue syndrome, cystic fibrosis etc.

2. There is a high proportion of allegations of FII/MSBP that seem to follow a threat by the parent to report the physician for malpractice, errors of diagnosis or treatment, negligence or incompetence. The labelling of the complainant as FII/MSBP immediately prevents more investigations of the child's medical problems or legal action by the carer, as the carer is labelled a liar and fabricator. Bringing legal action or making a complaint against the physician is therefore very effectively prevented.

It has been claimed that 'confessions' have been made by a few mothers to smothering or poisoning their children but some mothers have claimed that such 'confessions' were made under the duress that if they did not confess and agree to therapy, then they would never see their children again, or that promises were made that their children would be returned or they could have increased contact with the children in State care.

It has also been claimed that FII/MSBP has been shown by covert video surveillance of mothers and children in hospital. However, such video-taped evidence has been of very poor quality so that they are of little value and at the most may arguably show parents causing harm to a child, but there is no evidence in such tapes that a parent is `fabricating' or `inducing' a child's illness in order to gain the attention of the physician for themselves. In fact again, anecdotal evidence from parents suggests the opposite applies in that they have often a deep animosity toward the physician for being unable to diagnose and treat their seriously ill child.

In a recent article in the British Medical Journal, Professor Alan Craft and Professor D.M.B. Hall, who are both prominent paediatricians in the U.K., state, "As there is no single psychological profile of Munchausen Syndrome By Proxy [FII], and the label makes unwarranted assumptions about the parent's mental state and motivation, many U.K paediatricians feel that the term should be abandoned."

MSBP/FII has also been the subject of contentious debate in the U.K. Parliament on several occasions and in a Parliamentary debate on 17 October 2001, Earl Frederick Howe said of MSBP/FII that, "(it is) one of the most ill-founded and pernicious theories to have gained currency in child care and social services over the past ten to fifteen years." In recent times calls have been made by some Members of Parliament for a withdrawal of the DoH Guidelines.

Arguably, an allegation of MSBP/FII usurps due legal process and the lawful roles of the child protection agencies and the police by stating:
* this is the crime (i.e. child abuse);
• this is the culprit/perpetrator/offender (usually the mother);
• this the culprit's motive (to gain attention of the medical practitioner); and
• this should be the punishment (removal of the child and denial of the parent ever having the care of further children).
The parent is in effect `convicted' by doctors and child protection agencies and this is frequently based solely on the opinion of only one medical practitioner with no corroborative evidence.
There is very rarely any evidence that full and independent investigation and assessment of the allegation by the child protection workers as required by U.K. child protection legislation, or a police investigation.
There is no government body in Australia, the U.K. or the U.S.A. which records the numbers of MSBP/FII cases which are diagnosed each year nor do they record cases of false positives. So the incidence of MSBP/FII is statistically unknown and the accuracy rate is indeterminate.

Inaccurate Diagnoses

There are several documented cases where the allegation of MSBP/FII should not have been made and several have been reported in the U.K. media.
A classic illustration of a false positive allegation of MSBP/FII was the case of an infant Megan Armstrong which occurred in Northumberland, England in 2001. Since her birth in January 2000, Megan had been receiving medical treatment in hospital and at home for failing to thrive and was treated for an eating disorder. On 1 March 2001, a Child Protection Conference was convened at which it was alleged that Megan's illness was fabricated and induced by one of her parents and that this was a clear case of Munchausen Syndrome By Proxy.

The physicians present at this meeting stated that, "Megan's needs have been thoroughly investigated by a paediatrician and other consultants. All medics concerned are of the opinion that there is no organic cause for Megan's faltering weight. Dr Quilliam is clear that this child is gradually starving and will go into organ failure before long as a result of lack of nutrition and appropriate care with regard to her feeding routine."

On the basis of these medical opinions, it was the decision of the child protection meeting that Megan's name be placed on the children `At Risk' register with a view to bringing court proceedings for her removal from her parent's care into State care. On March 2, 2001, the day after the meeting, Megan - then aged 14 months - was taken to Newcastle General Hospital to be tested for suspected lead poisoning for which she was given an MRI scan. The scan revealed that she had a large brain tumour which was now pressing on the optic nerve in her right eye. The tumour responded to chemotherapy treatment but the optic nerve was permanently damaged and she has lost the sight in that eye.

Court Decisions

In 2003 and 2004 there were landmark cases in the U.K. Criminal Appeal Courts [Sally Clark/ Angela Cannings/Trupti Patel] regarding the evidence presented by Professor Sir Roy Meadow and which have resulted in his theories regarding Sudden Infant Death Syndrome and MSBP/FII being totally discredited. Judicial comments at these court hearings were that the medical evidence was "manifestly wrong and grossly misleading" and such evidence "should not have been put before a jury".

As a consequence of the criticism of his evidence in these hearings, Professor Meadow is shortly to appear before the General Medical Council on charges of serious professional misconduct. Professor David Southall also became involved in the Clark case after seeing a television documentary and solely on the basis of the information in the TV documentary, alleged that the babies' father, Stephen Clark, had killed the children.

Southall has already appeared before the GMC Professional Practice Committee which determined that he was guilty of serious professional misconduct and his behaviour was "Inappropriate, irresponsible, and an abuse of his professional position". Although he is to be allowed to continue to practice as a paediatrician under constant supervision, he is barred from engaging in any child protection work for three years. A further eight complaints of professional misconduct against Professor Southall by mothers he has accused of MSBP are to be heard early in 2005. Some of these complaints are from mothers in Australia and New Zealand.

