

How many cases of abuse are really vaccine injuries?

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## **Was It Murder, Or A Bad Vaccine? By Jan Goodwin**

Teaser:

It's a question that is tearing families apart, as prosecutors blame parents for the shortcomings of common vaccines.

### THE SMALL NURSERY

that Lois Scoon and her husband, Malcolm, of Queens, NY, lovingly wallpapered in little yellow and white roses is quiet now. The crib is still there, but it is empty. The stuffed toys-the giraffe, monkey, and lion that soothed baby Mariah to sleep every night-were tucked alongside her in the coffin the tiny 5-month-old was buried in.

The death of a young child is devastating to any parent. But Lois Scoon's grief has been compounded by the fact that her husband is not at home to share it with her. A few months after Mariah died from a brain hemorrhage in March 1996, Malcolm Scoon was accused of causing her injuries by shaking her violently. Convicted of second-degree manslaughter, Scoon, once a practicing anesthesiologist, is now serving two to six years in a medium-security prison in upstate New York.

To those who knew Malcolm Scoon as a gentle man who never lost his temper, the idea that he had caused his daughter's death was impossible to accept. Mariah was the Scoons' only child, the baby Malcolm and Lois, both now 41, had struggled hard to conceive, undergoing in vitro fertilization three times. Born almost three months premature in September 1995, weighing just over two pounds, the fragile baby spent the first two-and-a-half months of her life in a neonatal intensive-care unit, much of that time on a ventilator to help her breathe. As she fought to survive, she would require six blood transfusions. "We were at the hospital every day," remembers Lois, then a teacher. "I pumped breast milk to give her. She was so small, with tubes everywhere. The hardest part for us was that we couldn't hold her. But we were thrilled she was alive. No one can say we weren't attentive parents. All the hospital records confirm this." In fact, several respected medical experts insist that prosecutors fingered the wrong culprit in Mariah's death. "I cannot understand why Malcolm Scoon was found guilty," says Patrick Barnes, M.D., former chief of pediatric neuroradiology at Boston Children's Hospital. "I've been looking at injury to the brain

for 22 years, and in that time, I've reviewed a lot of child abuse cases. This was not one of them." Instead, Barnes and others are convinced that Scoon is among a growing number of parents who are unfairly blamed for the side effects of vaccines given to millions of American babies each year. It is a shocking trend, one that alarms both government officials and medical professionals. "We are very disturbed to learn that there are a lot more injuries [from vaccines] than is realized," says Beth Clay, a staffer with the congressional Government Reform Committee, which has been conducting hearings on vaccine side effects for the past year. "A number of people have been accused of causing Shaken Baby Syndrome (SBS) and jailed."

"There is a sudden groundswell of these cases," agrees John Menkes, M.D., a pediatric neurologist at Cedars-Sinai Hospital in Los Angeles who is regarded by many as the "father" of his specialty. Even when there are other, more likely medical explanations for a baby's injuries, Menkes says, prosecutors rush to judgment-and he is cynical about the reasons: "Ambitious prosecutors get their names in the paper. It's a career boost for them."

#### FATHERS FALSELY ACCUSED

Helen Carey, a 33-year-old mother of three, still weeps at the memory of her husband, Bill's, arrest. Their 6-month-old son, Ryan, had just had his second DTP (diphtheria-tetanus-pertussis) shot, along with two other vaccines for polio and hepatitis B. Ryan's first dose of DTP had been followed by a night of fever and vomiting. This time, Ryan's fever set off convulsions. His parents rushed him to Hunterdon Medical Center in Flemington, NJ, where doctors noted that the seizures were most likely a reaction to the DTP shot. But the next day, Ryan was examined at nearby Robert Wood Johnson Hospital, where an MRI showed three subdural hematomas, or spots of bleeding in the brain. A hospital social worker convinced that the injuries were a sign of SBS, called child-welfare authorities and the police. Ryan was taken from his parents, and his father-a police officer-was arrested. "It was the worst day of our lives," says Helen Carey. "We not only had a son who was very sick, we were told we had caused it. I had never seen my husband cry until then. He'd been on the force for nine years. Imagine how we felt when police surrounded our house, pounded on the door, and took him away in cuffs." During Carey's trial in September 1998, his lawyer discovered that Ryan's DTP shot had come from a so-called hot lot-a batch of too-strong vaccine that had caused seizures in at least 17 other children. Carey was acquitted; Ryan, now 4, is permanently brain damaged. Larry Gray, 34, of Macomb, OK, was also accused of causing the massive brain injury that has left his son Christopher, now 11, blind and unable to walk, talk, or swallow. "First, we were told our son would be a vegetable for the rest of his life," recalls Gray. "Then they accused me of trying to kill my child. I wasn't permitted to see my son. I'd given him mouth-to-mouth resuscitation that night, for heaven's sake."

