

127014

127014

U.S. Department of Justice
National Institute of Justice

This document has been reproduced exactly as received from the person or organization originating it. Points of view or opinions stated in this document are those of the authors and do not necessarily represent the official position or policies of the National Institute of Justice.

07-89157

Permission to reproduce this ~~copyrighted~~ material has been granted by

~~Public Domain/U.S. Department of
Health and Human Services~~
to the National Criminal Justice Reference Service (NCJRS).

Further reproduction outside of the NCJRS system requires permission of the ~~copyright~~ owner.

**LEGAL ISSUES RELATED TO CHILD ABUSE AND NEGLECT
(FALL 1988 and SPRING 1989 UPDATES)**

Spring 1989

**Clearinghouse on Child Abuse and Neglect Information
P.O. Box 1182
Washington, DC 20013
(703) 821-2086**

**U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
Office of Human Development Services
Administration for Children, Youth and Families
Children's Bureau
National Center on Child Abuse and Neglect
P.O. Box 1182
Washington, DC 20013**

Publications listed in this bibliography which are not under copyright, such as government publications, grant reports, or unpublished papers, are available from the Clearinghouse for a reproduction fee of \$.10 per page. Journal articles are copyrighted, and may be found at a research or university library. Commercially published books, monographs, and reports are available from the publisher listed. Please contact the Clearinghouse for clarification of copyright status on any document and for further ordering information.

DIALOG File 84: CHILD ABUSE AND NEGLECT-SPRING 1989 EDITION

4302A4 CD-10131

Child Abuse in Nineteenth Century Queensland.

Thearle, M. J.; Gregory, H.

Queensland Univ., South Brisbane (Australia). Dept. of Child Health.

Child Abuse and Neglect 12(1):91-101, 1988.
1988.

Subject Code: 98

This paper investigates abuse of infants in Queensland in the context of socioeconomic conditions, family stress, concepts of morality, and prevailing social mores in the latter half of the 19th century. Identifiable incidents include infanticide, injury, deliberate neglect, neglect due to ignorance and poverty, and accidents or poisonings where abuse appears to have been a factor. Child abuse stimulated the medical profession, religious bodies, groups of concerned citizens, and eventually the state to intervene to protect and care for endangered children. These initiatives and the social and moral attitudes they reflected are also examined. Legal definitions and records of court proceedings are evaluated as well so that changes in official as well as social attitudes can be better understood. 59 references. (Author abstract modified)

Descriptors: child neglect, australia, child abuse histor, infanticide, accidents, definitions, judicial decisions

4301I4 CD-10115

Special Hearsay Exceptions.

Eatman, R.

National Center for the Prosecution of Child Abuse, Alexandria, VA.

Alexandria, VA, National Center for the Prosecution of Child Abuse, 8 pp., March 1987.

March 1987.

Subject Code: 97

Special statutory hearsay exceptions authorizing admission at trial of a child victim's out-of-court statement about abuse as substantive evidence is discussed. Special hearsay exceptions are discussed in terms of the defendant's Sixth Amendment confrontation rights. The unavailability and reliability showings of child witnesses are discussed in detail. Hearsay statements of non-testifying child victims must satisfy the court that they are reliable to warrant their admission as evidence. Some of the new special hearsay exception statutes for child victims require corroborative evidence of the alleged act or the statement as a prerequisite to the admission of the statement of an unavailable witness. 34 references.

Descriptors: hearsay rule, evidence, rules of evidence, child witnesses, courts, testimony

4301I3 CD-10114

Debate Forum. Issue Continued: Anatomically Correct Dolls: Should They Be Used as the Basis for Expert Testimony?

Yates, A.; Terr, L.

Arizona Univ., Tucson. College of Medicine.

Journal of the American Academy of Child and Adolescent Psychiatry 27(3):387-388, May 1988.

May 1988.

Subject Code: 96

Two decisions by the California Supreme Court of Appeals in 1987 have made it difficult to admit evidence in child sexual abuse cases based on the use of anatomically correct dolls. Continuing a debate begun in the March 1988 issue of this magazine, Dr. Alayne Yates argues for the continued use of anatomically correct dolls even though their value has not been established. Only continued use and evaluation can determine their real value. For the time being, they can be an aid to other interview techniques and may help professionals better advise the courts. Dr. Lenore Terr argues that the demand inherent in asking the child to play with these explicit toys makes the technique too vulnerable to suggestion to be used in court. The child, while playing, can be ruined as a witness. It is better to bar evidence inspired by anatomically correct dolls because the imagery they cause may be as vivid and long-lasting as that caused by hypnosis, also not admissible in court. 2 references. (Author abstract modified)

Descriptors: sexual abuse, child witnesses, testimony, courts, anatomical dolls, evaluation methods, expert testimony

4301I2 CD-10113

Prosecuting Child Sexual Abuse--New Approaches.

Whitcomb, D.

ABT Associates, Cambridge, MA.

National Inst. of Justice (DOJ), Washington, DC, 6 pp., May 1986.

May 1986.

Subject Code: 96

This study, conducted for the National Institute of Justice, reviewed legislative revisions, local reforms, and new techniques to alleviate the problems faced and posed by child victims in the criminal justice system. Victim advocates and prosecutors across the country are experimenting with a variety of measures intended to reduce the stress on the child involved in the criminal justice system. The reforms are directed at reducing the trauma of live testimony or allowing the use of videotape or television to obtain testimony. Practical concerns make the techniques useful only in a minority of cases. Some of the most useful and effective techniques do not involve advanced technology. Statutes creating exceptions to hearsay for certain out-of-court

(cont. next page)

DIALOG File 64: CHILD ABUSE AND NEGLECT-SPRING 1989 EDITION

statements of the child are in this category. Enhancing the child's communications skills, modifying the environment for the child's comfort, and demystifying the courtroom through preparation of the child are techniques that enhance the accuracy and efficiency of recall abilities. Two areas of statutory reform appear necessary for child witnesses. One is abolishing special competency requirements for children, leaving the determination of credibility to the trier of fact. The other is the general adoption of hearsay exceptions. Regardless of the statutory structure, much can be done to ease the child victim's trauma.

Descriptors: sexual abuse, child witnesses, legal processes, competency, courts, evaluation methods, incest, videotaping

4301H4 CD-10111

Investigation and Prosecution of Child Abuse.

Toth, P. A.; Whaten, M. P.; Berliner, L.; Borko, N.; Campbell, C. W.

American Prosecutors Research Inst., Alexandria VA. National Center for the Prosecution of Child Abuse.

American Prosecutors Research Inst., Alexandria, VA. National Center for the Prosecution of Child Abuse, 509 pp., 1987.

1987.

Subject Code: 96

This resource document, targeted to prosecuting attorneys and other professionals involved with child abuse cases, provides critical information about child victims, as well as step-by-step guidance in responding to reports. The need for cooperation among law enforcement, child protective, and medical/mental health agencies is emphasized. Trial strategies, statutory and appellate reforms, medical diagnostic advances, treatment options, and practical guidelines and reference materials are included. 343 references, 11 tables, and 3 appendices. (Author abstract modified)

Descriptors: lawyers, prosecution, investigations, reference materials, resource materials, abused children

4301H2 CD-10109

Legal Cautions for the Clinical Interview.

Ryan, M.

Middlesex County District Attorney's Office, Cambridge, MA.

In: Swagerty, E.L. and Marcus, B. (Editors). The Child Abuse Reporting Law: The Middlesex County Experience. Middlesex County District Attorney's Office, Cambridge, MA. Child Abuse Project, pp. 24-25, November 1986.

November 1986.

Subject Code: 96

Legal cautions for the clinical interview in cases of child sexual abuse are presented. Physical and medical evidence of abuse is present in only about 3 percent of sexual abuse

cases. Instead, there is usually the uncorroborated testimony of a child about what an adult has done. It is important for the clinician to avoid the use of leading questions if at all possible.

Descriptors: sexual abuse, interviews, evaluation methods, evidence, legal problems, evidence collection, testimony

4301H1 CD-10108

Role Perceptions of Attorneys and Caseworkers in Child Abuse Cases in Juvenile Court.

Russel, R.

South Dakota Univ., Vermillion. Criminal Justice Studies Program.

Child Welfare 67(3):205-216, May-June 1988.

May-June 1988.

Subject Code: 96

Role perceptions of attorneys and caseworkers in juvenile court child abuse cases are examined. A 4-county Indiana survey of the vast majority (approximately 90 percent) of the attorneys and public agency caseworkers involved in court actions on child abuse cases revealed considerable conflict over each other's role. The survey replicated the method used in previous research, which had yielded distinctly positive and negative results. Particularities of the 4-county area are discussed and ways to clarify roles and ameliorate the problem are suggested. 12 references and 1 table. (Author abstract modified)

Descriptors: lawyers, caseworkers, lawyers role, juvenile courts, social workers role

4301G4 CD-10107

Incest: The Trauma of Intervention.

Runyan, D. K.

North Carolina Univ., Chapel Hill.

SIECUS Report 15(1):1-4, September 1986.

September 1986.

Subject Code: 96

Researchers at the University of North Carolina are collaborating with 11 county social service departments to study the effects of the intervention process on children, with an initial evaluation followed by reassessment at 5 and 18 months. No firm conclusions can yet be drawn, but 2 striking observations have been made. The nonabusing parent frequently believes the alleged perpetrator instead of the child even after substantiation. Secondly, children over the age of 6 appear to benefit from the opportunity to testify in juvenile court, with a more rapid decline in anxiety and overall stress. Further applied research should clarify these issues and improve the development of treatment plans. 23 references.

Descriptors: incest, intervention, courts, child witnesses, (cont. next page)

DIALOG File 64: CHILD ABUSE AND NEGLECT-SPRING 1989 EDITION

trauma, victimization

4301G3 CD-10106

Judicial Determination of Reasonable Efforts.

Ratterman, D.
American Bar Association, Washington, DC. Foster Care Project.

Children Today 15(6):26, 30-32, November-December 1986.

November-December 1986.

Subject Code: 96

This article reviews some of the preliminary findings and recommendations ascertained for agencies and courts from information collected from a study on state implementation of "reasonable efforts." The study was conducted by the Foster Care Project, a part of the American Bar Association's National Legal Resource Center for Child Advocacy and Protection. The development of guidelines to help child welfare agencies and courts understand reasonable efforts requirements and to prevent the unnecessary placement of children was the purpose of the study. Several examples of methods to best implement the reasonable efforts requirement are described.

Descriptors: placement, courts responsibility, courts rol, judicial review, federal laws, child welfare agencies

4301G2 CD-10105

Final Federal "Baby Doe" Rule Released.

Nicholson, E. B.

American Bar Association. Legal Procedures for Handicapped Infant Care.

Mental and Physical Disability Law Reporter 9(3):227-229, 237, May-June 1985.

May-June 1985.

Subject Code: 96

This article discusses the U.S. Department of Health and Human Services (DHHS) final rule implementing the Baby Doe provisions of the Child Abuse Amendments of 1984. The final rule deletes all the DHHS-authored definitions related to the statutory terms about withholding medically indicated treatment and adds new procedural requirements to the duties of state child protective service agencies. Response to the proposed rule is detailed and sections of the final rule are examined. In an attempt to preserve the balance in the statute, clarifying definitions have been appended in interpretive guidelines that do not have the legal significance of regulations. The final rule thus leaves the interpretation of the withholding of medically indicated treatment with some ambiguity. Published with the final rule and interpretive appendix are the Model Infant Care Review Committee Guidelines.

Descriptors: baby doe, handicapped children, medical neglect, medical treatment, legal responsibility, right to treatment, legal rights, physicians responsibility

4301G1 CD-10104

The Role of the Victim Witness Advocate.

McNamara, P.

Middlesex County District Attorney's Office, Cambridge, MA. Victim Witness Service Bureau.

In: Swagerty, E.L. and Marcus, B. (Editors). The Child Abuse Reporting Law: The Middlesex County Experience. Middlesex County District Attorney's Office, Cambridge, MA. Child Abuse Project, pp. 12-13, November 1986.

November 1986.

Subject Code: 96

The role of the victim witness advocate as a blending of human services and law enforcement is discussed. The involvement of the advocate with the child and family is outlined beginning from the point of referral. The advocate sets out to develop a trusting, supportive, and informative relationship with the child and is available to provide information, assist with problems, and coordinate efforts among the various agencies involved.

Descriptors: victims, witnesses, family services, service, family advocacy, courts, massachusetts

4301F2 CD-10101

Final Report: Evaluation of the Sex Abuse Project.

Kenty, M. C.

Supported by: National Center on Child Abuse and Neglect (DHHS), Washington, DC. (90CA9058). Available from Support Center for Child Advocates, 22 pp., December 1985.

December 1985.

Subject Code: 96

From October 1984 through September 1985 the Support Center for Child Advocates provided legal representation for 80 victims of child sexual abuse. Nearly 40 percent of referrals were made because victims were still in contact with their abusers. At the close of the project, although 50 of the 80 cases had reached closure in the criminal process, 71 cases were still open with the Center, with representation to continue as long as necessary to ensure the safety and long-term stability of the victims. In spite of many difficulties encountered, none of the child witnesses seemed to suffer significant trauma from their courtroom appearances. The Support Center concluded the project convinced that the criminal process is a crucial element in protecting children already abused and in preventing abusers from finding new victims. All parties to the child protection system expressed satisfaction with the representation provided by the Center and considered that it fostered interagency cooperation.

Descriptors: final reports, sexual abuse, child advocacy, childrens rights, legal processes, courts, child witnesses

DIALOG File 64: CHILD ABUSE AND NEGLECT-SPRING 1989 EDITION

4301F1 CD-10100

Protecting Our Children: The Fight Against Molestation.

Herrington, L. H.

Department of Justice, Washington, DC.

National Sheriff pp. 43-45, January 1985.

January 1985.

Subject Code: 96

Remarks by United States Assistant Attorney General Lois H. Herrington, also Director of the Office of Crime Victims of the Department of Justice, opened a national symposium in October 1984 to examine nonfamilial child sexual abuse. It is argued that child molestation by someone outside the family is the least understood crime for the mental health and criminal justice systems; when such a crime does come to light, the suffering of the child is compounded by a system designed for adults. The handling of a juvenile offender is compared with the handling of the child victim/witness. If the child and family survive the trial they often hear a sentence tragically inappropriate to the crime. It is concluded that some real measure of the child's place in our society is apparent in the light sentences for child molesters. Ideas shared at this symposium will produce better strategies to fight child molestation throughout the country.

Descriptors: sexual abuse, courts, sex offenses, law enforcement, child witnesses, crime

4301E3 CD-10098

The Prosecution Process.

Hanson, S.

Middlesex County District Attorney's Office, Cambridge, MA.

In: Swagerty, E.L. and Marcus B. (Editors). The Child Abuse Reporting Law: The Middlesex County Experience. Middlesex County District Attorney's Office, Cambridge, MA. Child Abuse Project, pp. 30-31, November 1986.

November 1986.

Subject Code: 96

The prosecution process in child sexual abuse cases is examined. In determining whether or not to prosecute, prosecutors examine the competence of the child to testify in court. The types of offenses addressed by Chapter 288 are Indecent Assault and Battery, and Rape of a Child. Assault and battery usually are dealt with at the District Court level, while rape goes to the Superior Court.

Descriptors: sexual abuse, prosecution, legal processes, laws, massachusetts, courts, legal processes, child abuse laws

4301E2 CD-10097

The Sex Abuse Controversy. (Letter).

Hanson, G.

California Univ., San Francisco. Depts. of Psychiatry and Pediatrics.

Journal of the American Academy of Child and Adolescent

Psychiatry 27(2):258, March 1988.

March 1988.

Subject Code: 96

Comments are made on an article by Dr. Arthur Green on allegations of sexual abuse in child custody disputes published in this journal in 1986 (25:449-456). The major concern is that Dr. Green's assertions may be taken as a standard of practice by the relatively inexperienced in the field of sexual abuse and that the article may be used in judicial settings to the detriment of children caught in custody battles who have actually been sexually abused. The evaluation paradigm proposed does not recognize that evaluators often have a very short period of time to make a decision. Dr. Green's assertions about reactions of the child interviewed in the presence of the abusing parent as indications of abuse are premature and potentially misleading. Verbalizations of remembered events by children cannot be assumed to be distorted. Other generalizations and the attempt to characterize true and false cases in table form are overly simplistic and may be misleading. 4 references.

Descriptors: sexual abuse, false allegations, custody disputes, evaluation methods, testimony, child witnesses, incest, identification

4301E1 CD-10096

The Sex Abuse Controversy. (Letter).

Green, A. H.

Columbia-Presbyterian Medical Center, New York, NY.

Journal of the American Academy of Child and Adolescent Psychiatry 27(2):259, March 1988.

March 1988.

Subject Code: 96

The author defends his previous article on allegations of sexual abuse occurring in custody or visitation disputes. A recent letter by Dr. Hanson and colleagues took issue with the article for making unsubstantiated claims. Dr. Green points out that the clinical observations made by himself and others were not meant to be hard and fast criteria but rather general guidelines. The concerns of Hanson et al. about the article's potential to mislead the reader should be alleviated by a careful and unbiased reading. Qualifiers make it clear that the criteria differentiating true and false cases are inconstant, not always present, and that exceptions do occur. 1 reference.

