Op-Ed

Imagination and Public Health: The End of Lead Poisoning in California?

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LET US IMAGINE WHAT WE WOULD DO IF MIDDLE-CLASS children—or adults—were threatened by a small outbreak of meningitis or a potentially deadly epidemic of MERS, SARS, or influenza. Undoubtedly, the nation's public health professions would mobilize, closing down the schools where children congregate, watching the airports for sick passengers, initiating public health education campaigns, and even isolating cases in sterile hospital rooms or spurring the development of vaccines, all in order to stem the tide of contagion.

Yet for at least a century, we have allowed a devastating epidemic—lead poisoning—to fester among the nation's most vulnerable and powerless citizens: poor minority children.¹ For decades, the cardinal symptoms of lead poisoning were convulsions, comas, and even death. These cases, of course, represented the end results of a massive poisoning with lead. But since the late 1980s and with smaller ingestions of lead, the more common symptoms are harder to define and identify. The US Centers for Disease Control and Prevention (CDC) estimates that today more than half a million children have blood-lead levels above acceptable levels. These children are at risk of a wide menu of neurological, perceptual, behavioral, and physical damage caused by low levels of lead exposure. Hyperactivity, lowered IQ scores, dyslexia, attention deficit disorder, failure in school, and even delinquency are the symptoms of the 21st-century version of lead poisoning.

"Today at least 4 million households have children living in them that are being exposed to high levels of lead," reports the CDC. There are approximately half a million US children aged 1 to 5 with blood-lead levels above 5 micrograms per deciliter of blood, "the reference level at which CDC recommends public health actions be initiated." The reasons are clear: "Lead exposure can affect nearly every system in the body. Because lead exposure often occurs with no obvious symptoms, it frequently goes unrecognized." Furthermore, "differences in average risk

based on race and social class,” the CDC points out, make lead poisoning an especially odious and troubling public policy issue, affecting the politics of any attempt to end this disease.²

The source of the lead is well-known: between 1900 and 1950, millions of tons of lead were routinely used in paint, even though pigment and paint manufacturers knew that physicians around the country were reporting cases of children being poisoned after touching, eating, and inhaling the lead dust coming from the cribs, toys, walls, and furniture in their homes. In fact, despite discussing lead-poisoning cases in their trade association meetings and reports, these companies continued to peddle the paint as a “healthful” product. Advertisements and paint books aimed at children specifically showed them how to paint their walls, furniture, toys, and homes with this deadly neurotoxin.

Unfortunately, this issue and its consequences have largely flown under the radar of health professionals, who often are overwhelmed by the mere magnitude of the potential costs for a national cleanup. With 4 million lead-contaminated houses currently occupied by children under the age of 5, plus the millions of others that will one day be inhabited by young families and their children, the cost of prevention—removing lead from the nation’s walls—appears prohibitive. Public health and housing authorities alike shiver at the enormous expense of removing the hundreds of millions of pounds of lead paint from 38 million homes around the country.³

While we barely blink an eye at campaigns against the potential, albeit small, threats from smallpox or anthrax in the name of national security, we have cynically decided that the cost of lead removal is “too much” relative to the cost to children whose already slim life-chances have been reduced even further. We have become a society callous to the suffering of its fellow citizens as “cost-benefit” analysis has become a moral as well as a financial calculation.

But all is not lost. In California, a superior court judge, James Kleinberg, has declared that lead poisoning, the longest-running childhood epidemic in American history, should come to an end—at least in San Francisco, Los Angeles, San Diego, Oakland, and 6 other California cities and counties. Last fall he ordered National Lead, Sherwin Williams, and ConAgra, 3 lead-pigment manufacturers that sold and marketed lead paint in the state for a half century or more, to pay \$1.10 billion to county and city public health departments to abate the lead hazard in 4.7 million homes. Following an appeal by the industry to

reconsider his decision, he added another \$50 million to their bill. In an act of incredible humanity and boldness, Judge Kleinberg decided that enough was enough and future generations needed to be protected.

In the coming months and years as the appeals process winds through the courts, we will undoubtedly be barraged by a public relations campaign from the industry and its supporters. In fact, it has already begun. *Forbes* magazine, the bible of businessmen and women, has already lowered the boom by declaring that a “California judge terrorizes business with an Orwellian tort travesty.”⁴ The lead industry’s campaign will be aimed at persuading the California appeals court and supreme court that Judge Kleinberg’s decision was wrongheaded and misdirected. Undoubtedly we will see many more media articles parroting the lead industry’s traditional arguments that lead exposures are much lower than they ever were; that the impact of lead on children’s health is unproven and overblown; that California has “only” a small number of cases every year; that the real culprits are landlords, not the paint companies; that the real dangers are from the removal itself; that “intact” paint is not dangerous; that only poorly informed parents let children be exposed to lead; that paint has not contained lead for more than 30 years and that this is a problem of the “past,” when “no one” could have foreseen the impact of low-level exposures; or, alternatively, that everyone knew about the dangers of lead; that liberal judges are being misled by zealous public health advocates; and so on and so on ad infinitum. These are tried and true tactics employed by many polluting industries to confuse and mislead the public and, worse, to poison the atmosphere in which courts make their decisions.

Thankfully, at least for the time being, Judge Kleinberg has issued a very clear and extensive decision that addresses virtually all these “objections.” If the appeals court justices follow the law, as he has done, the children and the county officials should win the day. In Kleinberg’s extensive brief, many eloquent statements stand out. Perhaps the most relevant passages address the suffering of the 50,000 children living in California’s cities who between 2007 and 2010 were diagnosed with elevated blood-lead levels, the 10,000 who were identified in 2010 alone, and the thousands of others who are threatened by lead every day of their lives. Kleinberg points out that these are not abstract statistics as the industry’s lawyers imply:

Consistent with their arguments throughout the trial the Defendants rely on statistics and percentages. When translated into the lives of

children that is not a persuasive position. The Court is convinced there are thousands of California children . . . whose lives can be improved, if not saved through a lead abatement plan.⁵

In this short statement, the judge condenses decades of arguments into one simple fact: that lead continues to plague the nation and children are still being harmed and that we must hold accountable those who are responsible.

References

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