

Injury Prevention: Aspects of the Legislative Response

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Injury is the leading cause of death among children aged 2-17 years. A legislative study commission—the North Carolina Child Fatality Task Force—was established in 1991 to study the causes of child deaths and to make recommendations to prevent future deaths. Aspects of the legislative response are presented here.

The lead article in this policy forum makes it clear that injuries result in enormous human and fiscal costs, affecting not only individuals and families, but also society as a whole [1]. Thus, it should come as no surprise that injuries receive considerable public attention that is spread across much of state government.

The North Carolina Department of Health and Human Services has a specific branch dedicated to injury prevention. The state's Department of Labor and Department of Agriculture devote considerable energy and funding specifically toward the prevention of injuries in the workplace. The North Carolina Department of Insurance focuses on injury prevention as a way to reduce insurance costs, and the University of North Carolina Injury Prevention Center provides a research basis that informs injury-prevention efforts in North Carolina and beyond.

The North Carolina General Assembly considers injury issues in an array of committees and joint oversight groups. There is, however, one legislative study commission, the North Carolina Child Fatality Task Force, that spends much of its time on the study and prevention of injury fatality and serious morbidity.

Approximately two-thirds of deaths among children younger than 18 years occur in the first year of life, and the task force spends a significant amount of its time on the prevention of infant mortality. However, injury is the primary cause of death among children aged 2-17 years. Although the task force's mandate restricts its attention to children, it has accumulated a lot of experience on the many legislative aspects of injury prevention.

Targeting Personal Behaviors Versus Products

Legislative interventions to prevent injuries basically fall into 2 categories: those affecting personal behaviors and those affecting products in the marketplace (or, in some

instances, both). The environment for legislative action in these 2 categories is quite different. Proposals to affect personal behaviors, such as requiring the use of seat belts, receive broad but often diffuse opposition because they raise the basic issue of government intrusion into personal and family life. When a proposal is put forward to restrict or eliminate a product from the marketplace, such as banning novelty lighters, which have inadvertently led to human and property loss, the opposition is usually more narrow but deeper because manufacturers and retailers are financially affected and have extensive lobbying capacities.

Legislation as a Last Resort

The American tradition is steeped in individualism and capitalism. Thus, any legislation that restricts behavior or freedom of choice is usually considered intrusive. Each of the 50 states has developed its own tolerance level for such intrusion, with the southern states, including our beloved home, having, perhaps, the lowest tolerance levels. Thus, legislative proposals, including those made by a legislative study commission, must meet the standard of "last resort," which means that it must be clear that all other forms of intervention considered have been deemed inadequate.

The standard also has other criteria to be considered: How often does the problem (injury, in this case) occur? Is the proposed intervention evidence based, in terms of reducing the occurrence of injury? What fiscal costs are involved?

Education as the First Option

Even when the standard for legislative involvement is met, the first option considered is education. The voluntary change in behaviors through awareness campaigns avoids allegations of intrusion and is obviously appealing to legislators. A good example is the ongoing state-funded Safe Sleep Campaign to make new parents aware of the risk indicators for sudden infant death syndrome. Research has produced several evidence-based ways to reduce the occurrence of these deaths. Versions of the campaign have been in place for a decade, and the number of such deaths has declined significantly.

Providing state funding is not an easy decision at any time, and it is particularly difficult during the current recession. From a legislator's perspective, it would be best for

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funds to come from another source (eg, federal agencies and foundations). When no such source can be identified, securing state funding is easiest when the intervention is education and is evidence based.

Education Through Legislative Action

There are times when legislators agree that more than education is needed to get the attention necessary to change behaviors. At this level, penalties for risky behaviors are usually very mild. However, simply adopting a legislative requirement will often significantly increase compliance. For example, when legislation some years ago required that certain child car passengers be secured in booster seats, the compliance rate spiked even though the penalty for non-compliance is only \$25 (which can be forgiven if a booster seat is soon purchased). This supports the hypothesis that parents are looking for guidance about child safety, and the imprimatur of the North Carolina General Assembly is quite powerful in this regard.