Descriptors: sexual abuse, false allegations, custody disputes, visiting privileges, child witnesses, sequelae, identification

DIALOG File 64: CHILD ABUSE AND NEGLECT-SPRING 1989 EDITION

4301D4 CD-10095

Age Differences in Eyewitness Testimony.

Goodman, G. S.; Reed, R. S.

Univ. of Denver, CO.

Law and Human Behavior 10(4):317-332, December 1986.

December 1986.

Subject Code: 96

This study examined age differences in eyewitness testimony. Children, 3 and 6 years of age, and adults interacted with an unfamiliar man for 5 minutes. Four or 5 days later, the witnesses answered objective and suggestive questions, recalled what happened, and tried to identify the confederate from a target-present photo line-up. The adults and 6-year-olds did not differ in their ability to answer objective questions or identify the confederate, but 6-year-olds were more suggestible than adults and recalled less about the event. Compared to the older age groups, the 3-year-olds answered fewer objective questions correctly, recalled little about what happened, and identified the confederate less frequently. In addition, they were the most suggestible. The experiment extends our knowledge of children's ability to provide accurate eyewitness reports to a very young age group and to a situation in which participants are not merely bystander witnesses but instead directly interact with the confederate. 51 references. (Author abstract)

Descriptors: child witnesses, competency, testimony, age factors, child development, maturation

4301D3 CD-10094

Using Dolls To Interview Child Victims: Legal Concerns and Interview Procedures.

Freeman, K. R.; Estrada-Mullaney, T.

District Attorney's Office, Los Angeles County, CA.

NIJ Reports 207:2-6, January-February 1988.

January-February 1988.

Subject Code: 96

Advantages and disadvantages and proper techniques of using anatomical dolls are reviewed for the law enforcement or prosecution officer. Both prosecutors and police have been the subject of civil rights lawsuits that claimed in part that anatomical dolls were misused during victim interviews and that, as a result, criminal charges were initiated improperly. Anatomical dolls cannot be a substitute for sound interview techniques. Their proper use can help in achieving several goals: establishing rapport and reducing stress, establishing the competency of a child witness, reducing vocabulary problems, and showing what may be difficult to verbalize. Various criticisms about anatomical dolls are explored: the dolls look different from regular dolls, suggesting sexual impropriety; some dolls are bizarre in appearance; or interviewers can suggest answers to the child through the dolls. Tips are provided to reduce the risks of allegations of incorrect use. If dolls are used, they should be introduced

fully clothed. A witness should always be present to rebut the claim that the dolls were used to suggest ideas to the child. Pointing, touching, and describing of sexual acts must be done exclusively by the child; the investigator must avoid positioning the dolls. It is concluded that anatomical dolls are useful tools available to criminal justice practitioners, if used properly. 16 references.

Descriptors: anatomical dolls, evaluation methods, police operating procedures, district attorneys, interviews, investigations, child witnesses, testimony

4301D2 CD-10093

Competency of Child Witnesses.

Eatman, R.

National Center for the Prosecution of Child Abuse, Alexandria, VA.

Alexandria, VA, National Center for the Prosecution of Child Abuse, 6 pp., February 1987.

February 1987.

Subject Code: 96

The competency of child witnesses is reviewed. Age has remained an important factor in state competency standards, which may work to the disadvantage of some children. Many commentators have been uniformly critical of these traditional procedures and feel that juries should be allowed to hear a child's testimony and assess its credibility. Many states have moved to eliminate procedures requiring special qualification of child witnesses. Suggestions for practice are made. Special child witness instructions to juries are also discussed. 33 references.

Descriptors: child witnesses, competency, testimony, courts

4301D1 CD-10092

Child Sexual Abuse.

Donnelly, H.

Congressional Quarterly's Editorial Research Reports 1(1):490-503, September 18, 1987.

September 18, 1987.

Subject Code: 96

The past decade has seen a 20-fold increase in the number of incidents of child sexual abuse reported to the authorities, and the legal system is struggling to cope with the issues this presents. The dilemma involves protecting the child while protecting the rights of the accused. In all but 4 states, special trial procedures for abuse cases have been developed, including a loosening of hearsay evidence rules, to try to treat young victims fairly. Electronic interviews and other new techniques are being used by investigators to help the child witness. The difficulties a prosecutor must face in deciding to prosecute a case and the changing trial procedures

(cont. next page)

DIALOG File 64: CHILD ABUSE AND NEGLECT-SPRING 1989 EDITION

are discussed. At the center of the legal difficulties is the issue of the credibility of child witnesses. While many wonder if the scales have been heavily tipped in favor of the child defendant, others question whether the increasing emphasis on legal issues has shifted public concern away from prevention, ultimately the most valuable focus for public attention. 8 references.

Descriptors: sexual abuse, false allegations, evidence, testimony, child witnesses, courts, competency, legal processes

4301C4 CD-10091

Preparing for a Sex Abuse Case--The 4 Rules of Prosecutors and How to Use Them.

De Armond, C. H.

Vermillion County State Attorney's Office, IL.

Missing Children Bulletin 4(1):6-7, 11, February-March 1988.

February-March 1988.

Subject Code: 96

Originally proposed as a joke, the 4 rules of prosecutors here presented offer a framework for investigators to assess the quality of their cases and sell them to the prosecutor. Rule 1--We hate to lose--should be borne in mind when presenting a case to the prosecutor. Rule 2--We are lazy--is more a perception of the investigator than a reality, but it is important to remember that functions of prosecutors and investigators differ. Rule 3--We are conservative--stems from the concern prosecutors have with amounts of proof. Rule 4--We know everything--does describe the attitude of many prosecutors; investigators should be tactful in their approach to prosecutors. These 4 rules come into play to a great degree in cases of child sexual assault. It is concluded that investigators must prepare carefully and work with prosecutors to create an environment likely to result in complete disclosure at the trial.

Descriptors: sex abuse, prosecution, district attorneys, legal processes, investigations, police responsibility, police attitudes

4301C2 CD-10089

Response of Social Service and Criminal Justice Agencies to Child Sexual Abuse Complaints.

Chapman, J. R.; Smith, B.

Center for Women Policy Studies, Washington, DC.

Response to the Victimization of Women and Children 10(3):7-13, 1987.

1987.

Subject Code: 96

Research conducted in Fairfax County, Virginia, and Santa Cruz County, California, examined the ways in which social service agencies responded to founded cases of child sexual abuse and the response of the criminal justice system. A

random sample of 183 closed social service cases and 205 closed police cases, prosecuted during 1983-1985, was used. Child protective action was initiated in only 41 percent of these cases. In some cases, the agency closed the case without a service agreement or court order, particularly if the mother appeared to have taken steps to protect the child. Counseling was only ordered by the juvenile courts in a minority of cases, and it was more likely to be for the child than the abuser. Only 40 percent of the cases were prosecuted. Parents were less likely to be prosecuted than other abusers. Findings of the study can be interpreted positively or negatively. On the one hand, jurisdictions are attempting to deal with child sexual abuse appropriately. On the other, over half the sample received no official sanctions. Prosecuted cases generally resulted in guilty pleas or decisions, but prison sentences were short and probation was often imposed. There is no general agreement on the best response from social services or the criminal justice system in intrafamily abuse cases.

Descriptors: sexual abuse, legal processes, legal responsibility, courts, court case dispositions, child welfare agencies, social workers responsibility

4301C1 CD-10088

Brief Reports.

Casey, P.

National Center for State Courts, Williamsburg, VA.

Violence and Victims 2(1):79-80, Spring 1987.

Spring 1987.

Subject Code: 96

Several recent state supreme court rulings on the admissibility of expert testimony on the credibility of child sexual abuse complainants are reviewed. Opinions varied considerably across the states, from not permitting any testimony on the credibility of child abuse victims in general, as in Commonwealth v. Seese, Pennsylvania, to allowing testimony that helps the jurors assess the credibility of a particular complainant, as in State v. Geyman, Montana. In Commonwealth v. Seese, the court considered such testimony an encroachment on the jury's responsibility to assess witness credibility, encouraging the juror to rely on expert opinion about the credibility of all child witnesses in determining the veracity of a particular witness. In State v. Geyman, the court held that the testimony did not infringe on the jury's role of determining veracity; jurors were free to accept or reject testimony, which was helpful to jurors with no common experience in judging the complainant's credibility.

Descriptors: sexual abuse, courts, child witnesses, judicial decisions, competency, testimony, expert witness, expert testimony

DIALOG File 64: CHILD ABUSE AND NEGLECT-SPRING 1989 EDITION

4301B4 CD-10087

AMA Medicolegal Guidelines Concerning Child Abuse and Neglect.

Bresolin, L. B.
American Medical Association, Chicago, IL. Dept. of Mental Health.
American Medical Association, Chicago, IL. Dept. of Mental Health, 17 pp., undated.
undated.
Subject Code: 96

Medicolegal guidelines are presented for the physician dealing with child abuse and neglect. The role and responsibility of the physician are discussed. Obtaining the history must be followed by documenting everything that may be needed as proof in a case involving a child. A thorough physical examination should be performed for every child suspected of being a victim of physical or sexual abuse, with photographs and X rays to supplement other physical evidence. The courts have differed on appropriate intervention in cases of medical neglect, but the physician should call a judge for approval of necessary emergency procedures, request court orders for nonemergency treatment, and file a report of medical neglect with a child protective services agency. Testimony by the physician is often necessary. Guidelines are presented for cases when testimony is required, with specific attention to qualification as an expert, impeachment of a witness, and hearsay evidence. The mandatory reporting laws of the states are reviewed. Risk management for physicians is generally best achieved by doing what is medically best or most appropriate. Questions of civil liability, other bases for recovery from physicians, reasonable standards of care, liability for reporting unfounded cases, and the abuse of children by physicians are discussed. Steps to be taken in cases of medical malpractice suits are outlined. These guidelines reflect legal considerations and do not prepare the physician clinically for treating child abuse victims.

Descriptors: physicians responsibility, legal processes, legal responsibility, guidelines, testimony, mandatory reporting, evidence, expert testimony

4301B3 CD-10086

Use of Expert Testimony.

Brant, R. S. T.
Children's Hospital, Boston, MA.
In: Swagerty, E.L. and Marcus, B. (Editors). The Child Abuse Reporting Law: The Middlesex County Experience. Middlesex County District Attorney's Office, Cambridge, MA. Child Abuse Project, pp. 35-36, November 1986.
November 1986.
Subject Code: 96

The use of expert testimony, specifically, the treating physician and the expert witness in the courtroom, is discussed. The importance of accurate record keeping by the physician is stressed. The expert witness bridges the gap

between the information that is presented and how a judge or jury can understand that information. Basic courtroom principles are enumerated.

Descriptors: expert witnesses, expert testimony, testimon, courts, physicians

4301B2 CD-10085

Social Worker Testimony: Advice and Cautions.

Bernstein, P.
Middlesex County District Attorney's Office, Cambridge, MA.
In: Swagerty, E.L. and Marcus, B. (Editors). The Child Abuse Reporting Law: The Middlesex County Experience. Middlesex County District Attorney's Office, Cambridge, MA. Child Abuse Project, p. 33, November 1986.
November 1986.
Subject Code: 96

Advice and cautions are laid out regarding social worker testimony in child sexual abuse cases. They should be aware of the fact that once a case gets to trial, the defense lawyer can undermine the reports social workers have written and statements they have made concerning their observations. It is important for social workers who testify to be as specific and as factual as possible when answering questions.

Descriptors: social workers, sexual abuse, testimony, expert testimony, courts

4301B1 CD-10084

Problems in Validating Allegations of Sexual Abuse. Part 2: Clinical Evaluation.

Benedek, E. P.; Schetky, D. H.
Michigan Univ. Medical Center, Ann Arbor.
Journal of the American Academy of Child and Adolescent Psychiatry 26(6):916-921, undated.
undated.
Subject Code: 96

Factors enhancing or detracting from validating a child's allegations of sexual abuse are discussed in this second part of a 2-part discussion of problems of validating allegations of sexual abuse. Guidelines are given for the clinical evaluation of the child through interview and physical examination. Also examined are the consequences of false accusations for the alleged perpetrator, the child victim, and the mental health professional. Special attention must be paid to the pitfalls of the evaluation of sexual abuse. Understanding, skill, and training are necessary for the clinician in this difficult area. 19 references.

Descriptors: sexual abuse, false allegations, evaluation methods, child witnesses, competency, guidelines, case assessment, interviews

DIALOG File 64: CHILD ABUSE AND NEGLECT-SPRING 1989 EDITION

4301A4 CD-10083

Problems in Validating Allegations of Sexual Abuse. Part 1: Factors Affecting Perception and Recall of Events.

Benedek, E. P.; Schetky, D. H.
Michigan Univ. Medical Center, Ann Arbor.
Journal of the American Academy of Child and Adolescent Psychiatry 26(6):912-915, undated.
undated.
Subject Code: 96

This paper explores some of the developmental and emotional factors that influence a child's perception of events and discusses factors that may lead to a false memory or report of such events. Accurately evaluating an allegation of sexual abuse in a young child is always very difficult and time consuming and it is essential that persons doing these evaluations possess the requisite skills and experience. 24 references. (Author abstract modified)

Descriptors: sexual abuse, false allegations, evaluation methods, child witnesses, professionals role, competency

4301A3 CD-10082

Allegations of Sexual Abuse in Custody and Visitation Cases: An Empirical Study of 169 Cases from 12 States.

Association of Family and Conciliation Courts, Denver, CO. Research Unit.

Supported by: National Center on Child Abuse and Neglect (DHHS), Washington, DC, (90CA1165). Available from the Association of Family and Conciliation Courts, Denver, CO Research Unit, 25 pp., March 1988.

March 1988.

Subject Code: 96

Empirical data are presented on 169 cases in which custody or visitation disputes were accompanied by allegations of sexual abuse. Cases were identified at 12 domestic relations courts during a 6-month period. Allegations of sexual abuse occurred in about 3.3 percent of all custody or visitation cases seen in these courts. Sexual abuse allegations were most likely to involve only one child. Most reports were determined to be good-faith reports of suspected abuse. A determination of the validity of the charges was possible in only 129 of these cases. Investigators believed about half the allegations to be justified, with about a third involving no abuse, and no determination possible in 17 percent. Although allegations of child sexual abuse do not appear to be creating major problems for domestic relations courts, the study confirms that such cases are complex and time-consuming, requiring careful individual consideration. 14 references.

Descriptors: custody disputes, visiting privileges, false allegations, domestic relations courts, testimony, legal processes, incest

4296D2 CD-10077

The Response of the District Attorney to Referrals from DSS.

Hanson, S.
Middlesex County District Attorney's Office, Cambridge, MA.
In: Swagerty, E.L. and Marcus, B. (Editors). The Child Abuse Reporting Law: The Middlesex County Experience. Middlesex County District Attorney's Office, Cambridge, MA. Child Abuse Project, p. 9, November 1986.
November 1986.
Subject Code: 94

The response of the District Attorney to referrals from the Department of Social Services regarding child abuse is outlined. Every effort is made to simplify the proceedings for children and to make testifying as comfortable and nontraumatic as possible.

Descriptors: district attorneys, legal processes, state social service agencies, referral, testimony, child witnesses, massachusetts

4296C3 CD-10074

Psychotherapist and Sexual Assault Counselor Privileges.

Brant, J.
Widett, Slater and Golden, P.C.
In: Swagerty, E.L. and Marcus, B. (Editors). The Child Abuse Reporting Law: The Middlesex County Experience. Middlesex County District Attorney's Office, Cambridge, MA. Child Abuse Project, pp. 36-37, November 1986.

November 1986.

Subject Code: 94

Psychotherapist and sexual assault counselor privileges are discussed. For almost every situation in which there may be relevant testimony given by a psychotherapist about a patient, there is an exception that applies. Usually the privilege is overridden by one of the exceptions. The Sexual Assault Counselor Privilege Status has no exceptions.

Descriptors: courts, testimony, sexual abuse, psychotherapy, psychologists, counselors role, privileged communications

4295E3 CD-10034

Special Child Abuse State Grant--Child Sexual Abuse Investigation Team Development and Training.

South Dakota State Dept. of Social Services, Pierre. Child Protection Services.

Supported by: Office of Human Development Services (DHHS), Washington, DC, (90CA1073), 11 pp., undated.
undated.