Gray, too, was eventually acquitted after doctors agreed that the injuries could have been a severe reaction to DTaP "But I was guilty until proven innocent," he says, "not the reverse. Malcolm Scoon was not so lucky, despite the expert witnesses who came to his defense. Neuroradiologist Barns-who took the stand against British au pair Louise Woodward in the SBS death of Matthew Eappen in 1997-testified that the kind of blood clot Mariah had was caused by a meningitis-like infection triggered by the pertussis portion of the DTP vaccine, which in turn caused brain hemorrhaging, swelling, and inflammation of the brain and its lining.

With a child as frail as Mariah, he adds, emergency room doctors' attempts to give her CPR could also have put pressure on the blood vessels leading to her brain, contributing to her bleeding.

"Mariah Scoon was a very frail baby who died from meningitis, which at that age has a very high mortality rate," agrees Enid Gilbert Barness, M.D., a pediatric pathologist and professor at the University of South Florida who also testified for Scoon. "It was right there on her pathology slides. A blind man on a galloping horse could have seen it. But once it was decided this was SBS, they didn't look any further. The guilty finding was an absolute miscarriage of justice." Prosecutors made much of Scoon's admission that he slightly jostled his daughter, hoping to revive her that day he found her limp body in the crib. Lois Scoon is also convinced that her husband's case was hurt by the media attention it received. A frenzy of front-page tabloid headlines was triggered by Long Island Jewish Medical Center's recommendation that Mariah be taken off life support. The deeply religious couple refused, and the hospital took them to court. Eventually the late Cardinal John O'Connor, archbishop of New York, arranged for the baby to be transferred to St. Vincent's Medical Center, a Catholic hospital, where Mariah remained on life support until her heart stopped beating. But the couple's battle with the hospital fueled suspicions that they were trying to delay the criminal investigation. Lois maintains that she and her husband simply were hoping that a "miracle might happen. "We wanted to give Mariah every opportunity to live," she says.

## WHEN VACCINES HARM

Mass vaccination is arguably modern medicine's most successful tool for preventing disease, disability, and death. Vaccines have saved tens of millions of lives, eradicating smallpox and polio from most industrialized countries. Dreaded killers like whooping cough (caused by the pertussis bacteria) and diphtheria are now almost unheard of in developed countries. Most of the 4 million infants born in the U.S. each year are vaccinated beginning at birth and continue to receive booster shots for the next five years-a total of 33 doses of ten different vaccines. (continued) No vaccine is 100 percent safe, and public health officials acknowledge that immunizations serve

the common good at a high cost for a few. In 1986 the federal government officially recognized that trade-off by creating the National Vaccine Injury Compensation Program. Funded by a surcharge on every vaccine dose, the program has so far paid out more than \$1 billion in settlements to the parents of brain-damaged and other seriously hurt children. Almost 75 per- cent of those claims concern the DTP vaccine (see box, "The Trouble With DTP," page 161).

Few people wanted to look closely at the problem of vaccine injuries 18 years ago when Barbara Loe Fisher, 52, co- founded the National Vaccine Information Center in Vienna, VA, with other parents whose children had suffered devastating problems after being immunized. "It's hard for me to express in words how tragic the denial of the reality of vaccine injuries and deaths has been," says Fisher, whose own son Christian, now 22, suffers from multiple learning disabilities as a result of a reaction to DTP. Fisher, who now serves on vaccine advisory panels for both the Food and Drug Administration and the National Academy of Sciences, says that the success of the smallpox vaccine nurtured a belief that mass vaccination could save the world from all infectious diseases. " The drug industry, the government, and the medical community raced for- ward developing all manner of vaccines," she says. "In their speed to act and their hope of making the world a better place, they apparently did not consider that there may be a significant risk to the immune and neurological systems of some children."

While 150 new vaccines are now in development, Fisher, along with congressman Dan Burton, a Republican from Indiana and chair of the Government Reform Committee, and others in Congress, is working to raise awareness of vaccine-related safety issues. Among the concerns critics would like to see addressed:

What is the real rate of adverse reactions? The federal Vaccine Adverse Event Reporting System receives between 11,000 and 12,000 reports each year, mainly from physicians and vaccine manufacturers. But reporting is voluntary, and surveys show that responses vary widely from state to state, with as many as one in ten to as few as one in 100 doctors actually bothering to fill out the necessary paper- work when a child suffers a reaction. In addition, some fatal injuries may be misclassified, as Sudden Infant Death Syndrome, for instance.