Punitive legislation. There are also times when the legislative message is delivered with heavy penalties, usually because the risk to others is greater and the community is very interested in controlling the offending behavior. A primary example is driving while impaired, which includes stiff monetary penalties, insurance penalties, and restrictions in driving privileges for a period. Even here, however, legislators wrestle with the issue of punishment, noting that heavy fines are disproportionately onerous on low-income folks.

Standards for children versus those for adults. Just as families place a priority on the protection of children, so the legislature seems to be more receptive to proposals to protect children, who presumably might not know any better or be unable to fend for themselves. (Perhaps this should not be surprising, since virtually all the members of North Carolina's citizen legislature are parents or grandparents of young children.) Thus, only children younger than 16 years are required to wear helmets while bicycling, and only children younger than 12 years are banned from riding in the open bed of a pickup truck. A classic example of the "adult/child phenomenon" is the case of all-terrain vehicle (ATV) regulations. All ATV operators are required to wear protective gear. However, operators younger than 16 years are restricted to lower-powered ATVs, and children younger than 8 years are banned from operating any ATV.

Finally, by far the most successful application of this line of thought is the graduated licensing system for drivers. While the legislature continues to agree that licensees aged 18 years and older should be allowed to operate a car without restrictions, North Carolina was one of the first states to adopt a system that includes restrictions for licensees younger than 18 years (who are not permitted to drive alone, or at night, or with multiple passengers) that, with good driving behavior, are eased in stages as the driver approaches 18 years of age. Restrictions include a ban on the use of a cell

phone while driving, a proposal that has been a nonstarter when considered for adults.

The agricultural exemption. North Carolina as a state pays great deference to agriculture and its traditions. This likely stems from times when agriculture formed almost the entire base of the economy and most farms were family run. Although these times are in the past, the legislature remains prone to exempting agriculture from many statutes, and injury prevention is a prime example. Thus, the ATV regulations cited above do not apply to machines operated for agricultural purposes. Children of any age can ride in the open bed of a pickup truck if the vehicle is being used on a farm.

For child-safety advocates, perhaps the most worrisome agricultural exemption is for child-labor regulations, almost all of which are waived if the child is working on a farm. Not only are regulations on hours and work conditions waived, but regulations on the operation of machinery are waived, as well. Thus, a teen employed at a large hardware store is prohibited from operating most machinery at the store but is allowed to operate any machinery on a farm. It is no surprise to learn that child-labor injuries occur a lot more frequently on farms than in other workplaces. Yet the time-honored tradition of the agricultural exemption remains essentially unchallenged.

Children as property. Another American tradition, variably applied by the 50 state subcultures, is the consideration of children as the property of the family. Thus, to the extent that the public ethic is to avoid intrusion into family matters, children are subject to the behaviors of adult family members. When there are specific statutory protections, such as safety requirements for child passengers, there are fines for noncompliance, but the adults who allow a child to go unprotected have traditionally not been held accountable in the legal sense.

Three years ago, North Carolina adopted a "child-endangerment" statute. The intent of such statutes is to make it a crime to put a child at serious risk of injury, with escalated charges if the child is seriously hurt or dies. The fact that North Carolina was one of the last states to enact such protection for children speaks to many of the issues presented above. It will be very informative to monitor how the child-endangerment statute is applied over time. Situations in which this statute has been enforced include driving while impaired with a child passenger in the car and leaving a young child unsupervised in a locked car. The extent to which this statute will enhance the protection of children from injury will be an issue of concern for child advocates for some time to come.

Conclusion

Children will continue to be risk takers, and it is most likely that injury will continue indefinitely to be the leading cause of death in children older than 1 year. While parents are the primary protectors of children, government can play

an important supporting role. Finding the balance between support and intrusion remains a challenge—a critical challenge that must be addressed if we wish to reduce child

deaths. There can be no greater calling. NCMJ

Acknowledgment

Potential conflicts of interest. T.V. has no relevant conflicts of interest.

REFERENCE

1. Runyan CW. Positioning North Carolina for leadership in injury control. *N C Med J.* 2010;71(6):527-530 (in this issue).

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