Subject Code: 90

A grant to aid in protection of children in sexual abuse
(cont. next page)

DIALOG File 64: CHILD ABUSE AND NEGLECT-SPRING 1989 EDITION

cases was applied to 5 training and investigation projects. Funds were used to construct interview rooms that included sound and recording equipment and a one-way mirror for use in investigation and training. A workshop on team building and advanced knowledge of sexual abuse provided training for 70 law enforcement officers and child protection staff. Attachment A includes evaluation results from the workshop. Tribal court judges, prosecutors, and tribal court personnel also received training in the facts of child sexual abuse and sensitivity toward this issue. A total of 62 persons from the majority of the tribes in South Dakota attended. Final evaluation is pending but the response to training was mostly positive. Training was also sponsored for tribal law enforcement personnel, with evaluation results summarized in Attachment B. Two sessions were held to train treatment providers on issues of sexual abuse treatment for victims and families. Overall these were considered very helpful, with the second session considered more relevant to providers' needs than the first. Training provided under this grant helped facilitate assessment and coordination of services to sexually abused children.

Descriptors: final reports, sexual abuse, investigations, training, multidisciplinary teams, law enforcement, prosecution, native americans

429412 CD-10001

Community Multidisciplinary Training/Child Sexual Abuse and Exploitation and Central Registry/Background Checks. Final Report. (pro-gen).

Kansas State Dept. of Social and Rehabilitation Services, Topeka.

Supported by: National Center on Child Abuse and Neglect (DHHS), Washington, DC, (90CA1070), 10 pp., September 30, 1986.

September 30, 1986.

Subject Code: 90

This final report describes a project designed to: identify, treat, and prevent sexual abuse or sexual exploitation; and provide background checks of child care providers and others as provided in Public Law 98-473. Information on the background of child care personnel in Kansas was entered into the automated data base. Videotaping equipment was purchased for documentation of sexual abuse/exploitation cases. Seventeen workshops were presented that addressed the joint investigation of reports of child sexual abuse, as well as the taping of an interview with a child and subsequent use of the videotape as evidence in a court case. Numerous appendices.

Descriptors: final reports, sexual abuse, kansas, videotaping, testimony, evidence, child care workers

4294H4 CD-09999

Reducing Trauma to Child Victims of Sexual Abuse Through a Rural Community Based Volunteer Program. Final Report.

Janes, P.

South Central Community Action Agency, Twin Falls, ID
Guardian ad Litem Pilot Project.

Supported by: National Center on Child Abuse and Neglect (DHHS), Washington, DC, (90CA867), 60 pp., January 9, 1987.

January 9, 1987.
Subject Code: 90

This final report discusses a program designed to incorporate service improvements for preventing and treating child sexual abuse and for assuring protection of children who have been endangered. The program supplied Guardian Ad Litem volunteers and attorney representation on all requested cases of sexual abuse petitioned to the court in the 8 counties of the Magic Valley in Idaho. Approximately 100 cases were represented through public awareness efforts and consistent positive involvement with the various agencies, counties, and judiciary systems. Change was facilitated in case management, numbers of interviews children face upon reporting, treatment provided to victims and families, and agency intercooperation. Addenda contain the working agreement of the project, materials for volunteer Guardians Ad Litem, and reporting procedures and forms. (Author abstract modified)

Descriptors: final reports, sexual abuse, victims, volunteers, guardian ad litem, child advocacy, child witnesses, rural environment

4292A2 CD-09873

Interviewing Young Children with Anatomical Dolls.

Boat, B. W.; Everson, M. D.

North Carolina Univ., Chapel Hill. Dept. of Child Psychiatry.

Child Welfare 67(4):337-352, July-August 1988.

July-August 1988.

Subject Code: 86

This article discusses the use of anatomical dolls to investigate allegations of sexual abuse among children who are under 6 years of age. Comprehensive guidelines on interviewing are offered and current legal issues on the use of anatomical dolls are highlighted.

Descriptors: anatomical dolls, evaluation methods, interviews, investigations, sexual abuse, child witnesses

4291G4 CD-09851

Use of Anatomical Dolls Among Professionals in Sexual Abuse Evaluations.

Boat, B. W.; Everson, M. D.

North Carolina Univ., Chapel Hill. Dept. of Psychiatry.

Child Abuse and Neglect 12(2):171-179, 1988.

(cont. next page)

DIALOG File 64: CHILD ABUSE AND NEGLECT-SPRING 1989 EDITION

1988.
Subject Code: 84

This study surveys the uses of anatomical dolls in child sexual abuse evaluations by 295 child protection workers, law enforcement officers, mental health practitioners, and physicians and their interpretations of young children's interactions with the dolls. The dolls enjoy fairly wide use among all 4 professional groups although most professionals employing the dolls have had little specific training in their use. Law enforcement officers were significantly less likely than the other professionals to view children's demonstrations of sexual acts with the dolls as convincing evidence of sexual abuse. There was no behavior (e.g., undressing the dolls, touching the dolls' genitals) that all professional groups unanimously agreed would be normal play behavior by young children ages 2-5 who had not been sexually abused. Results highlight the need for training resources and normative research. 9 references. (Author abstract modified)

Descriptors: sexual abuse, child witnesses, anatomical dolls, evaluation methods

4285F4 CD-09783
Emerging Issues in Child Sexual Abuse. (Editorial).
Schetky, D. H.
Yale Univ., New Haven, CT. Child Study Center.
Journal of the American Academy of Child Psychiatry
25(4):490-492, July 1986.
July 1986.
Subject Code: 98

Our society is moving from the under-reporting of child sexual abuse to hypervigilance and frequent over-reporting, as mandatory reporting laws and heightened media attention have resulted in increased public awareness. This editorial describes new roles for the child psychiatrist in child abuse cases. The competence of a child witness and the handling of a child witness, are some current problems. Other questions of credibility and diagnosis are becoming more crucial as young children are being permitted to testify. Child psychiatrists must take a more active role in cases of child sexual abuse lest decisions be left to persons less qualified. 3 references.

Descriptors: sexual abuse, psychiatrists role, child psychiatry, child witnesses, competency, identification, child abuse reporting

4285A4 CD-09763
Child Abuse in the Schools: Community and Judicial Attitudes.
Hyman, I.; Fudell, R.; Johnson, R.; Clarke, J.
Temple Univ., Philadelphia, PA.
American Orthopsychiatric Association 62nd Annual Meeting,
New York, NY, 13 pp., April 24, 1985.
April 24, 1985.

Subject Code: 98

This paper examines the traditional acceptance of corporal punishment in schools whereby teachers may commit acts that, in the home, would be considered child abuse. Police, child abuse agencies, and county prosecutors usually refuse to become involved in cases of in-school abuse, and recourse to the school system is often fruitless. In those few cases going to court, educators seem to have relative immunity. There appears to be no standard that objectively describes reasonable force used in punishment. The standard maintained is at variance with parental child abuse legislation. 12 references and 1 table.

Descriptors: corporal punishment, psychological abuse, school children, teachers responsibility, discipline, school administrators, judicial decisions

4285A1 CD-09760
The Battered Child.
Helfer, R. E.; Kempe, R. S.
Michigan State Univ., East Lansing. Dept. of Pediatrics and Human Development.
Fourth Edition, Chicago, University of Chicago Press, 470 pp., 1987.
1987.
Subject Code: 98

The fourth edition of the classic text has been revised and expanded to include discussions of recent developments, to delete material no longer applicable, and to update contributions to reflect important new research in the field. In the first part of the book, the bases of abnormal rearing practices are described and the historical, cultural, epidemiological, and psychological causes of child abuse are presented. The second section describes different forms of child abuse and neglect, and discusses the role of professionals in all related disciplines in assessing abuse. The third part offers an updated discussion of the methods of intervention and treatment, with a greatly expanded discussion of the role of law, law enforcement officials, and lawyers. Significant additions in the treatment of sexual exploitation of children have been made. The final section provides an overview of prevention, a positive look at the parent-infant relationship, a new consideration of national priorities, and recommendations for future directions for the field. 959 references and 15 tables.

Descriptors: etiology, therapy, social values, family counseling, parents background, legal responsibility, adults abused as children, professionals role

DIALOG File 64: CHILD ABUSE AND NEGLECT-SPRING 1989 EDITION

4284F3 CD-09734

Conference on the Sexually Abused Child: Selected Papers and Comments.

Bensinger, G. J.; Frost, T.
Loyola Univ. of Chicago, IL. Dept. of Criminal Justice, 75
pp., November 23, 1982.
November 23, 1982.
Subject Code: 98

Practitioners and theoreticians came together in a forum on child sexual abuse to exchange information, share concerns, and make suggestions and proposals. The legitimate role of the criminal justice system and what its response until now has been were discussed informally by the following panelists: Gregory L. Coler, Director, Illinois Department of Children and Family Services; Leonora T. Cartright, Commissioner, Chicago City Department of Human Services; Jon R. Conte, School of Social Service Administration, University of Chicago; Wayne A. Meyer, Chief, Felony Review Section, State's Attorney's Office; Jill K. McNulty, Judge, Circuit Court of Cook County; Richard J. Elrod, Cook County Sheriff; Gabriella V. Cohen, Human Effective Learning Program; and Catherine M. Ryan, Supervisor, Juvenile Court Section, State's Attorney's Office.

Descriptors: courts role, crime, judicial decisions, law enforcement, legal processes, prosecution, police operating procedures

4284E2 CD-09729

Court Procedures..

National Council of Juvenile and Family Court Judges.
In: Nicholson, E.B. and Bulkley, J. (Editors). Sexual Abuse Allegations in Custody and Visitation Cases. Washington, DC, American Bar Association, pp. 297-301, February 1988.
February 1988.
Subject Code: 97

This chapter looks at court procedures in child sexual abuse cases. How to obtain testimony from the child in the least traumatic way is discussed. Alternatives to having the child testify in a full courtroom, as well as acceptable methods of testing the child's competency, are addressed. Confidentiality of the records of the sexually abused child should be maintained.

Descriptors: sexual abuse, courts, competency, legal processes, child witnesses, testimony, videotaping, confidential records

4284E1 CD-09728

Should Young Children Testify in Cases of Sexual Abuse?

Yates, A.
Arizona Univ., Tucson. Dept. of Psychiatry.
American Journal of Psychiatry 144(4):476-480, April 1987.
April 1987.
Subject Code: 96

This article addresses the following 2 questions: does a child have the competency and recall to testify accurately, and is it moral to allow a child to testify. Children as young as age 3 are testifying in cases of sexual abuse and molestation. Very young children can accurately recall emotionally charged, personally significant events. They demonstrate more errors of omission, difficulties with time and number of concepts, and occasional misinterpretations of others' actions. Children's testimony can be influenced by an overly authoritative or ingratiating attorney stance, an attorney's preconceived notions, age-inappropriate questions, and the child's limited attention span. Children may be helped or harmed by testifying. The risk of further traumatization can be minimized through the judge's use of discretionary power, inclusion of professionals trained in child development in the investigative and court process, and use of videotaping or one-way screens. 33 references. (Author abstract modified)

Descriptors: sexual abuse, child witnesses, literature reviews, competency, trauma, psychiatrists role, testimony

4284D3 CD-09726

Criminology. Placebo Justice: Victim Recommendations and Offender Sentences in Sexual Assault Cases.

Walsh, A.
Boise State Univ., ID.
Journal of Criminal Law and Criminology 77(4):1126-1141,
Winter 1986.
Winter 1986.
Subject Code: 96

This article examines the influence of victim recommendations on sentencing offenders in sexual assault cases and whether such involvement gives a placebo effect to victims. The study focused on the criminal code of Ohio. Data consisted of 417 sexual assault cases in a metropolitan Ohio county from 1980 through 1983 of which 59.5 percent of the victims made a sentencing recommendation and the others did not. Results indicated that there was greater overall agreement than disagreement between victim recommendations and imposed sentences. The requirement of a victim recommendation may have some symbolic and possibly some substantive value. 31 references and 6 tables.

Descriptors: crime, sex offenses, criminal laws, courts, judicial decisions, ohio

4284C2 CD-09721

Children's Reactions to Sex Abuse Investigation and Litigation.

Tedesco, J. F.; Schnell, S. V.
Des Moines Child Guidance Center, Inc., IA.
Child Abuse and Neglect 11(2):267-272, 1987.
1987.
Subject Code: 96

(cont. next page)

DIALOG File 64: CHILD ABUSE AND NEGLECT-SPRING 1989 EDITION

This investigation attempts to quantify the extent to which children are helped or further victimized by sex abuse investigation and litigation procedures. Although there is virtually no research on the subject, frequent assumptions have been made that these procedures often further victimize children. Significant changes in state legislation have and are being considered which would protect victims from further victimization. A child victim questionnaire was sent to the presidents of all area child abuse and neglect councils in the state of Iowa as well as to other personnel working with sexually abused children. The findings revealed that of the 48 questionnaires returned only approximately 2 percent of the victims perceived that the questioning and investigation was harmful, while approximately 53 percent saw it as helpful. Other analyses found that ratings of helpfulness were not correlated with the age of the victim; the presence of a supportive adult during questioning; the number of abuse incidents; whether or not the interviews were videotaped; and whether or not the perpetrator was a family member. Testifying in court and high numbers of interviewers were associated with more negative ratings. The limitations and implications of the results are discussed along with suggestions for future research. 22 references. (Author abstract modified)

Descriptors: sexual abuse, best interests of the child, legal processes, investigations, questionnaires, child witnesses, testimony, iowa

4284B3 CD-09718

Incest and Access: The Family Court's Response.

Stewart, J.

Women's Legal Resources Centre, Sydney (Australia).

In: Snashall, R. (Ed). National Conference on Child Abuse: Proceedings, Canberra, Australia. Feb. 3-7, 1986. Phillip, Australian Inst. of Criminology, pp. 99-125, January 1987.

January 1987.

Subject Code: 96

The Australian Family Court's response to incestuous child assault was studied and the question of access between the abusing parent and the child reviewed. In a study of all cases reported from the Family Court for the decade 1975 to July 1985 not one instance was found where access was denied an abuser on the basis of the abuse. It is recommended that access be terminated when incest is established by objective evidence and when the child's report of abuse has been validated. The court's present practice compounds the feelings of abused children that they have little control over their lives. Attitudes about incest must be changed at all levels of society and children must be encouraged to speak for themselves. 3 references.

Descriptors: australia, family courts, child witnesses, incest, sexual abuse, father child relations, paternal abus, visiting privileges

4284B2 CD-09717

Child Placement Conflicts: New Approaches.

Solnit, A. J.

Yale Univ. School of Medicine and Child Study Center, New Haven, CT.

Child Abuse and Neglect 11(3):455-460, 1987.

1987.

Subject Code: 96

Various factors influencing the resolution of child placement conflicts are discussed for the benefit of child experts, especially child psychiatrists, who are called upon to give advice or legal testimony concerning placement decisions. The concept of the best interests of the child is examined from legal and clinical viewpoints. As long as a child is part of a functioning family, the child's needs and interests are assumed to be cared for within the family. When the family fails through divorce or abuse, however, the state must intervene to provide for the needs and interests of the child. The child expert is needed to guide the court system in determining the best interests of the child by recommending the best placement alternative, based on clinical observation and experience, for children who are at risk of abuse or family breakdown. 11 references.

Descriptors: placement, childrens rights, best interests of the child, expert testimony, child advocacy, legal proces, child psychiatry, custody of child

4284A2 CD-09713

Would a Kid Lie?

Silas, F. A.

ABA Journal 71:17, February 1985.

February 1985.

Subject Code: 96

Recent research studies generally conclude that the word of children can be believed. Several studies confirm the finding that about 95 percent of children's allegations in a study of almost 200 sex abuse cases in Boston were accurate. However, repeated questioning can confuse a child and cause inconsistencies that may suggest untruthfulness. In addition, children may not remember as many details as adults. Most states allow for conviction in child sexual abuse cases with uncorroborated testimony, but a case is strengthened by additional evidence.

Descriptors: evidence, corroboration, testimony, child witnesses, courts, sexual abuse, legal processes, juries

4283L4 CD-09711

Evaluating and Improving Child Welfare Agency Legal Representation. Self-Assessment Instrument and Commentary.

Segal, E. C.

American Bar Association Washington, DC. Supported by:

(cont. next page)

DIALOG File 64: CHILD ABUSE AND NEGLECT-SPRING 1989 EDITION

Office of Policy, Planning and Legislation (DHHS), Washington, DC, (90PD1402/01), 63 pp., 1988.

1988.

Subject Code: 96

An evaluation test has been designed to assist public child welfare agency administrators in their assessment of the quality of legal assistance. Based on a format employed in quality assurance systems in the human services field, the Self-Assessment Instrument uses questions and a scoring procedure. A discussion of the various aspects of public child welfare agency legal representation, such as administration, physical setting, human resources/staffing, and services performed, is included. 18 references.

Descriptors: evaluation, legal problems, legal services, legal processes, legal responsibility, child advocacy, adjudication

4283L3 CD-09710

Court Testimony in Cases of Intrafamily Sexual Abuse: A Practical Guide for the Family Therapist.

Schweitzer, S.; Kurlychek, R. T.

Oregon Univ., Eugene. Dept. of Counseling Psychology.

In: Trepper, T.S. and Barrett, M.J. (Editors). Treating Incest: A Multiple Systems Perspective. New York, Haworth Press, Inc., pp. 103-112, 1986.

1986.