New rulings have been made by the U.K. courts in criminal and civil cases involving the deaths of children which are that, (Lord Justice Judge – Angela Cannings Appeal Hearing against conviction 2004), "in cases like the present, if the outcome of the trial depends exclusively or almost exclusively on a serious disagreement between distinguished and reputable experts, it will often be unwise, and therefore unsafe, to proceed".

The U.K Attorney General Lord Goldsmith has ordered a review of 258 cases of parents convicted in criminal courts in which Professor Meadow gave evidence, such reviews utilising the ruling of Justice Judge. The U.K. Minister for Children Margaret Hodge has ordered local authorities to carry out a similar review of civil cases where children have been placed in state care and adoption and the Minister has informed Parliament that this involves over 35,000 child cases.

In relating the ruling of Justice Judge to civil cases in Care Proceedings, Justice Butler-Sloss has added further rulings that;

"**i) The cause of an injury or an episode that cannot be explained scientifically remains equivocal;**
ii) Recurrence is not in itself probative;
iii) Particular caution is necessary in any case where the medical experts disagree, one opinion declining to exclude a reasonable possibility of natural causes;
iv) The Court must always be on guard against the over-dogmatic expert, the expert whose reputation or amour propre is at stake, or the expert who has developed a scientific prejudice;
v) The judge in care proceedings must never forget that today's medical certainty may be discarded by the next generation of experts or that scientific research will throw light into corners that are at present dark."

In the U.S.A. the Supreme Court has ruled, (Daubert vs. Merrill Dow) that medical evidence presented to a court must have been peer reviewed, generally accepted by the relevant medical community, and appropriately tested scientific evidence should be presented". Courts in both the U.S.A. and the U.K. have commented that courts must not be the place for fanciful speculations to be offered in evidence.

Most recently in June 2004 in an Appeal Hearing, the Supreme Court of Queensland, Australia have made the following findings in regard to MSBP/FII. [R v LM [2004] QCA 192.], "As the term factitious disorder (Munchausen Syndrome By Proxy) is merely descriptive of a behaviour, not a psychiatrically identifiable illness or condition, it does not relate to an organised or recognised reliable body of knowledge or experience. "

The Queensland Supreme Court further ruled that the determination of whether or not a defendant had caused intentional harm to a child was a matter for the jury to decide and not for the determination by expert witnesses, i.e. "the diagnosis of Drs. Pincus, Withers, and O'Loughlin that the appellant intentionally caused her children to receive unnecessary treatment through her own acts and the false reporting of symptoms of factitious disorder (Munchausen Syndrome) by proxy is not a diagnosis of a recognised medical condition, disorder, or syndrome. It is simply placing her within the medical term used for the category of people exhibiting such behaviour. In that sense, their opinions were not expert evidence because they related to matters able to be decided on the evidence by ordinary jurors.

The essential issue as to whether the appellant reported or fabricated false symptoms or did acts to intentionally cause unnecessary medical procedures to injure her children was a matter for the jury's determination. The evidence of Drs. Pincus, Withers, and O'Loughlin that the appellant was exhibiting the behaviour of factitious disorder (Munchausen Syndrome By Proxy) should have been excluded."

Conclusions

Principles of law and implications for legal processes which may be deduced from these findings are that :-
1. Any matters brought before a Court of Law should be determined by the facts, not by suppositions attached to a label describing a behaviour. i.e. MSBP/FII/FDBP.
2. MSBP/FII/FDBP is not a mental disorder (not defined as such in DSM IV) and the evidence of a psychiatrist should not therefore be admissible.
3. MSBPFII/FDBP has been stated to be a behaviour describing a form of child abuse, and not a medical diagnosis of either a parent or a child. A medical practitioner cannot therefore state that a person `suffers' from MSBPFII/FDBP and such evidence should also therefore be inadmissible. The evidence of a medical practitioner should be confined to what they observed and heard, and what forensic information was found by recognised medical investigative procedures.
4. A label used to describe a behaviour is not helpful in determining guilt and is prejudicial. Applying an ambiguous label of MSBP/FII to a person is implying guilt without factual supportive and corroborative evidence.
5. The assertion that other people may behave in this way i.e. fabricate and/or induce illness in children to gain attention for themselves (FII/MSBP/FDBY) contained within the label, is not factual evidence that this individual has behaved in this way. Again, therefore, the application of the label is prejudicial to fairness and a finding based on fact.
In the U.K. there is a long history of unproven medical and social work theories being readily accepted and used by the child protection services and which, when finally exposed as unsafe and unsound, have led to national scandals, e.g. Cleveland 1987 involving the anal dilatation test for child sexual abuse, the Orkneys/ Nottingham/ Rochdale 1990 involving the theory of Satanic Ritual Abuse, widespread use of the Repressed Memory Syndrome which was subsequently discredited, and the Shieldfield Day Care Centre, Newcastle involving the improper manner of questioning of very young children by a paediatrician regarding alleged sexual abuse.
It is clear therefore that those professionals who believe in the existence of FII/MSBP cannot agree on its title, how it is defined, which profession can make a clear diagnosis of its occurrence, and whether it has medical properties. Courts are now coming increasingly to the view that the label of MSBP/FII should not be admissible in evidence in criminal or civil cases.

AUTHOR
Charles Pragnell
Expert Defence Witness – Child Protection and Social Care Management Consultant