Why aren't side effects of vaccines studied? The government spends \$1 billion a year to develop and promote vaccines, but only a fraction of that goes to fund independent studies of side effects, says Fisher. "Vaccine testing is done on a too-small number of kids, and they are monitored for too short a time," says Mark Geier, M.D., a Maryland geneticist formerly with the National Institutes of Health and an expert on DTP. "Previously undetected reactions can show up later, when larger numbers of children

are inoculated. I've seen a manufacturer insert in a vaccine that read 'Studies show no significant major reactions, but some may show up in the field.' And they do."

—Why aren't hot lots immediately pulled off the market? "Hot lot" is the term used to describe a batch of a vaccine that generates ten or more reports of illness or two or more reports of seizure or death. "There is tremendous variability between a good lot and a bad one," says Geier. "The endotoxin in DTP vaccine lots, for example, can vary 50-fold." According to the National Vaccine Information Center, some vaccine lots have resulted in as many as 227 reports of serious reactions, and others in as many as 13 deaths. But the Food and Drug Administration leaves it to drug manufacturers to voluntarily recall a bad batch. And because lots vary dramatically in size, says Larry Gray's attorney Curtis Webb, of Twin Falls, ID, "it's hard to determine if eight to ten serious reactions are many or not," meaning that hot lots continue to be sold.

—How safe is it to give infants several vaccines at once? Congressional investigators are concerned about the growing practice of giving a child as many as six separate shots or one "super shot" containing as many as nine vaccines in one visit. Pediatricians do this for convenience's sake or to keep the number of needle sticks per kid at a minimum. "But everybody just guesses," says the Government Reform Committee's Clay. "By introducing so many different vaccines at the same time, it's possible that we could be blowing a child's immune system, just like overloading the electrical system by putting too many plugs into one outlet."

"Federal policy makers are not paying serious enough attention to the dangerous side effects that are occurring," says Congressman Burton. "We can no longer keep our heads buried in the sand on this issue. The risks are too great for both parents and children."

## FAMILIES ON TRIAL

Joseph Krakora, the Careys' lawyer, says it is understandable that authorities want to protect children. "But when hemorrhaging and subdural hematomas are found, all too quickly doctors and child-welfare authorities decide it's abuse. Just because the facts are consistent with SBS, doesn't mean it is SBS. Once they see bleeding in the brain, however, they don't want to hear anything else." Krakora believes that authorities need to be educated that there are other causes of this kind of damage. But he also complains that even some doctors deny-in court- that vaccines can cause injuries. The resistance to the truth about adverse reactions takes both an emotional and a financial toll on families. After his acquittal, Carey returned to his job as a police officer in Union County, NJ, and received \$100,000 in back pay for the time he was suspended. But the family's finances remain in ruins. "We spent considerably more than that on

legal fees and were forced to sell the house we'd just built," says Helen Carey. The Careys are seeking an award from the Vaccine Compensation Fund to cover the cost of Ryan's care. "Ryan doesn't talk, he has vision problems, his walking is very unsteady, and he has difficulty swallowing," says Helen. "Doctors say he has some neurological signs of cerebral palsy and exhibits a form of autism. He doesn't play with other children or like to be touched. He screams a lot of the time and has difficulty sitting still."

But after almost four years, their case is still pending. Parents suing for damages must wait in line-the backlog of cases is huge. They can also face as much of a legal mauling as they would if they faced criminal charges.

After his acquittal, for example, Larry Gray filed for damages from the Vaccine Compensation Program. It took him eight years to get a hearing. During that time, the emotional and financial pressures were so enormous that his marriage to Christopher's mother fell apart. When Gray finally got a chance to testify, the government's lawyer once again accused him of having abused his son. "I've never had a kid as badly hurt as Christopher Gray, nor a father more devoted than Larry," says attorney Webb, who represented Gray at the compensation hearings. "But despite this, the case was very adversarial against him. Larry was treated like a convicted felon. Government lawyers brought up the fact that when Larry was a young man he'd had a speeding ticket. This was supposed to support the fact that he was the violent type."

Gray was eventually awarded \$2.5 million in trust to cover Christopher's costly medical care as long as he lives. Doctors told Gray they didn't expect his son to make it past his 10th birthday; Christopher is now 11.

As for Lois Scoon, she has faith that one day, her husband too will be exonerated. The \$400,000 in legal fees wiped the couple out financially, so they are relying on a court-appointed attorney in their appeal. Meanwhile, each Friday night Lois boards a prison charter bus for the eight-and-a-half hour trip to the Bare Hill Correctional Facility in upstate New York, near the Canadian border, where her husband is held.

"If anyone saw him, they would not believe what he has been through," says Lois, who attributes her husband's good spirits to his strong faith. "He has been an encouragement to me." The worst thing for her, she says, is the loss of a child she adored. "Mariah had just started smiling and cooing when she died," she says. "Her little smile and that cooing sound are what I miss so much when I come home."