Subject Code: 96

Information and suggestions are provided for the family therapist when he or she may have to testify in court. Basic concepts in the legal process are explained. Family therapists can give valuable assistance to judges and juries in dealing with intrafamily sexual abuse. The therapist may also have a role in preparing a child for court appearances or in establishing the credibility of a child witness. Pre-trial preparation is the key to a successful appearance as an expert witness. 24 references.

Descriptors: incest, therapists role, expert testimony, legal processes, child witnesses, evidence

4283L2 CD-09709

Making Courts Safe for Children.

Schudson, C. B.

Wisconsin Circuit Court, Milwaukee.

Journal of Interpersonal Violence 2(1):120-122, March 1987. March 1987.

Subject Code: 96

This article discusses the issue of making courts safe for children by reducing anxiety and emotional harm brought on by trials and courtrooms. Techniques to assist children in presenting their testimony, such as videotaping or closed circuit television, are presented.

Descriptors: courts, child witnesses, testimony, evidenc,

competency, videotaping, trials

4283K4 CD-09707

Children in the Family Court: Whose Best Interests?

Rayner, M.; Beasley, S.

Western Australia Bar Association, Perth.

In: Snashall, R. (Ed). National Conference on Child Abuse: Proceedings, Canberra, Australia. Feb. 3-7, 1986. Phillip, Australian Inst. of Criminology, pp. 83-98, January 1987.

January 1987.

Subject Code: 96

The question of how much voice children should have in their own proceedings in Family Court in Australia is explored. Both common law and the Family Law Act recognize that the child has the right to be heard on matters personal to the child; nevertheless, courts are reluctant to give a child that power. When a separate representative is appointed, the child's counsel represents the interests of the child, and not the child himself. Lawyers and the judiciary need to be more aware of child abuse to carry out their conciliatory, reporting, and judicial functions. Children should be encouraged to apply to the court on their own behalf but it is difficult to see how a child, particularly an abused child, is to approach a lawyer independently. The entire question of a child's interests needs further study. 11 references.

Descriptors: lawyers role, best interests of the child, australia, family courts, child witnesses, children's right, rights of minors, laws

4283K2 CD-09705

Sexual Abuse Allegations in Custody and Visitation Cases: A Resource Book for Judges and Court Personnel.

Nicholson, E. B.; Bulkley, J.

American Bar Association, Washington, DC. National Legal Resource Center for Child Advocacy and Protection.

Washington, DC, American Bar Association. Supported by: National Center on Child Abuse and Neglect (DHHS), Washington, DC, (90CA1165), 416 pp., February 1988.

February 1988.

Subject Code: 96

This book examines sexual abuse allegations in custody and visitation cases. Bringing together some of the most recent work from the many disciplines involved in the field, this book is roughly divided into materials discussing emerging policy issues and background materials. There is an overview of the problem followed by a look at false allegations. Investigations and evaluations of child sexual abuse cases arising in a custody or visitation context are described. The court process is studied critically, with recommendations for improvements in procedures for children. Background readings excerpted or reprinted from other sources are included. 874

(cont. next page)

DIALOG File 64: CHILD ABUSE AND NEGLECT-SPRING 1989 EDITION

references, 6 tables, and 6 figures.

Descriptors: sexual abuse, false allegations, evidence, proof, testimony, custody of child, visiting privileges, family courts

4283J1 CD-09700

Civil Remedies for Incest Survivors.

Moore, J. M.

Response 9(2):11-16, 1986.

1986.

Subject Code: 96

The traditional legal approach to incest through criminal law is discussed, and some new arguments for civil remedies in tort law are presented. Father-daughter incest is a crime in all states, but prosecution only occurs when the victim is still a child. The criminal approach entails many problems for the victim. Tort remedies give the adult woman an opportunity to have a day in court. To compel the perpetrator of incest to pay for therapy may be considered only just. For those seeking public admission and apology, a tort suit may be the answer. Assault, battery, and intentional and negligent infliction of emotional distress are the possible causes of action. There is no single answer to incest but the legal system can offer hope to those affected by it. 42 references.

Descriptors: incest, legal responsibility, civil liability, legal rights, civil laws, sexual abuse, adults abused as children

4283I4 CD-09699

Criminal Justice and Child Molesters: A Dialogue.

Mintie, D.

Connections 1(1):10-13, Winter 1986.

Winter 1986.

Subject Code: 96

Representatives from several areas of the criminal justice system of Washington state met to discuss important structural questions which are often left unaddressed. Participants were: Mary Kay Barbieri, Professor of Law; Becky Roe, prosecutor of the Special Assault Unit; Richard Hansen, criminal defense attorney; Steven Wolfe, therapist specializing in treatment of sex offenders; and Kay Field, Deputy County Prosecutor. Pros and cons of a diversion program to keep sexual offenders out of jail are discussed. Only open dialogue will lead to solutions to these problems in the criminal justice system.

Descriptors: sex offenses, prosecutorial diversion programs, criminal laws, legal processes, testimony, rights of accused, therapists, sex offenders

4283I2 CD-09697

Getting Out of a Rut: Detours to Less Traveled Paths in Child-Witness Research.

Melton, G. B.; Thompson, R. A.

In: Ceci, S.J.; Toglia, M.P.; Ross, D.F. Children's Eyewitness Memory. New York, Springer-Verlag, pp. 209-229, 1987.

1987.

Subject Code: 96

New directions in child witness research that might give policy makers better guidance are presented in this chapter. In adopting a primarily psychologically based age-graded orientation to the study of children's eyewitness testimony, many researchers miss policy-relevant issues of establishing features of task and context that support accurate, consistent reporting. Competency of the child should be seen interactively with jurors' capacities to use such testimony. Much research is also needed about statutory reforms of recent years. The focus of inquiry and legislation should be moved from testimony to the legal process as perceived by children. Numerous references.

Descriptors: child witnesses, competency, courts, testimony, evidence, legal processes, witnesses

4283H4 CD-09695

Litigation "In the Interest of Children": Does Anybody Win?

Melton, G. B.

Nebraska Univ., Lincoln.

Law and Human Behavior 10(4):337-353, December 1986.

December 1986.

Subject Code: 96

The book, In the Interest of Children: Advocacy, Law Reform, and Public Policy, edited by Robert H. Mnookin of Stanford Law School, is reviewed. Five Supreme Court cases are studied to examine the question of whether test-case litigation can be a sensible way to promote the welfare of children. Written for the nonlegal professional and educated laypersons, the book is nevertheless intended to shape legal policy and scholarship. This reading of Mnookin's volume suggests that litigation is not likely to result in substantial direct change. An optimistic outlook toward children's law is fostered by the examination of current trends in children's law and psychology. Scholars are beginning to pay serious and thoughtful attention to dilemmas of child and family policy. Numerous references.

Descriptors: legal processes, case studies, legal responsibility, children's rights, us supreme court, book reviews, child abuse laws, child neglect laws

4283H3 CD-09694

Supreme Court Decides Social Security, Baby Doe Cases.

Medical and Physical Disability Law Reporter.

Medical and Physical Disability Law Reporter 10(3): 214-215, May-June 1985.

(cont. next page)

DIALOG File 64: CHILD ABUSE AND NEGLECT-SPRING 1989 EDITION

May-June 1986.
Subject Code: 96

Two recent opinions of the U.S. Supreme Court are described, one of them being the case of *Bowen v. American Hospital Association* (also called the "Baby Jane Doe" case). The Court ruled that regulations, derived from the Rehabilitation Act, allowing federal government intervention on behalf of severely handicapped infants who are not receiving medically indicated treatment were inconsistent with the scope of the law and contrary to the states' role in regulating medical decision making. The disputed regulations prohibited withholding care from impaired infants and required state child protection agencies to establish procedures to prevent unlawful medical neglect of handicapped infants.

Descriptors: us supreme court, court case dispositions, medical neglect, medical treatment, physically handicapped, infants, hospitals responsibility, baby doe

4283H2 CD-09693

Expert Psychological Testimony About Child Complainants in Sexual Abuse Prosecutions: A Foray into the Admissibility of Novel Psychological Evidence.

McCord, D.

Drake Law School, Des Moines, IA.

Journal of Criminal Law and Criminology 77(1):1-77, Spring 1986.

Spring 1986.

Subject Code: 96

The admissibility of expert psychological testimony in sexual abuse cases is examined. Case law, behavioral scientific research, and admissibility analysis is provided in several areas: use of an expert diagnosis of child sexual abuse to prove that abuse occurred; use of expert testimony to enhance the complainant's credibility by explaining the complainant's unusual behavior; and the use of expert testimony to enhance the complainant's credibility by explaining the capabilities of child witnesses. 326 references.

Descriptors: sexual abuse, expert testimony, courts, legal processes, child witnesses

4283H1 CD-09692

Legal Issues Relating to the Sexual Abuse of Children.

Masliansky, N.

New York City Coalition on Child Sexual Abuse, Inc., New York.

New York, NY, National Center on Women and Family Law, Inc., pp. 3-4, undated.

undated.

Subject Code: 96

This article presents legal issues relating to the sexual abuse of children. Coordinated services for victims are

available in a few areas and could help in other areas of the country. New techniques for gathering evidence and presenting testimony from children are discussed. Information is also presented on sexual abuse as it relates to visitation rights and custody. Useful civil court remedies should be developed. 16 references. (Author abstract modified)

Descriptors: sexual abuse, legal problems, courts, testimony, evidence, custody of child, coordination

4283F4 CD-09687

Children as Witnesses in Child Sexual Abuse Trials.

Landwirth, J.

Hartford Hospital, CT. Dept. of Pediatrics.

Pediatrics 80(4):585-589, October 1987.

October 1987.

Subject Code: 96

This paper discusses children as witnesses in child sexual abuse trials. When alleged child sexual abusers are prosecuted and brought to trial, child witnesses are often exposed to procedural requirements of the criminal justice system that may cause further psychological trauma. These procedures are driven by the dual interests of pursuing the truth and protecting the constitutional rights of the accused to a fair trial with a presumption of innocence. Proposals for judicial reforms designed to balance both interests while shielding children from potential adverse effects of the process are discussed. 30 references. (Author abstract modified)

Descriptors: sexual abuse, child witnesses, testimony courts

4283F3 CD-09686

Legal Handbook for Day Care Centers.

Kotin, L.; Crabtree, R. K.; Aidman, W. F.

Supported by: Administration for Children, Youth and Families (DHHS), Washington, DC, 143 pp., 1981.

1981.

Subject Code: 96

This handbook is a comprehensive source book on areas of the law of greatest concern to operators of day care centers. It is not addressed specifically to the providers of family day care. The book is not a substitute for local legal advice; it is a basis for identifying issues. Overall considerations of structure and staffing are covered, with specific discussions of such issues as personnel law and licensing requirements. The chapter on suspected child abuse and neglect includes discussion of reporting requirements and penalties for failure to report. The handbook is written for a lay audience but is intended to be precise enough to be of use to lawyers.

Descriptors: child abuse reporting, manuals, legal definitions, legal responsibility, day care programs, lawyer, (cont. next page)

DIALOG File 84: CHILD ABUSE AND NEGLECT-SPRING 1989 EDITION

mandatory reporting

4283F2 CD-09685

The Child Witness.

King, M. A.; Yuille, J. C.

British Columbia Univ., Vancouver (Canada).

Health and Welfare Canada. National Clearinghouse on Family Violence, 7 pp., undated.
undated.

Subject Code: 96

The current state of knowledge about the eyewitness abilities of children as reflected in psychological literature is reviewed. In free recall, children as young as 6 years of age have been found as accurate as adults. Children are, however, more susceptible to misleading questions, leading questions, and subtle hints than adults. In interviews, questions should be kept neutral and objective. Techniques to improve interviews that have not yet received extensive study include modeling, reconstruction, and script memory, the memory of patterns of abuse. Field research is needed to establish a database to aid professionals dealing with the child witness. 22 references.

Descriptors: child witnesses, testimony, evidence, court, competency, legal processes, interviews

4283E2 CD-09681

Courts, Kin, and Children: Determinants of Court-Ordered Kin Involvement in Child Protection Proceedings.

Herskovitz, L. S.; Kelly, R. F.; Ramsey, S. H.

Polk (R.L.) and Co., Taylor, MI.

Children and Youth Services Review 8:107-132, 1986.
1986.

Subject Code: 96

This study estimates the extent to which kin resources are utilized by the courts in the disposition of child protection cases. For child protection cases that reach the judicial system, it is the courts that sanction the utilization of kin and other resources in the treatment of child maltreatment cases. Yet, little is known about either the extent to which the courts currently use kin resources or the determinants of utilization. Using data from a representative sample of North Carolina child protection cases, estimates were made of the degree to which kin were utilized by the courts. Next, a multivariate predictive model of the determinants of kin utilization was developed. In this context, 2 hypotheses related to kin utilization were tested. It was found that the courts ordered kin involvement in the disposition of 62 percent of all cases. Eleven variables were found to significantly influence the use of kinship resources in these cases. Several of the independent variables in the model are policy relevant and their implications are discussed in the paper's conclusion. 35 references, 1 table, and 1 figure. (Author abstract modified)

Descriptors: custody of child, family support systems, extended family, child protection, north carolina, court records, judicial decisions, placement

4283E1 CD-09680

The School District--Identifying and Investigating Charges of Child Abuse.

Herf, C. W.

Wentworth, Lundin, and Herf, Phoenix, AZ.

In: Freeman, L. (Editor). Managing Risks While Protecting Children. National Association of Counsel for Children, Denver, CO, pp. 109-121, 1986.
1986.

Subject Code: 96

Identifying and investigating charges of child abuse against school personnel are discussed. Specific topics addressed include: the attorney's initial contact with the school district to gather facts; mandatory reporting statutes; confrontation by district officials with the perpetrator; establishing mutual cooperation with law enforcement agencies; school district termination hearings; balancing employee and child's rights; identification of the abused child; and congressional concerns regarding the Child Abuse Prevention and Treatment Act.

Descriptors: schools, identification, investigation, lawyers role, law enforcement, civil liability, schools responsibility, unfounded reports

4283D4 CD-09679

Sexual Abuse of Children by Professionals: A Case Study in Seeking Criminal Prosecution and Civil Damages.

Hebert, P. J.

Sonnier, Herbert, and Herbert, Lafayette, LA.

Response 10(1):18-20, 1987.

1987.

Subject Code: 96

This article presents a case study on seeking criminal prosecution and civil damages from professionals who have sexually abused children. It involves the claims of 3 children against the Catholic Diocese of Lafayette and a Catholic priest who was accused and convicted of abusing these and other children over a 7-year period. The advantages of bringing a case for criminal proceedings and civil damages are detailed.

Descriptors: sexual abuse, professional personnel, prosecution, case studies

DIALOG File 84: CHILD ABUSE AND NEGLECT-SPRING 1989 EDITION

4283D2 CD-09677

Child-Witnesses: Can They Be Trusted? Will They Be Harmed?

Hastings Center Report.

Hastings Center Report 17(3):4, June 1987.

June 1987.

Subject Code: 96

The issue of whether or not child witnesses should be used in court cases involving child sexual abuse is examined; in addition, factors influencing the reliability of their testimony are explained. Testifying in court can be extremely traumatic for victims of sexual abuse, particularly for young children. Procedures for lessening the harmful effects of appearing in court are outlined. In regard to the second point, children can be led into falsifying facts by overeager prosecutors or may be misled by a vivid imagination, particularly in the case of charges against parents, since children often have sexual fantasies involving their parents. On the other hand, children often are able to recall in great detail a stressful incident such as molestation, and thus make good witnesses. Individual children should be assessed for their ability to discern truth from lies and for their emotional readiness to testify. 3 references.

Descriptors: child witnesses, sexual abuse, competency, testimony, rights of accused, trials, trauma, legal processes

4283D1 CD-09676

Prosecution Is an Appropriate Response in Child Sexual Abuse Cases.

Harshbarger, S.

Middlesex County, Cambridge, MA.

Journal of Interpersonal Violence 2(1):108-112, March 1987.

March 1987.

Subject Code: 96

The position that any individual who physically abuses or sexually assaults a child should be subject to public identification, prosecution, and sanction, regardless of the relationship of the victim and perpetrator, is defended by a district attorney. Such cases must be prosecuted as the serious crimes they are, in the interests of both victims and the public. Treatment, prevention, education, and therapy may be parallel measures, but in themselves they have failed as effective responses to the problem. The attack of Eli H. Newberger (reprinted, this issue) on the criminal justice system as the major problem in handling child abuse cases retards the goal of cooperation between law enforcement and social service agencies.

Descriptors: sex offenses, crime, courts role, prosecution, legal processes, social services agencies, legal problems

4283C4 CD-09675

The Unpopular Victim.

Hansen, R.

Journal of Interpersonal Violence 2(1):123-125, March 1987.

March 1987.

Subject Code: 96

This commentary asserts that extreme measures in the investigation and prosecution of sex crimes have created a danger of convicting innocent people and irreparably damaging the lives of the accused. The ways in which the system is being radically adapted to accommodate the child witness, and the ways these changes have threatened the integrity of criminal prosecutions, are discussed.

Descriptors: sexual abuse, investigations, child witness, false allegations, evidence, proof, testimony

4283C3 CD-09674

The Admissibility of Evidence in Child Sexual Abuse Cases.

Gothard, S.

Juvenile Court for the Parish of Jefferson, Gretna, LA.

Child Welfare 66(1):13-24, January-February 1987.

January-February 1987.

Subject Code: 96

The admissibility of evidence in child sexual abuse cases is discussed. Testimony in court by child victims results in further trauma, frequently inconsistent or retracted accusations, and, in incest cases, exacerbation of family difficulties. A number of states have liberalized rules of evidence in such instances to spare the child. Some states have enacted legislation simplifying introduction of the child's out-of-court statements, although the constitutionality of these statutes has yet to be tested. 45 references. (Author abstract modified)

Descriptors: sexual abuse, courts testimony, evidence, child witnesses

4283B4 CD-09671

Managing Risks While Protecting Children.

Freeman, L.

National Association of Counsel for Children, Denver, CO.

National Association of Counsel for Children, Denver, CO,
171 pp., 1986.

1986.

Subject Code: 96

Perspectives are provided on how to reduce the risks of malpractice liability while meeting the needs of children. Areas discussed include: agency counsels, state and public employees, physicians, the school district, child protective services, institutions, guardians ad litem, and federal and civil actions on behalf of children. 164 references.

(cont. next page)

DIALOG File 64: CHILD ABUSE AND NEGLECT-SPRING 1989 EDITION

Descriptors: civil liability, courts, risk, legal responsibility, physicians, schools, institutions, guardian ad litem

428383 CD-09670

Removing the Child--Prosecuting the Offender in Cases of Sexual Abuse: Evidence from the National Reporting System for Child Abuse and Neglect.

Finkelhor, D.
New Hampshire Univ., Durham. Family Violence Research Program.

Child Abuse and Neglect 7(2):195-205, 1983.

1983.

Subject Code: 96

A review of the 6,096 cases of substantiated child sexual abuse reported to the National Clearinghouse in 1978 yielded information about the disposition of these cases. Foster placement was more likely to occur in cases of sexual abuse than physical abuse, and was most likely with older children who reported their own abuse. In these cases, children went to foster or shelter care 49 percent of the time. Foster care did not appear to be overused for blacks and the poor in cases of sexual abuse. Criminal action against the offender was much more likely than in cases of physical abuse, but was undertaken in only about a fifth of the reported incidents nationwide. No bias against the poor or disadvantaged was seen. Offenders were more likely to be prosecuted if they were outside the family. Children are not apparently being removed from their families arbitrarily or in large numbers. 20 references and 2 tables.

Descriptors: sexual abuse, sexual abuse reporting, foster care, prosecution, legal processes, statistics, removing child from home, dispositional alternatives

4283A1 CD-09664

Risk Management from the Perspective of Agency Counsel.

Dikeou, G. D.

Faegre and Benson, Denver, CO.

In: Freeman, L. (Editor). Managing Risks While Protecting Children. National Association of Counsel for Children, Denver, CO, pp. 1-17, 1986.

1986.

Subject Code: 96

This chapter examines risk management from the perspective of agency counsel. Following a general discussion of risk management, steps are proposed: identify the risk, cause of harm, or loss; evaluate and analyze the risk; control or eliminate the risk; deal with the risk; and act to minimize the losses. The discussion concludes with suggestions for transferring these concepts to individual settings.

Descriptors: risk, civil liability, lawyers, lawyers role

4282L4 CD-09663

Disclosing Sexual Abuse: The Impact of Developmental Variables.

de Young, M.

Grand Valley State Coll., Allendale, MI. Social Thought and Public Affairs.

Child Welfare 66(3):217-223, May-June 1987.

May-June 1987.

Subject Code: 96

This paper examines the impact of developmental variables on the disclosure of sexual abuse and suggests that when those variables are recognized, the credibility of the young child as a witness increases. Despite increasing evidence that even a young child can be a competent witness in a court of law, there is one factor that is often used to impeach the credibility of a sexual abuse case, and that is the nature and timing of the child's disclosure of the sexual victimization. 32 references. (Author abstract modified)

Descriptors: child witnesses, competency, sexual abuse, cognitive development, literature reviews, child development, disclosure, testimony

4282L3 CD-09662

A Conceptual Model for Judging the Truthfulness of a Young Child's Allegation of Sexual Abuse.

de Young, M.

Grand Valley State Coll., Allendale, MI.

American Journal of Orthopsychiatry 56(4):551-559, October 1986.

October 1986.

Subject Code: 96

This article develops a conceptual model for judging the truthfulness of a young child's allegation of sexual abuse. It focuses on children between the ages of 2 and 7, and considers both intrafamilial and nonfamilial sexual abuse. Due to the increased number of allegations of sexual abuse made by young children and the often severe legal penalties given to adult perpetrators, there is reason for concern about false or mistaken accusations. 54 references. (Author abstract modified)

Descriptors: sexual abuse, false allegations, testimony, competency, child witnesses

4282K4 CD-09659

Hearing on the Children's Justice Act.

Committee on Labor and Human Resources (U.S. Senate) Subcommittee on Children, Family, Drugs, and Alcoholism.

99th Congress, 1st Session, Hearing, Washington, DC, May 2, 1985, 141 pp., 1985.

1985.

Subject Code: 96

(cont. next page)

DIALOG File 84: CHILD ABUSE AND NEGLECT-SPRING 1989 EDITION

A hearing was held on the Children's Justice Act and the need to enact reforms to improve legal and administrative proceedings for the investigation and prosecution of child sexual abuse cases. The proposed Children's Justice Act was intended to correct further victimization of child victims when judicial processes fail to consider the nature of the crime and the potential harm to the child witness. The bill would also authorize funding for grants to states enacting reforms in the judicial area. Statements were presented by several senators and some experts in the field of sexual abuse.

Descriptors: sexual abuse, legal processes, child witnesses, childrens rights, proposed legislation, federal laws, child abuse, victimization

4282K3 CD-09658

Videotaping the Child Sexual-Abuse Victim.

Colby, I.; Colby, D.

Texas Univ., Arlington. Social Work Program.
Social Casework 68(2):117-121, February 1987.
February 1987.

Subject Code: 96

This article examines the issue of videotaping the child sexual-abuse victim, and describes appropriate interview techniques. Modification of civil and criminal law in some states allows videotaped child sexual abuse interviews to be used as courtroom evidence. When interviewing a child victim, the social worker must comply with legal requirements. 13 references and 1 table. (Author abstract modified)

Descriptors: sexual abuse, child witnesses, evidence, videotaping, courts, testimony, interviews

4282K2 CD-09657

Videotaped Interviews in Child Sexual Abuse Cases: The Texas Example.

Colby, I. C.; Colby, D. N.

Texas Univ. at Arlington. Social Work Program.
Child Welfare 66(1):25-34, January-February 1987.
January-February 1987.

Subject Code: 96

Videotaped interviews used in child sexual abuse cases in Texas are discussed. In 1983, the Texas State Legislature passed a law permitting videotaped interviews of child victims of abuse in civil and criminal proceedings. This article identifies the basic tenets of Texas Senate Bill 836, together with its implementation, and analyzes the bill's legal protections for the child victim, the alleged perpetrator, and society at large. 22 references. (Author abstract modified)

Descriptors: sexual abuse, videotaping, texas, courts, testimony, child witnesses, legal rights, interviews

4282J1 CD-09652

The Child Victim in Criminal Court Proceedings.

Byrne, P.

New South Wales Law Reform Commission, Sydney (Australia).
In: Snashall, R. (Ed). National Conference on Child Abuse:
Proceedings, Canberra, Australia. Feb. 3-7, 1986. Phillip,
Australian Inst. of Criminology, pp. 131-144, January 1987.
January 1987.

Subject Code: 96

Changes in the handling of the child victim in sexual abuse cases are suggested. The use of videotape in the gathering of evidence could reduce the number of times a child must tell the story and lessen the number of investigators the child encounters. The existence of such a videotape might encourage perpetrators to plead guilty in advance of trial. When the child must be called as a witness, the atmosphere of the courtroom should be made less intimidating. If videotaped interviews were admissible evidence, much potential harm to the child witness could be eliminated. These relaxations of the strict rules of evidence would be an enlightened approach to the problem of child witnesses.

Descriptors: child witness, courts, testimony, evidence, videotaping, competency, legal processes, australia

4282I4 CD-09651

Recommendations for Improving Legal Intervention in Intrafamily Child Sexual Abuse Cases.

Bulkley, J.

American Bar Association, Washington, DC. National Legal
Resource Center for Child Advocacy and Protection.In: Nicholson, E.B. and Bulkley, J. (Editors). Sexual Abuse
Allegations in Custody and Visitation Cases. Washington, DC,
American Bar Association, pp. 397-403, February 1988.

February 1988.

Subject Code: 96

Recommendations are provided with commentary for improving legal intervention in intrafamily child sexual abuse cases. Topics include: innovative approaches in the legal system's handling of intrafamily child sexual abuse cases; an interdisciplinary approach among agencies responsible for handling such cases; and coordinated court proceedings. Reduction of trauma to the child is urged, by providing an advocate, interviewing the child, vertical prosecution, and limiting the child's testimony.

Descriptors: sexual abuse, incest, courts, legal processes, child advocacy, child witnesses, testimony, interviews

4282I3 CD-09650

Psychological Expert Testimony in Child Sexual Abuse Cases.

Bulkley, J.

American Bar Association, Washington, DC. National Legal
(cont. next page)

DIALOG File 84: CHILD ABUSE AND NEGLECT-SPRING 1989 EDITION

Resource Center for Child Advocacy and Protection.

In: Nicholson, E.B. and Bulkley, J. (Editors). *Sexual Abuse Allegations in Custody and Visitation Cases*. Washington, DC, American Bar Association, pp. 191-213, February 1988.

February 1988.

Subject Code: 96

This chapter discusses the use of psychological expert testimony in child sexual abuse cases. Expert evidence may not always be beneficial, especially in criminal actions. Among the topics examined are: general problems with mental health expert testimony; legal requirements for admitting expert testimony; mental health experts in child sexual abuse cases; behaviors of child victims; credibility of the child victim; use of experts by the alleged offender; and typical characteristics of sex offenders. The trend of the courts seems to be to limit the expert's role to that of an educator, providing general descriptions of behavior. 92 references.

Descriptors: sexual abuse, testimony, expert testimony, rules of evidence, courts, legal processes, mental health, psychologists

4282I2 CD-09649

The Child's Input in Custody and Visitation Disputes Involving Sexual Abuse Allegations.

Bulkley, J.

American Bar Association, Washington, DC. National Legal Resource Center for Child Advocacy and Protection.

In: Nicholson, E.B. and Bulkley, J. (Editors). *Sexual Abuse Allegations in Custody and Visitation Cases*. Washington, DC, American Bar Association, pp. 214-229, February 1988.

February 1988.

Subject Code: 96

This chapter studies the child's input in custody and visitation disputes involving sexual abuse allegations. Children in custody disputes often are asked to provide testimony in which the judge interviews the child privately in chambers. Most jurisdictions do require the special due process protections described for judicial interviewing of children in custody hearings. Procedural safeguards should be instituted in obtaining information from the child in custody and visitation disputes involving sexual abuse allegations. Although the child's preference is considered, it usually is not given controlling weight. 70 references.

Descriptors: sexual abuse, custody of child, child witnesses, testimony, courts, videotaping, judges role, interviews

4282I1 CD-09648

Foundations of Child Advocacy: Legal Representation of the Maltreated Child.

Bross, D. C.; Michaels, L. F.

National Association of Counsel for Children, Denver, CO. Longmont, CO, Bookmakers Guild, Inc., 279 pp., 1987.

1987.

Subject Code: 96

Various aspects of the area of child advocacy are reviewed for the benefit of lawyers involved in the child protection process. The effect of child abuse and neglect on child development is described as background information. Factors relevant to child representation include the different perspectives of pediatricians, social workers, and lawyers; activities of child representatives with regard to evidence, protection of child witnesses, custody cases, guardianship, and liability for negligence. Guidelines are presented for the guardian ad litem and for custody and dispositional hearings in abuse and neglect cases. The role of lawyers in helping to develop definitions of and practices relating to child abuse and neglect is emphasized. The book is part of an effort to establish a better foundation for the independent representation of children involved in court proceedings.

Descriptors: child advocacy, child protection laws, lawyers role, legal process, child protection services, pediatricians role

4282H4 CD-09647

When Children Are Battered by the Law.

Bross, D. C.

Barrister Magazine 11(4):8-11, 45, 48-49, Fall 1984.

Fall 1984.

Subject Code: 96

Issues in children's law and problems of child advocacy are only being addressed slowly, in spite of increasing documentation of child neglect and abuse. If parental protection breaks down, independence of representation is an important feature in determining the degree to which the child's interests are advanced. Examples of child advocacy bringing new perspectives are given. Court Appointed Special Advocate (CASA) programs are the most common form of legal advocacy for children. The recent creation of a committee on the needs of children by the American Bar Association is a positive step toward improving legal protection for children. The National Legal Resource Center for Child Advocacy remains the most important overall influence in the field. Development of the field as a legal specialty and development of statewide offices of child representation are approaches for the future.

Descriptors: childrens rights, rights of minors, legal processes, child advocacy, lawyers role, child protection, child witnesses, child abuse laws

4282H1 CD-09644

"Sex Ring" Fallout.

Blodgett, N.

ABA Journal 71:17-18, February 1985.
February 1985.

(cont. next page)

DIALOG File 64: CHILD ABUSE AND NEGLECT-SPRING 1989 EDITION

Subject Code: 96

Six families once accused of sexual abuse against their children have filed suit against the county attorney, other officials, and some therapists involved in initial criminal proceedings in Minnesota. Children were removed from their families after allegations that they had been forced to take part in ritualistic sex parties with adults. Charges were dropped for lack of evidence and the accused families now allege that their children were coerced into accusing their parents. Complaints of misconduct lodged against the county attorney are now being investigated.

Descriptors: child witnesses, false allegations, evidence, testimony, legal processes, proof, sexual abuse, rights of accused

4282G2 CD-09641

Commentary Editor's Introduction. (Editorial).

Berliner, L.

Sexual Assault Center, Seattle, WA.

Journal of Interpersonal Violence 2(1):118-120, March 1987.
March 1987.

Subject Code: 96

The commentary focuses on children as victims of crime and the increased reporting, prosecution, and conviction of offenders against children. In the legal system, the desire to protect children should not jeopardize the rights of the defendant or other fundamental values of society. 6 references.

Descriptors: child abuse reporting, legal process, courts, testimony, child witnesses, competency

4282G1 CD-09640

The Child as a Witness.

Benedek, E. P.; Schetky, D. H.

Center for Forensic Psychiatry, Ann Arbor, MI.

Hospital and Community Psychiatry 37(12):1225-1229,
December 1986.

December 1986.

Subject Code: 96

This article discusses various aspects of using children as witnesses, including cognitive, emotional, and psychological factors affecting the testimony, and suggests possible changes in the court procedures that might lessen the trauma. The increasing participation of children in judicial proceedings raises 2 central issues: the competency of the child as a witness and the effects on the child of testifying about a traumatic experience. The recommendations of forensic child psychiatrists are presented on how to improve the judicial process to elicit more accurate testimony from child witnesses--for example, by videotaping a child's testimony to avoid repeated interrogations, using anatomically correct dolls and pictures to allow the child to recount events

through displacement, and using 1 skilled interviewer throughout the proceeding to allow rapport to develop between interviewer and child. The role of the child psychiatrist in court proceedings involving child witnesses is discussed. 19 references. (Author abstract modified)

Descriptors: child witnesses, courts, testimony, child psychiatry, competency

4282F3 CD-09638

Legal Decisions Regarding Medical Treatment of Handicapped Newborns (pro-gen). (Letter).

Angell, M.

New England Journal of Medicine 315(11):708, September
1986.

September 1986.

Subject Code: 96

In reply to several letters objecting to an editorial about Baby Doe regulations governing medical treatment of handicapped newborns, the current argument for withholding treatment from certain infants is outlined. One viewpoint holds that life-sustaining treatment should be given to all handicapped newborns, regardless of their future suffering. If, however, it is agreed that it is sometimes ethical to withhold treatment in order to reduce suffering, the dilemma turns on who should decide on which infants to treat, and what are the criteria for that decision. Several judicial decisions are cited that bear on this question. 3 references.

Descriptors: baby doe, handicapped children, newborn infants, physicians responsibility, parents responsibility, child abuse laws, medical treatment, judicial decisions

4282F2 CD-09637

Annotated Bibliography of Representation of Children in Custody Cases. Law Review Articles and Periodicals.American Bar Association, Washington, DC. National Legal
Resource Center for Child Advocacy and Protection.In: Nicholson, E.B. and Bulkley, J. (Editors). Sexual Abuse
Allegations in Custody and Visitation Cases. Washington, DC,
American Bar Association, pp. 234-245, February 1988.

February 1988.