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Caption1:

Lois (above left) and Malcolm (above and top right) Scoon had been attentive to their fragile baby's needs. Then Malcolm was charged with causing his daughter's fatal brain injuries. (Opposite page) Every Friday night, Lois boards a prison bus for the all-night trip to see her husband.

Caption2:

When Larry Gray (above with 11-year-old Christopher) sued the government for damages to cover his son's expensive medical costs, he was treated like a felon."

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TEXT BOX #1:

DTP has always been among the more dangerous vaccines. The trouble is in the pertussis component, which in the original form of the vaccine was made from whole or "live" cells of pertussis bacteria containing endotoxin poisons. 'Endotoxin is the most notorious fever-causing agent in the world and can interfere with clotting and cause bleeding in the brain, cause seizures and permanent brain damage, and trigger auto-immune problems," explains Mark Geier, M.D. In fact, pertussis is so poisonous that scientists use it to study brain swelling and hemorrhage in lab animals.

Doctors in Japan and in several European countries have been vaccinating children for two decades with a safer, slightly costlier alternative known as DTaP. U.S. pediatricians are only now making the switch to this "acellular" version (hence the "a" in the name) of the vaccine, although it was actually developed at the National Institutes of Health (NIH). "We didn't act on it," says Geier, "but a Japanese doctor studying at NIH did. Japan had the safer vaccine long before we did." Geier is among those who believe that suits against the vaccine had the effect of keeping DTP in circulation. "When parents started suing," he charges, 'suddenly we found doctors being paid 500,000 by the industry to say that it still hadn't been proven that DTP caused severe side effects."

The Centers for Disease Control (CDC) estimates that only 6 or 7 per cent of the pertussis vaccine doses now on the market contain the whole-cell pertussis bacteria. But while Japan banned the inferior vaccine as soon as DTaP became available, U.S. government authorities declined to pull it off the shelves. The CDC pamphlet that explains the risks of DTP and DTaP to parents notes that DTaP causes fewer adverse

reactions, but stops short of recommending that parents avoid the old vaccine altogether. Pediatricians who aren't up to speed on the recommendations from the American Academy of Pediatrics can legally dispense the outmoded, cheaper vaccine. "It's still a licensed product," explains Charles Vitek, M.D., a medical epidemiologist with the CDC. "As long as it is a licensed product-which means basically that it's been found by the Food and Drug Administration to be effective and reasonably safe-there's nothing to say that it should be pulled from the market." What will it take to get it off? Says Vitek, "When the demand from practitioners drops so low that manufacturers decide it's not worth their while to make it."

Other medical experts argue that the laws of supply and demand shouldn't be allowed to take precedence over safety concerns. "I'm very pro-vaccination," says Geier. "But our vaccines should be as good as we know how to make them. In 1940, DTP was the best we knew how to make. In 2000, it's a dangerous embarrassment."

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TEXT BOX #2:

#### STEPS YOU MUST TAKE TO SAFEGUARD YOUR CHILD:

Thanks to vaccines, virtually none of us knows a child who has contracted polio, whooping cough, or one of the other illnesses that disabled or killed thousands of children in our grandparents' era. Even critics of the federal vaccination program agree that for most children, vaccines cause only mild side effects, if any. To reduce the risk that your child could have a more serious reaction:

1. Request that your doctor use the newer DTaP vaccine.
2. Have your child vaccinated only if she is in good health. If she has been running a fever, ask your doctor about postponing the vaccination until she is well again
3. Familiarize yourself with vaccine side effects. Your physician is required by law to give you a handout from the Centers for Disease Control explaining benefits and risks before your child is vaccinated; be sure you read the material and keep it on file.
4. Ask for and read the manufacturer's package insert and look for any side effects or contraindications.



5. Monitor your child for symptoms. Most adverse reactions occur within three days, but a few vaccines can take several weeks to trigger symptoms. Serious reactions include high fever, prolonged high-pitched screaming, breathing difficulty, shock, seizures, or lethargy. If you suspect a bad reaction, call your doctor, or take your child to the emergency room.

6. Tell your physician if your child had a previous had reaction to any vaccine; a first reaction, even if it is mild, increases your child's chance of having another.

7. Alert your physician if anyone in your family has had vaccine reactions, convulsions or neurological disorders, severe allergies, or auto-immune diseases.

8. Keep your own permanent record of all vaccinations, including the vaccine manufacturer's name and lot number.

9. Keep yourself informed about new vaccines, new recommendations, and the latest reports on vaccine safety by contacting the following:

o Centers for Disease Control and Prevention National Immunization Information Hotline (800-232-2522; [www.cdc.gov/nip/](http://www.cdc.gov/nip/)) for the latest immunization recommendations and materials on risks and benefits.

—National Vaccine Information Center (800-909-SHOT; [www.909shot.com](http://www.909shot.com) ) for assistance if your child has a reaction, guidelines on how to report an adverse event, and information on vaccine research.