Subject Code: 96

An annotated bibliography on representation of children in custody cases is presented. Twenty-one law review articles and journal articles are included.

Descriptors: custody of child, childrens rights, right to counsel, guardian ad litem, courts, lawyers role, bibliographies, reference materials

DIALOG File 64: CHILD ABUSE AND NEGLECT-SPRING 1989 EDITION

4282F1 CD-09636

Guidelines for the Fair Treatment of Child Witnesses in Cases Where Child Abuse Is Alleged.

American Bar Association, Washington, DC.

In: Nicholson, E.B. and Bulkley, J. (Editors). Sexual Abuse Allegations in Custody and Visitation Cases. Washington, DC, American Bar Association, pp. 288-290, February 1988.
February 1988.

Subject Code: 96

Guidelines are presented for the fair treatment of child witnesses in cases where child abuse is alleged. Recommendations include using a multidisciplinary team from several agencies to handle the case, assuring a speedy trial, and modifying procedures to accommodate the needs of the child. The guidelines are official American Bar Association policy.

Descriptors: child witnesses, courts, legal processes, guidelines, mass media, trials, legislation

4276C3 CD-09562

Recognizing and Reporting Child Abuse and Neglect. A Resource Handbook for Health Care Professionals.

Ferretto-Meek, G.

Maryland State Dept. of Human Resources. Supported by: National Center on Child Abuse and Neglect (DHHS), Washington DC, (O3CA0200/01), 22 pp., March 1987.

March 1987.

Subject Code: 92

This handbook is designed to assist health care professionals in meeting their responsibilities under Maryland law to report suspected incidents of child abuse and neglect. Maryland laws pertaining to child abuse and neglect are discussed. Identifying abused or neglected children and abusive or neglectful parents is emphasized. Specific information to be gathered in interviewing the child and the caretaker is outlined. Reporting procedures are detailed and mechanisms to protect victims of suspected child abuse or neglect are considered.

Descriptors: legal responsibility, health personnel, identification, child abuse reporting, maryland, interview, abused children, neglected children

4276C2 CD-09561

Child Abuse and Neglect Procedure Manual for Hennepin County.

Faulkner, S. R.

Hennepin County Attorney's Office, Minneapolis, MN.
Hennepin County Attorney's Office; Hennepin County Community Services Dept., Minneapolis, MN, 430 pp., 1978.
1978.

Subject Code: 92

To clarify responsibilities for handling child abuse and

neglect cases in Hennepin County, MN this procedure manual was developed for use by school, medical, law enforcement, and legal personnel, as well as personnel of the Child Protective Service. Chapters for each of these areas include legal requirements for reporting, reporting procedures, and other procedural guidelines pertinent to the area. Appendices include the child abuse and neglect statutes and rules for Minnesota, commonly used terms and definitions in the child abuse area, resource organizations and agencies dealing with child abuse and neglect, and references for child abuse and neglect cases. Numerous references.

Descriptors: manuals, teachers responsibility, legal responsibility, child abuse reporting, child abuse laws, professionals responsibility, child protection services, law enforcement

4275L3 CD-09550

The School's Role in the Prevention/Intervention of Child Abuse and Neglect.

Colorado State Dept. of Education, Denver.

Colorado State Dept. of Education, Denver, 243 pp., 1986.
1986.

Subject Code: 92

This manual for trainers who present child abuse and neglect prevention/intervention programs in their respective school districts presents information on recognizing abuse and neglect, responding to disclosures, reporting suspected abuse, and assisting the victim. The legal responsibilities of teachers are defined. The roles of social service agencies and law enforcement are discussed, with information to enable school personnel to work with other professionals. Resources available to the teacher are indicated. Manuals for preventive education, the "Action Against Assault" programs for elementary and secondary students, are included.

Descriptors: prevention programs, teachers role, school children, training, intervention, child abuse reporting, legal responsibility, guidelines

4275D1 CD-09516

Sourcebook for Child Abuse and Neglect. Intervention, Treatment, and Prevention Through Crisis Programs.

Tzeng, D. C.S.; Jacobsen, J. J.

Indiana Univ.-Purdue Univ., Indianapolis. Dept. of Psychology.

Springfield, IL, Charles C. Thomas, 433 pp., 1988.
1988.

Subject Code: 90

This sourcebook for child abuse and neglect provides information on intervention, treatment, and prevention to develop a community-based crisis service system. Following the presentation of a theoretical model, basic concerns are

(cont. next page)

DIALOG File 84: CHILD ABUSE AND NEGLECT-SPRING 1989 EDITION

addressed, such as legal foundations, how to organize crisis and care facilities, and the functions of crisis programs. 274 references, 49 tables, and 9 figures.

Descriptors: resource materials, prevention, therapy, crisis intervention, program planning, models, community programs, legal responsibility

4265K4 CD-09291

Treating Incest: A Multiple Systems Perspective.

Trepper, T. S.; Barrett, M. J.

Purdue Univ. Calumet, IN.

New York, Haworth Press, Inc., 126 pp., 1986.
1986.

Subject Code: 86

This book provides both theoretical and practical information for the therapist working with cases of intrafamilial sexual abuse. Assessment and treatment issues are the focus of a number of specialists in incest. The thrust of these chapters is to broaden views beyond the mere victim-perpetrator approach to thinking in terms of all systems involved. Despite the dramatic need for incest-related psychotherapy, few clinicians feel prepared to handle such cases. Making referrals or providing crisis intervention may be enhanced by the studies included in this volume. Numerous references, 4 figures and 4 tables.

Descriptors: incest, expert testimony, psychotherapy, sex offenses, crisis therapy, abused children, family therapy

4265E2 CD-09265

Handicapped Infants.

Moreno, J.

George Washington Univ., Washington DC.

The New Physician pp. 42, 44, January-February 1986.

January-February 1986.

Subject Code: 86

While society has adopted the standard that competent patients are entitled to decide their own treatment, the situation for infants is not clear, as the Baby Doe case has illustrated. Physicians should be aware that undertreatment of a severely handicapped infant could subject them to penalties, although this has not yet happened. It is essential that parents and physician have all available information about the condition and potential of the child. A balance must be struck between concern for the infant and respect for the traditional domain of parental authority.

Descriptors: baby doe, handicapped children, medical ethics neglect, medical treatment, physicians responsibility, legal responsibility

4265D2 CD-09261

The Case for a Therapeutic Interview in Situations of Alleged Sexual Molestation.

McIver, W. F.

Champion 10(1):11-13, January-February 1986.

January-February 1986.

Subject Code: 86

A case for therapeutic interviews in situations of alleged sexual molestation is presented. A biased interviewer can shape a child's responses. Interviews can be based on the assumption that abuse did occur. Proper interviewing techniques are not only therapeutic for the child, but they result in more detailed and verifiable information. General comments and recommendations are given on how to examine children in cases of alleged sexual abuse. 8 references. (Author abstract modified)

Descriptors: sexual abuse, therapy, interviews, child witnesses

4264A3 CD-09202

Psychiatric Intervention with Children Traumatized by Violence.

Eth, S.; Pynoos, R. S.

Los Angeles County Univ. of Southern California Medical Center. Dept. of Psychiatry.

In: Schetky, D.H., and Benedek, E.P. (Editors). Emerging Issues in Child Psychiatry and the Law. New York, Brunner/Mazel, Inc., pp. 285-309, 1985.

1985.

Subject Code: 86

Psychiatric interventions with children traumatized by violence are examined. Methods developed to assist children who have been exposed to violence are presented. Interview techniques and group consultation techniques are discussed. A sequence of judicial phases is given, and appropriate liaison activities for the child psychiatrist are indicated. 27 references.

Descriptors: psychiatry, trauma, childrens therapy, court, legal processes, violence, child witnesses of family violence, testimony

4262L3 CD-09150

Child Abuse: A New Responsibility for the Health and Physical Educator.

Massey, K. K.

Howard Univ., Washington, DC.

District of Columbia Journal of Health, Physical Education, Recreation and Dance 18-19, June 1985.

June 1985.

Subject Code: 84

(cont. next page)

DIALOG File 64: CHILD ABUSE AND NEGLECT-SPRING 1989 EDITION

Health and physical educators have the opportunity to make an important difference in solving the problem of child abuse. To better prepare physical education teachers to recognize psychological and physical signs of child abuse, the subject should be included in the teaching curriculum at every level. This new responsibility for physical educators is not merely a moral requirement; teachers in all 50 states and the District of Columbia have a legal obligation to report suspected child abuse and neglect. Signs of abuse must be recognized in the child in order to break the cycle of abusive behavior in future generations. 6 references.

Descriptors: teachers responsibility, abused children, legal responsibility, health education, child abuse reporting, identification, curricula, students

4262E3 CD-09122

Deciding Whether a Child Has Been Sexually Abused.

Berliner, L.

Harborview Medical Center, Seattle, WA.

In: Nicholson, E.B. and Bulkley, J. (Editors). *Sexual Abuse Allegations in Custody and Visitation Cases*. Washington, DC, American Bar Association, pp. 48-69, February 1988.

February 1988.

Subject Code: 84

This chapter offers help in determining whether or not a child has been sexually abused. Two formal ways that a determination is made are legal factfinding and forming a professional opinion. The best available data supports the contention that false reports from children are rare. There is no single profile of a victim or of an offender that distinguishes them from non-abused children or non-offenders, or from children or adults with other kinds of problems. The question is raised of how reliable is children's testimony about sexual abuse. Interviewing children about abuse experiences is also discussed. 82 references.

Descriptors: sexual abuse, identification, diagnoses, evidence, child witnesses, competency, testimony, courts

4255E3 CD-09010

State v. Williguetta.

Wisconsin. Court of Appeals.

370 N.W.2d 282 (WI App. 1985), May 21, 1985.

May 21, 1985.

Subject Code: 97

State appealed dismissal of criminal information against a mother accused of child abuse for not protecting her children against abuse inflicted by the father. The Court of Appeals, in reviewing the state penal provision prohibiting the torture or cruel maltreatment of children and relevant caselaw, held that failure to protect does not directly constitute child abuse. However, the Court also found that failure to protect may constitute aiding and abetting in their review of the elements of that crime. An omission or failure to act to

protect may constitute direct commission of a crime and may constitute aiding and abetting only if a defendant has a legal duty to act. Because a parent has a legal duty to protect a child, breach of this duty may result in criminal liability. Thus where mother allegedly knew of father's repeated abuses in her absence and took no action to prevent further occurrences, she could be charged with aiding and abetting child abuse. Therefore, the order dismissing charges against the mother was reversed and the case referred for trial.

Descriptors: parents responsibility, criminal laws, legal responsibility, crime, prosecution, wisconsin

4255E2 CD-09009

Rivera v. State.

Texas. Court of Appeals, Houston (Fourteenth District).

684 S.W.2d 174 (TX App. 14 Dist. 1984), December 13, 1984.

December 13, 1984.

Subject Code: 97

The defendant, a former day care center employee, appealed conviction of sexual abuse of a child in his care, arising from an incident in which he admittedly placed his mouth on the child's penis. During cross-examination at trial, the prosecution required defendant to demonstrate this act on an anatomically correct doll in the presence of the jury. The Court of Appeals affirmed the conviction, finding that this demonstration was necessary to rebut the defendant's claim that he had not committed the act with the necessary intent to satisfy sexual desire, an element of the crime. The Court also found that the defendant, by presenting expert testimony concerning his latent homosexuality, placed his character at issue and thus invited prosecution evidence that some of his friends were homosexual to show active rather than latent homosexuality. A dissent would overturn the conviction on the basis that the anatomically correct doll demonstration was unduly prejudicial.

Descriptors: sex offenses, anatomical dolls, prosecution, evidence, expert testimony, day care programs, texas

4255E1 CD-09008

Kline v. Jordan.

Tennessee. Court of Appeals, Western Section at Jackson.

685 S.W.2d 295 (TN App. 1984), November 27, 1984.

November 27, 1984.

Subject Code: 97

Parents brought an assault and battery action against the director of the University of Tennessee Child Development Center after the director, a physician, examined their child for possible head injury allegedly inflicted by a center staff member. The Court of Appeals affirmed the trial court's dismissal of the case by summary judgment in favor of the defendant, finding that the director had reasonable basis to

(cont. next page)

DIALOG File 84: CHILD ABUSE AND NEGLECT-SPRING 1989 EDITION

believe that the parents had consented to such an examination. For a finding of assault and battery, there must be an absence of consent. The parents had signed consent forms permitting the child to be interviewed, tested, and examined by center staff upon the child's enrollment, and in addition, the mother had verbally requested that the child be examined by a pediatrician in the event of any injury. The director was responsible for all of the children enrolled in the center's programs, was aware of the written consent forms signed by the parents, and had explained center policies during orientation. Thus he had a reasonable basis to believe he had consent to examine the child. Permission to appeal this decision was denied by the Tennessee Supreme Court on January 28, 1985.

Descriptors: civil liability, legal responsibility, day care services, schools responsibility, physical examinations, physicians responsibility, medical treatment, tennessee

4255D4 CD-09007

Commonwealth v. Barnhart.

Pennsylvania. Superior Court.

497 A.2d 616 (PA Super. 1985), August 16, 1985.

August 16, 1985.

Subject Code: 97

Parents were convicted of involuntary manslaughter and endangering welfare of a child following the death of their son of cancer. They had not sought medical treatment during the course of his illness because of their religious beliefs. In affirming their convictions, the Superior Court considered in depth the question of whether such convictions constituted a constitutionally impermissible bar to the free exercise of religion, and concurred with earlier caselaw that parents are free to become martyrs themselves, but not free to martyr their children. Thus, faced with a condition that threatened their child's life, the parents had no choice but to seek medical help. On the issue of whether the child might have died even if he had received medical care, the court reviewed the medical evidence and postmortem results presented at trial and resolved the issue of reasonable doubt as to whether parents' failure to seek medical care was the direct cause of death in favor of the prosecution, although the evidence showed that depending on whether the cancer had metastasized by the time it was discovered, his chances could have been excellent or no better than 50 percent and time that cancer metastasized was impossible to ascertain. The court also found that the judge's instruction to the jury was a correct statement of law, although it dismantled the religious immunity defense. The court rejected defense assertion of religious immunity under State child abuse reporting law, finding that reporting was not at issue. However, the court modified the sentence, finding that separate sentence on both charges was double jeopardy.

Descriptors: religious immunity, medical neglect, parents responsibility, civil liberties, parents rights, medical evidence, legal responsibility, pennsylvania

4255D3 CD-09006

Blanca C. v. County of Nassau.

New York. Supreme Court, Appellate Division, Second Department.

480 N.Y.S.2d 747 (A.D. 2 Dept. 1984), October 22, 1984.

October 22, 1984.

Subject Code: 97

In an action brought on behalf of foster children subjected to physical and sexual abuse by foster parents, the judgment in favor of the children included determination that foster parents were employees of the county, which was therefore vicariously liable. In reversing this determination the Supreme Court, Appellate Division cited caselaw and public policy considerations in holding that the foster parents were not county employees for purpose of imposing vicarious liability upon the county and its social services department for injuries inflicted by foster parents. The social service agency has an independent duty of care in the selection and supervision of foster parents, and the jury determined that this duty was not breached.

Descriptors: civil liability, foster parents, foster care, legal responsibility, agency responsibility, social workers responsibility, social services, new york

4255C4 CD-09003

Sorichetti v. City of New York.

New York. Court of Appeals.

492 N.Y.S.2d 591 (Ct.App. 1985), July 9, 1985.

July 9, 1985.

Subject Code: 97

Six-year-old child, through her mother, brought a negligence action against the City of New York, based upon the police failure to take action in response to mother's request for assistance under the third of 3 protective orders issued during the family's long history of domestic violence because of the father's violent temper and alcohol abuse. In the incident at issue, the mother had taken the child to the front of the police station for visitation exchange, at which time the father made an implied death threat, which the mother reported. The next day the mother returned at 5:30 to pick up the child at 6:00 and asked that, based upon the father's threat and previous history, the police assist in the immediate return of the child. Until 7:00 the Mother pleaded with the police to take action, bolstered by an officer who had had previous contact with the father. No action was taken and mother was sent home at 7:00. Between 6:55 and 7:00 the father had violently attacked the child, attempting to saw off her leg and leaving her permanently disabled. He was imprisoned for attempted murder. The Court of Appeals held that the protective order, the police knowledge of the father's violent tendencies, father's threats, mother's pleas for assistance, and the police department's failure to act

(cont. next page)

DIALOG File 84: CHILD ABUSE AND NEGLECT-SPRING 1989 EDITION

despite their assurances that action would be taken, created a special relationship between the police and the mother and child sufficient to support judgment against City in favor of child based on negligence.

Descriptors: civil liability, police action, legal responsibility, police responsibility, new york

4255C1 CD-09000

In re Rachel S.

Maryland. Court of Special Appeals.

481 A.2d 520 (MD App. 1984), October 3, 1984.

October 3, 1984.

Subject Code: 97

Upon appeal of juvenile court orders dismissing petition for shelter care and petitions to have 3-year-old child declared a child in need of assistance (CINA) based upon alleged sexual abuse by father, the Court of Special Appeals vacated and remanded the orders, citing the lower courts' procedural errors in deciding the two distinct actions under State law. The initial ruling on the shelter care petition was in error in that the lower court relied on evidence that the father had passed two polygraph examinations. Such evidence is considered so inherently unreliable under State caselaw as to preclude its admission in a civil or criminal trial. The dismissal of the shelter care petition did not preclude filing of CINA petition, in that the purposes and procedures of the two procedures are distinct and separate. Further, the dismissal of the first CINA petition did not preclude filing of second CINA petition on principles of res judicata or collateral estoppel because the first dismissal was not on the merits.

Descriptors: sexual abuse, juvenile courts, adjudication, state laws, legal processes, court case dispositions, protective custody, maryland

4255B4 CD-08999

State v. Dufrene.

Louisiana. Court of Appeal, First Circuit.

461 So.2d 1263 (LA App. 1 Cir. 1984), December 28, 1984.

December 28, 1984.

Subject Code: 97

Parents appealed conviction and sentences for cruelty to a child based on physical battering of their 4-month-old daughter. In affirming the conviction and sentences, the Court of Appeal reviewed the trial court's procedures and found that it had acted properly in excusing a potential juror who was a schoolmate of the father; properly rehabilitated juror who had initially expressed difficulty with the presumption of innocence principle; could deny defense recess to secure witness after jury had been seated; had properly permitted the admission of additional photographs of the child during redirect examination of a police officer; had not erred in refusing to permit defense to bring child to court for

evidentiary purposes; and had properly allowed expert opinion as to whether the child's injuries were the result of abuse and properly refused to allow the re-cross examination of that witness because all questions posed by State were brought out during direct and cross examinations. Further, the court found that trial court's refusal to admit recent photograph of child as irrelevant was proper. The defense contention that prosecution argued outside the scope of the evidence was rejected because objection was not made at trial. The court also found upon review sufficient evidence to sustain conviction and that sentence of 5 years at hard labor was not excessive.

Descriptors: evidence presentation, expert testimony, judicial review, photographs, crime, juries, judges sentencing discretion, louisiana

4255B2 CD-08997

Hall v. State.

Indiana. Court of Appeals, Third District.

482 N.E.2d 1185 (IN App. 3 Dist. 1985), September 26, 1985.

September 26, 1985.

Subject Code: 97

Parents appeal criminal conviction for reckless homicide and neglect of a dependent upon the death of their 1-month-old son of acute pneumonia. They had not sought medical treatment for the child during his 5-day illness because of their religious beliefs. In affirming the conviction, an Indiana Court of Appeals held that while Indiana Code Section 35-46-1-4(a) provides a defense to those who, in the legitimate practice of religious belief, provide treatment by spiritual means in lieu of medical care, the defendant has the burden of proving the defense, as the defense does not negate an element of the offense, but rather establishes separate and distinct facts in mitigation of culpability. Prosecutor's comments concerning this defense in closing arguments were not reversible error, in that the jury was properly instructed as to the evidentiary value of these comments and was given an accurate statement of the law. Sufficient evidence was presented to support the convictions, the court found, and it is within the purview of the jury to judge the credibility of witnesses. Therefore, the convictions were affirmed.

Descriptors: religious immunity, prosecution, medical neglect, state laws, crime, criminal intent, indiana

4255B1 CD-08996

In re L.H.R.

Georgia. Supreme Court.

321 S.E.2d 716 (GA 1984), October 16, 1984.

October 16, 1984.

Subject Code: 97

Fifteen days after a normal birth, the infant subject of
(cont. next page)

DIALOG File 84: CHILD ABUSE AND NEGLECT-SPRING 1989 EDITION

this case suffered a medical catastrophe resulting in the destruction of 85 to 90 percent of her brain tissue, leaving her in an irreversible vegetative state. Two months later, the parents, neurologist, child's guardian ad litem, and the hospital's ad hoc Infant Care Review Committee all agreed that the child should be removed from artificial life support systems. A court order was issued to that effect, the systems removed, and the child died shortly thereafter. The trial court also ordered the Attorney General to pursue an appeal to afford the Georgia Supreme Court an opportunity to set forth guidelines for the future handling of these cases. After reviewing extensively relevant caselaw and commentary, the Court held that the right to refuse or to terminate treatment may be exercised by the parents or legal guardian of an infant after diagnosis that the infant is terminally ill with no hope of recovery and that the infant exists in a chronic vegetative state with no reasonable possibility of attaining function, as determined by the attending physician. Two physicians with no interest in the outcome of the case must concur in the diagnosis and prognosis. Although prior judicial approval is not required, the courts remain available in the event of disagreement between the parties, any case of suspected abuse, or other appropriate circumstances.

Descriptors: baby doe, handicapped children, medical neglect, hospitals responsibility, legal responsibility, parents responsibility, pediatricians responsibility, georgia

4255A4 CD-08995

A Child's World, Inc. v. Lane.

Georgia. Court of Appeals.

319 S.E.2d 898 (GA App. 1984), June 29, 1984.

June 29, 1984.

Subject Code: 97

Action for assault and battery was brought against day care center by parents of a 6-month-old child allegedly spanked by the center's director. The mother learned of the incident 5 weeks later through a telephone call from a former employee. The trial court had entered a judgment for the plaintiffs and the center appealed. In reversing this judgment, the Court of Appeals held that the double hearsay testimony of the child's mother concerning the telephone call was not admissible as being merely cumulative of other testimony because cumulativeness is not an exception to the general rule against hearsay; nor was it admissible as a res gestae exception; nor was it admissible as original evidence to explain mother's subsequent conduct and ascertain her motives, because neither her conduct nor motives in suing the center was relevant. The court thus reversed the lower court's denial of the defense motion for a new trial.

Descriptors: day care programs, civil liability, schools responsibility, legal responsibility, hearsay rule, rules of evidence, testimony, georgia

4255A2 CD-08993

In re Patricia E.

California. Court of Appeal, Third District.

206 CA Rptr. 684 (CA App. 3 Dist. 1984), September 28, 1984.

September 28, 1984.

Subject Code: 97

On an appeal of a proceeding to determine whether child's status as a dependant child because of abuse and neglect should be continued, the Court of Appeal found error in the failure of the juvenile court to appoint independent counsel for the child. The court found that appointment of county counsel to represent both the county welfare department and the child constituted a potential conflict of interest, noting that neither the county counsel nor the social worker had spoken with the child prior to the continuation hearing. The court also held that the father had standing to litigate his daughter's right to independent counsel.

Descriptors: guardian ad litem, rights of minor, social services agencies, agency role, courts role, lawyers role, parents rights, california

4255A1 CD-08992

Allstate Insurance Company v. Kim W.

California. Court of Appeal, First District, Division 3.

206 CA Rptr. 609 (CA App. 1 Dist. 1984), September 27, 1984.

September 27, 1984.

Subject Code: 97

Homeowner's insurer brought action seeking judgment declaring that its policy provided no coverage to insured to indemnify or defend for alleged sexual assaults against a minor. Upon the granting of an order excusing the insurance company, the insured and the minor victim appealed, the former having sought to amend his answer by withdrawing his admission that he had sexually assaulted the minor, and the latter arguing that she should not be bound by the insured's admissions. In rejecting both contentions, the Court of Appeal held that where the insured made no showing of mistake or other excuse for changing the admission, trial court did not abuse its discretion by denying leave to amend. Further, an act which constitutes a violation of Penal Code section prohibiting sexual assaults on a minor is a willful act within the meaning of Insurance Code provision exonerating an insurer from liability for bodily injury or property damage intentionally caused by insured. The minor's answer and pleading in the sexual assault action affirmatively established the insurer's right to be excused and thus the judgment was affirmed.

Descriptors: civil liability, sexual abuse, legal responsibility, legal processes, california

DIALOG File 64: CHILD ABUSE AND NEGLECT-SPRING 1989 EDITION

4254L4 CD-08991

People v. Tate.

California. Court of Appeal, Fifth District.
210 CA Rptr 117 (CA App. 5 Dist. 1985), January 25, 1985.
January 25, 1985.
Subject Code: 97

State appealed trial court order that defendant pleading nolo contendere to misdemeanor violation of annoying and molesting a child under 18, pursuant to his sexual intercourse with the 7-year-old daughter of his live-in girlfriend, need not register as sex offender. In reviewing the legislative history and caselaw relevant to state code provision requiring such registration, the Court of Appeal found that the legislature clearly contemplated the registration of this type of offender. While affirming the trial court's sentence to probation, the court modified the lower court's order to require such registration.

Descriptors: sexual abuse, sex offenses, legal processes, courts responsibility, legislative intent, judges sentencing discretion, state laws, california

4254L3 CD-08990

Skelton v. Sudge.

Alabama. Court of Civil Appeals.
455 So.2d 38 (AL Civ. App. 1984), July 25, 1984.
July 25, 1984.
Subject Code: 97

Mother appealed determination of dependency and award of temporary custody to paternal aunt by Alabama juvenile court. The 16-year-old boy had voluntarily left his home in Nevada for his parental aunt's home in Alabama without permission of his mother or stepfather. Evidence was presented that boy had been routinely beaten by stepfather throughout most of his life and that his mother had condoned or ignored this abuse. The Court of Civil Appeals found that the juvenile court had properly exercised its jurisdiction to decide temporary custody where child abuse was present, child voluntarily left home to avoid further beatings, child was in State when dependency petition was filed, and jurisdiction was sought under State dependency statute. The court also found that it was within the trial court's discretion to decline jurisdiction under a provision of the Uniform Child Custody Jurisdiction Act and that because there was no prior custody order, the Federal Parental Kidnapping Prevention Act did not apply. Thus, the orders of the juvenile court were affirmed.

Descriptors: court jurisdiction, adolescent abuse, federal laws, dependency, custody of child, child protection laws, courts responsibility, alabama

4254L1 CD-08988

Applebaum v. Nemon.

Texas. Court of Appeals, Houston (Fourteenth District).
678 S.W.2d 533 (TX App. 14 Dist 1984), May 31, 1984.

May 31, 1984.

Subject Code: 97

Defendant day care center appealed judgment in wrongful death action brought by parents of 2-year-old who collapsed and died while playing at the center. In reversing the judgment, the Court of Appeals held while the center had the duty to render reasonable assistance, the duty did not include the provision of medical life saving services or training in emergency procedures for center personnel, in that such duties were not imposed by State law or regulation. While the applicable standard of care included the duty to procure medical assistance, which the center had done, the center was not responsible for not having trained personnel in cardiopulmonary resuscitation (CPR) techniques, the Court reasoned, analogizing this case to cases of children becoming ill while at school. Thus the judgment against the center was reversed.

Descriptors: civil liability, legal responsibility, day care services, medical services, first aid, schools responsibility, teachers responsibility, texas

4254K2 CD-08985

Matter of Fawn S.

New York. Family Court.
489 N.Y.S.2d 681 (Fam. Ct. 1985), 1985.
1985.
Subject Code: 97

(The following abstract was taken from the ABA Juvenile and Child Welfare Law Reporter, which is available on a subscription basis from the American Bar Association, National Legal Resource Center for Child Advocacy and Protection, 1800 M Street, N.W., Washington, DC 20036.) The state child welfare agency filed a petition alleging that the five-year-old girl had been sexually abused by her father. At the fact-finding hearing, the state presented 4 witnesses: the child, the child's mother, the child's psychologist and the child's caseworker. The child herself could not be sworn at the hearing, and her unsworn in-court statements were not subjected to cross-examination. The child's testimony was consistent with her prior out-of-court statements alleging abuse, said statements having been made to and tape recorded by the child's mother. The psychologist offered testimony that the child had exhibited the characteristics of a child who had been sexually abused by her father, though there had been no physical evidence of abuse. The caseworker testified that the child had told her that she and her father shared the same bed and that he had tickled her all over her body, including her genital area. At the close of the Petitioner's case, the father moved to dismiss for failure to prove a prima facie case. The Family Court granted the father's motion. In explaining its decision to sustain the father's motion, the Family Court noted that generally the unsworn testimony of a

(cont. next page)

DIALOG File 64: CHILD ABUSE AND NEGLECT-SPRING 1989 EDITION

child would have been inadmissible. The Family Court Act, however, allowed the court to consider such testimony for what it was worth. The inability to subject the child's in-court testimony to cross-examination also rendered such testimony unreliable. Again, a provision of the Family Court Act allowed such testimony to be considered, but the testimony could not, without corroboration, form the basis of a finding of abuse. The Family Court could find no independent corroboration of the child's testimony. There was no physical evidence of abuse, no witnesses to the alleged abuse other than the child and no admission or incriminating statements by the father. All evidence put forth stemmed from the child's own statements made by herself or to the other 3 witnesses. Such testimony was not sufficiently independent of the child's own statements to pass as corroborative and the Family Court accordingly dismissed the petition.

Descriptors: child witnesses, corroboration, evidence, sexual abuse, proof, new york

4254J4 CD-08983

State v. Doe.

New Mexico. Court of Appeals.

705 P.2d 165 (NM App. 1985), 1985.

1985.

Subject Code: 97

(The following abstract was taken from the ABA Juvenile and Child Welfare Law Reporter, which is available on a subscription basis from the American Bar Association, National Legal Resource Center for Child Advocacy and Protection, 1800 M Street, N.W., Washington, DC 20036.) A petition was filed alleging that the child was abused and medically and nutritionally neglected. At the hearing, a stipulation was entered into by the parents agreeing to the temporary placement of their child with the agency, subject to a statutorily prescribed 6-month review hearing. The court entered this stipulation as a "Temporary Custody Order." Six months later, the attorney for the juvenile court requested an extension of the custody and treatment plan. The parents thereupon moved to dismiss the abuse and neglect petition on the grounds that the state had failed to hold a hearing on the petition within 60 days, as required by a juvenile court rule. The New Mexico Court of Appeals found the stipulation to be a consent decree that was not subject to the 60 day time limit. As defined by court rule, a consent decree was an order based upon the agreement of the parties that legal custody of the child be transferred to the agency for no more than 6 months and that the child be allowed to remain with the parents under agency supervision. Prior to the entry of the order, the trial court must also satisfy itself in open court that the parents understand the allegations against them, the dispositional options available, their right to trial, and the consent decree's effect on these rights. All of these requirements were deemed "substantially satisfied" by the appellate court, and the dismissal of the abuse and neglect petition was reversed.

Descriptors: temporary placement, juvenile courts, dispositional alternatives, court case dispositions, new mexico

4254J3 CD-08982

State v. Parker.

New Hampshire. Supreme Court.

No. 84-585 (NH Dec. 31, 1985), December 31, 1985.

December 31, 1985.

Subject Code: 97

(The following abstract was taken from the ABA Juvenile and Child Welfare Law Reporter, which is available on a subscription basis from the American Bar Association, National Legal Resource Center for Child Advocacy and Protection, 1800 M Street, N.W., Washington, DC 20036.) A police officer on a routine night patrol observed a child's head in the cab of a camper duck up and then down. The camper was in a darkened parking lot with its lights out. The officer felt this unusual because, on a prior occasion, the defendant had told the officer he was traveling alone, and on several subsequent occasions the officer had observed the defendant without any company. As the camper pulled out the officer radioed police headquarters; several officers reported back that each time they saw the defendant he was alone. Before reaching the state line the officer stopped the camper. The defendant claimed the 11-year-old child was his. The child appeared nervous and the officer asked the defendant if he could speak to the boy privately. The defendant consented. The child said he was afraid of the defendant and described an incident of sexual assault. The officer arrested the defendant and he was tried and convicted of attempted aggravated felonious sexual assault. On appeal, the defendant claimed that the initial stop was illegal, and thus the child's testimony should therefore be suppressed. In upholding the conviction, the New Hampshire Supreme Court relied upon the Terry v. Ohio, 392 U.S. 1 (1968), which permits an investigative stop if it is supported by specific articulable facts that form a reasonable basis for the officer's suspicion of criminal activity. In the instant case the court believed such facts existed. Additionally, the court noted both the strong public interest in the prevention of child abuse and the difficulties facing law enforcement officers in detecting its existence. Unlike adult victims, children are easily concealed and less likely to report the abuse. Thus the fact that the child did not immediately inform the officer of the abuse, but required a private conversation, was warranted.

Descriptors: rights of the accused, prosecution, investigative powers, police action, law enforcement, sex offenses, new hampshire

DIALOG File 64: CHILD ABUSE AND NEGLECT-SPRING 1989 EDITION

4254J2 CD-08981

In re Doe.

New Hampshire. Supreme Court.
495 A.2d 1293 (NH, 1985), 1985.
1985.
Subject Code: 97

(The following abstract was taken from the ABA Juvenile and Child Welfare Law Reporter, which is available on a subscription basis from the American Bar Association, National Legal Resource Center for Child Advocacy and Protection, 1800 M Street, N.W., Washington, DC 20036.) In May of 1982, the Kingston Police Department filed a complaint alleging that the child was abused as the result of having been beaten by her stepmother, with the consent of the child's father. Reasonable cause was found at a preliminary hearing and the child was placed in the custody of the state child welfare agency. At the subsequent adjudicatory hearing, abuse of the child was not shown. The court did find, however, that the child was "disturbed" and continued custody in the agency for appropriate residential placement. Subsequently, the town of the family's residence, which had initially been paying for the child's care and treatment, petitioned the court to have this responsibility shifted to the child's family. The petition was granted. The child's parents petitioned for a writ of certiorari. The New Hampshire Supreme Court held the juvenile court had no jurisdiction to enter the orders of custody placement and reimbursement. State law required a finding of abuse before any dispositional order could be entered regarding a child's custody and placement. Furthermore, there could be no order for reimbursement for the cost of care of the child without a final dispositional order. Thus the jurisdictional prerequisite for the juvenile court's actions regarding reimbursement, and finding of abuse, was lacking in the case. Finally, New Hampshire law required that if the court does not find sufficient evidence of abuse, it must dismiss the petition. This is the course of action which the juvenile court should have taken, having made an explicit finding that the child was not abused. The reviewing court remanded the case for consideration of whether the parents might be liable for the costs of care prior to the petition's dismissal, and whether any such request for reimbursement was barred for failure to give the parents timely notice of this liability, as required by City of Claremont v. Truell, 126 NH--, 489 A.2d 581 (1985).

Descriptors: legal responsibility, court jurisdiction, parents responsibility, placement, financial support, agency responsibility, new hampshire

4254I3 CD-08978

Williams v. Statz.

Michigan. Court of Appeals.
376 N.W.2d 117 (MI Ct. App. 1985), 1985.
1985.
Subject Code: 97

(The following abstract was taken from the ABA Juvenile and Child Welfare Law Reporter, which is available on a subscription basis from the American Bar Association, National Legal Resource Center for Child Advocacy and Protection, 1800 M Street, N.W., Washington, DC 20036.) The Michigan Department of Social Services removed 4 children from the home of the natural mother in 1974. State officials knew the mother had a history of mental illness and had required hospitalization on several occasions. Thereafter, in 1979, the mother gave birth to another child. An older sister of the child visited the home during the child's lifetime and observed her to be severely neglected by the mother. The sister reported her observations to state officials who failed to act upon the information. At approximately 2 years of age, the child was found dead in the mother's bed as the result of starvation. The sister thereupon filed suit against the state in her capacity as guardian for her mother and personal representative of the estate of her deceased sister. The trial court granted summary judgment in favor of the state defendants. The Michigan Court of Appeals affirmed. On the state law theories presented, the court held that the defendants' activities concerning child abuse and neglect were clearly a governmental function to which immunity applied. The fact that the sister had pled the intentional torts of misrepresentation and willful and wanton misconduct was insufficient to pierce the shield of immunity. Thus, although governmental immunity arguably did not apply to intentional torts, the reviewing court concluded that an act of omission, such as the failure to intervene in the mother's home, could not rise to the level of an intentional tort. Nor had the plaintiff alleged a cognizable constitutional cause of action. Specifically, the death of the child was caused by the neglect of the mother, rather than as a result of the acts or omissions of state officials. State action did not exist, especially in light of the fact that the mother was not in the legal custody or under the supervisory control of the state.

Descriptors: civil liability, legal immunity, agency responsibility, legal responsibility, social workers responsibility, agency role, government role, michigan

4254I1 CD-08976

Dryden v. Coulon.

Michigan. Court of Appeals.
378 N.W.2d 767 (MI Ct. App. 1985), 1985.
1985.
Subject Code: 97

(The following abstract was taken from the ABA Juvenile and Child Welfare Law Reporter, which is available on a subscription basis from the American Bar Association, National Legal Resource Center for Child Advocacy and Protection, 1800 M Street, N.W., Washington, DC 20036.) In contested custody proceedings, the friend of the court was obliged under state law to investigate the environment of the child and report to

(cont. next page)

DIALOG File 64: CHILD ABUSE AND NEGLECT-SPRING 1989 EDITION

the court regarding his well-being. As a result of the failure of the friend of the court to carry out these duties, the child suffered permanent mental, physical and emotional injuries. The father filed an action against the friend of the court seeking damages for these injuries. The trial court granted defendant's motion for summary judgment upon an application of the exhaustion of administrative remedies and governmental immunity doctrines. The Michigan Court of Appeals affirmed, but for a different reason. The appellate court initially pointed out that, pursuant to M.C.L. Section 552.526; M.S.A. Section 25.176(26), an administrative remedy was provided for grievances by the public against the friend of the court office or its employees. In short, any person who was not satisfied with the decision of the friend of the court could file a grievance with the chief judge. Relying on the rule of law that the remedy provided in a statute for its violation is exclusive, the court found that a judgment for money damages was not contemplated by the legislature for the failure to perform the investigative and reporting duties imposed by the Friend of the Court Act.

Descriptors: civil liability, legal responsibility, guardian ad litem, courts role, lawyers role, legal immunity, michigan

4254H2 CD-08973

People v. McNichols.

Illinois. Appellate Court.

139 3d 947 (IL App., 1986), 1986.

Subject Code: 97

(The following abstract was taken from the ABA Juvenile and Child Welfare Law Reporter, which is available on a subscription basis from the American Bar Association, National Legal Resource Center for Child Advocacy and Protection, 1800 M Street, N.W., Washington, DC 20036.) Defendant was charged and convicted of sexual abuse of a child by a family member. On appeal he contended that the court abused its discretion in finding the 5-year-old child victim competent to testify, based upon his having no independent recollection of the alleged offense. The Illinois Appellate Court upheld the conviction. In so doing, it cited the 4-prong test a court should use in considering the child's competency, which is based upon intelligence and not chronological age. The relevant test is whether the child is mature enough to: receive correct impressions from his senses, recollect these impressions, understand questions and narrate answers intelligently, and appreciate the moral duty to tell the truth. Although the defendant did raise some questions regarding the child's inconsistent statements when questioned by the judge in chambers, the court did not find that the trial court judge abused his discretion. The record indicated that the trial judge correctly considered and applied the 4-prong test. Thus the child's testimony would be permitted; on cross-examination the defense could bring out any inconsistent statements which would go towards the child's

credibility.

Descriptors: child witnesses, competency, sexual abuse, testimony, evidence, illinois

4254G4 CD-08971

Haag v. Cuyahoga County.

District Court, Northern District of Ohio.

619 F.Supp. 262 (ND Ohio 1985), 1985.

Subject Code: 97

(The following abstract was taken from the ABA Juvenile and Child Welfare Law Reporter, which is available on a subscription basis from the American Bar Association, National Legal Resource Center for Child Advocacy and Protection, 1800 M Street, N.W., Washington, DC 20036.) The parents were embroiled in a custody contest in domestic relations court. During the pendency of this proceeding, the mother alleged that the father had sexually abused their 4-year-old daughter. She unilaterally discontinued visitation between the father and child. In response, the father filed a motion with the domestic relations court to show cause why his visitation rights should not be enforced. A short time later, the child's clinical psychologist reported another claim of sexual abuse to the county welfare department. However, when the welfare department began to investigate the abuse reports, its efforts were stymied by the refusal of the mother and psychologist to provide any information to the investigators. As a result, the abuse investigation remained dormant for over a year and was closed without any final determination being reached on the validity of the reports. The father thereupon sued various welfare department officials for the failure to commence and complete an investigation within 30 days, as required by statute, which thereby resulted in the denial of his constitutional right of visitation. The federal district court granted summary judgment in favor of defendants and dismissed the action. Initially, the court observed that the domestic relations statutory scheme established both administrative and judicial proceedings to determine who should have custody of the minor children, as well as visitation rights, both prior to and subsequent to the granting of a divorce. Thus, the available state remedies afforded the father all the process he was "due" under the Fourteenth Amendment. *Paratt v. Taylor*, 451 U.S. 527 (1981). Moreover, the failure of the county officials to conduct a timely investigation did not proximately deprive the father of his rights of visitation. Inasmuch as the county welfare department did not control the awarding of visitation rights, its failure to conduct the investigation within 30 days did not result in the termination by the domestic relations court of the father's visitation rights.

Descriptors: civil liability, legal responsibility, custody of child, visiting privileges, investigations, sexual abuse, agency responsibility, agency role

DIALOG File 64: CHILD ABUSE AND NEGLECT-SPRING 1989 EDITION

4254G3 CD-08970

In re Scott County Master Docket.
District Court for the District of Minnesota.
618 F.Supp. 1534 (D.MN 1985), 1985.
1985.
Subject Code: 97

(The following abstract was taken from the ABA Juvenile and Child Welfare Law Reporter, which is available on a subscription basis from the American Bar Association, National Legal Resource Center for Child Advocacy and Protection, 1800 M Street, N.W., Washington, DC 20036.) This civil rights action arises out of the Jordan, Minnesota "sex ring" wherein large numbers of parents were charged with and arrested for allegedly sexually abusing their children. After the institution of criminal proceedings, neglect petitions were filed in juvenile court which resulted in the removal of the children from the custody of the parents. A jury acquitted the first set of parents tried on the criminal charges. Thereafter, the prosecuting attorney dismissed all charges against the remaining parents. They, in turn, filed a civil rights action against the prosecuting attorney, and various other county and court officials, claiming that the defendants had recklessly and falsely accused them of sexual abuse thereby resulting in the loss of their physical liberty and custody of their children. In this reported decision, the federal district court addressed the defendants' motions which claimed that they could not be subjected to suit because of the doctrine of absolute immunity. The district court, in large part, rejected the contentions of the defendants. With regard to the liability of the prosecuting attorney, the court conceded that she would be absolutely immune for any conduct undertaken in the course of prosecuting the criminal trials. However, actions taken by her, which were of an essentially investigative nature, were not so protected. Thus, the parents' allegations that the prosecuting attorney, agency social workers, and law enforcement officials had coached and coerced their children into making false accusations of child abuse, and had also destroyed relevant, exculpatory evidence, were executive acts actionable in federal court. Further, the prosecuting attorney, and other officials, were not protected by even good faith immunity since the constitutional rights of the parents were "clearly established" at the time of the defendants' conduct. Absolute immunity was afforded, however, to the court-appointed guardians ad litem and therapists who had participated in the underlying neglect proceedings in juvenile court. The federal court reasoned that such protection was appropriate inasmuch as these defendants were integral parts of the judicial process itself.

Descriptors: civil liability, legal immunity, parents rights, civil liberties, sexual abuse, prosecution, legal responsibility, minnesota

4254G2 CD-08969

United States v. Binder.
Court of Appeals, Ninth Circuit.
769 F.2d 595 (9 Cir. 1985), August 22, 1985.
August 22, 1985.
Subject Code: 97

The defendant was convicted of child molestation and sexual conduct with a minor. On appeal, the Court of Appeals held that (1) there were sufficient facts in the record to establish the elements necessary for a valid waiver of the defendant's Miranda rights, and (2) the district court did not err in applying the state statutory minimum sentence. However, the Court of Appeals reversed the conviction because it found that the district court abused its discretion with regard to two aspects of the testimony entered into the record. First, the district court erred by permitting the jury to view the videotaped testimony of the child victims for a second time in the jury room during jury deliberations. This action prejudiced the defendant by unduly emphasizing the testimony of the child victims. Second, the district court erred by admitting the testimony of expert witnesses as to the ability of the child victims to distinguish reality from fantasy and truth from falsehood. Although the expert witnesses did not testify specifically as to the credibility of the child victims, their testimony served to improperly buttress or bolster the credibility of the child victims.

Descriptors: sex offenses, child witnesses, expert testimony, videotaping, rights of accused, competency

4254F3 CD-08966

Ellison v. Sachs.
Court of Appeals, Fourth Circuit.
769 F.2d 955 (4 Cir. 1985), August 2, 1985.
August 2, 1985.
Subject Code: 97

The defendant was convicted in a Maryland state court of committing a second-degree sexual offense. Although the 5-year-old victim was ruled incompetent to testify at trial, the trial judge permitted her out-of-court hearsay statements and identification of the defendant to be admitted into evidence. The U.S. District Court in Maryland granted the defendant's petition for a writ of habeas corpus. The district court found that the victim's hearsay statements were unreliable and that their admission into evidence deprived the defendant of his Sixth Amendment right to confront the witnesses against him. The U.S. Court of Appeals affirmed, finding that it was error to admit the victim's hearsay statements where there were serious doubts as to their reliability. Also, the fact that the victim underwent limited cross-examination at a preliminary suppression hearing could not justify the admission of her hearsay statements when the jury did not review a transcript of the limited

(cont. next page)

DIALOG File 64: CHILD ABUSE AND NEGLECT-SPRING 1989 EDITION

cross-examination.

Descriptors: child witnesses, hearsay rule, sex offenses, testimony, evidence, rights of accused

4254F2 CD-08965

United States v. Renville.

Court of Appeals, Eighth Circuit.
779 F.2d 430 (8 Cir. 1985), December 11, 1985.
December 11, 1985.
Subject Code: 97

The defendant was convicted of sexual abuse of his 11-year-old stepdaughter under the Assimilated Crimes Act, which the district court ruled had incorporated, by reference, the provisions of the state rape laws which prohibited the defendant's conduct. On appeal, the defendant argued that his conduct was punishable as incest under the Indian Major Crimes Act. The U.S. Court of Appeals affirmed the conviction, and held that the defendant's acts were clearly prohibited by the state rape laws. The Court of Appeals also affirmed the district court's decisions to admit into evidence the victim's out-of-court statements made to (1) the treating physician and (2) a deputy sheriff which identified her abuser. Although such statements made to a treating physician are usually inadmissible as hearsay, the Court of Appeals held that a statement by a child abuse victim made to a treating physician which identified a member of the victim's immediate household as the abuser is admissible under Federal Rule of Evidence 803(4). Such a statement is reasonably pertinent to the treatment of psychological injuries to the victim, and enables physicians to fulfill their legal obligation to protect an abused child from recurrent abuse.

Descriptors: federal laws, native americans, sex offenses, incest, evidence, testimony, child witnesses, hearsay rule

4254F1 CD-08964

United States v. Cree.

Court of Appeals, Eighth Circuit.
778 F.2d 474 (8 Cir. 1985), December 4, 1985.
December 4, 1985.
Subject Code: 97

Defendant appealed conviction in U.S. District Court for assault resulting in serious bodily injury to two young boys in her custody while residing on the Fort Totten Indian reservation. In affirming the conviction, the Court of Appeals found that in light of substantiation by extensive medical evidence and expert testimony of physical abuse, the 4-year-old's statement to clinical social worker and government agent that he and his 2-year-old brother were hit with various objects by defendant and her boyfriend were admissible hearsay under the Federal Rules of Evidence when there were substantial guarantees of trustworthiness and that the interest of justice was served by the admission of these statements, where such admission enabled child to provide his

version of events and yet avoid potentially traumatic courtroom experience. Further, the admission of these statements did not violate defendant's Sixth Amendment right to confront witnesses against her, where trial court had postponed decision regarding victim's ability to testify at trial until such time as victim might have been called as witness, defense did not seek definitive pretrial rule on victim's competency to testify, and victim was present at trial but not called to stand by defense, to avoid creating an unfavorable impression with the jury. A lengthy dissent urged reversal of conviction.

Descriptors: native americans, hearsay rule, child witnesses, competency, rights of accused, testimony, rules of evidence, federal government

4254E3 CD-08962

Easton v. City of Boulder, Colorado.

Circuit Court, Tenth Circuit.
776 F.2d 1441 (10 Cir. 1985), 1985.
1985.
Subject Code: 97

(The following abstract was taken from the ABA Juvenile and Child Welfare Law Reporter, which is available on a subscription basis from the American Bar Association, National Legal Resource Center for Child Advocacy and Protection, 1800 M Street, N.W., Washington, DC 20036.) The father of a young boy contacted the local police department to report that his son had been sexually molested on the previous day. Detectives thereafter interviewed the victim on 2 separate occasions and also interviewed a playmate. All of the statements indicated that the victim had been sexually assaulted in the laundry room by a man who resided in the apartment complex. However, the statements conflicted as to whether a second assault had occurred in the man's apartment and the color of the man's hair. Both boys, however, pointed out the apartment in which the alleged perpetrator lived. After further investigation, the police obtained a warrant and arrested the resident of the apartment. Soon thereafter, the district attorney's office decided not to file formal charges against the individual. He then filed a civil rights action against the police officers. The trial court entered a directed verdict in favor of the defendant officers. The Tenth Circuit affirmed. As a matter of law, the police officers had probable cause to seek out a warrant for the plaintiff's arrest. The fact that the victim was just under 4 years of age, and the playmate was 5, was insufficient to discount the credibility of their statements. The court observed that rejecting such testimony from the outset would discourage children and parents from reporting child molestation incidents. Secondly, the minor discrepancies that arose regarding the alleged second assault did not undermine the children's statements regarding the laundry room assault. The police officers could not be held personally liable in damages for seeking and obtaining an arrest warrant

(cont. next page)