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*Office of Juvenile Justice and Delinquency Prevention*



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# Child Abuse and Exploitation

## Investigative Techniques

Second Edition

Department of the Treasury  
Federal Law Enforcement Training Center  
Glynco, Georgia 31524



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# Child Abuse and Exploitation

## Investigative Techniques

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By

Jack R. Shepherd  
Detective/Lieutenant  
Michigan Department of State Police

Bill Dworin  
Detective  
Los Angeles Police Department

Robert Hugh Farley  
Detective  
Cook County (Illinois) Sheriff's Police Department

Bradley J. Russ  
Commander  
City of Portsmouth (New Hampshire) Police Department

Paul W. Tressler  
Judge  
Court of Common Pleas, Montgomery County, Pennsylvania

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# Foreword

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*We must make every effort to ensure that young people's faith is not jaded by abuse or neglect or simple indifference. — President George Bush*

The welfare of our Nation's children calls for the commitment of the hearts and minds of all Americans. As the President reminds us, "We have no greater obligation than to help provide every child with the opportunity to grow up healthy and safe."

Tragically, across America children are being victimized by physical and sexual abuse. This abuse takes many forms. Investigating such cases is a difficult process that requires sensitivity to ensure that the child is not further traumatized by the criminal justice system.

Helping law enforcement personnel improve their skills in investigating cases of physically abused and sexually exploited children is a priority of the Office of Juvenile Justice and Delinquency Prevention (OJJDP). To this end, OJJDP developed this investigator's manual for use at its training sessions offered through the Federal Law Enforcement Training Center.

The manual includes guidelines on investigating child abuse, proper interviewing techniques, and legal issues surrounding such cases. It can be used by investigators at the Federal, State, and local levels.

This manual can help those in the law enforcement field undertake the enormously difficult task of investigating child abuse cases. Combating child abuse is a challenge the juvenile justice system must meet head on. It is a challenge we cannot afford to ignore.

Gerald (Jerry) P. Regier  
*Acting Administrator*  
Office of Juvenile Justice and Delinquency Prevention

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# Introduction

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Child abuse is a complex problem that cuts across class, cultural, and educational lines, with critical implications for society as a whole.

Law enforcement professionals face myriad perspectives in investigating suspected or alleged child abuse. If they can view the investigation as a detailed process that has as its foundation an understanding of the dynamics of child abuse, a focused approach will ensue. The investigative process involves close cooperation among law enforcement and members of a multidisciplinary team, incorporating prosecutorial, medical, and social service personnel.

After introducing the police investigator to some underlying causes of child abuse, the manual guides the investigator through the steps of an investigation and outlines the legal and evidentiary requirements for conviction.

Chapter 1, *Physical Child Abuse*, provides investigatory tips and some basic medical information on different types of injuries caused by child abuse.

Chapter 2, *Incest and Intrafamilial Abuse*, provides information on the nature and dynamics of incest, sexual abuse indicators, the cyclic nature of incestuous abuse, medical examinations, and the child sexual abuse accommodation syndrome.

Chapter 3, *Child Sexual Exploitation*, examines facets of child sexual abuse and exploitation, including pedophilia, and offers investigatory considerations. The appendixes include samples of successful search warrants.

Chapter 4, *Interviewing Child Abuse Victims*, discusses the specialized skills necessary to conduct a successful interview with a young child; provides detailed child developmental information and tips for the investigator on interview preparation; and outlines the dynamics of the interview process with the child, suspect, and other involved individuals.

Chapter 5, *Missing Children*, includes information on the investigator's role in all four categories of missing children cases, and on other resources that are available to aid in searching for missing children, such as the National Crime Information Center.

Chapter 6, *Legal Issues and Considerations*, provides guidance on how to turn the police investigation into a successful trial presentation, and shares tips for overcoming sometimes frustrating procedural obstacles to building a successful legal case.

An awareness of the indicators of child abuse and exploitation, coupled with close cooperation with public and private agencies and community groups, can aid police investigators in ensuring safety for children and conviction for criminal offenders.



**Physical Child Abuse**

# Chapter 1: Physical Child Abuse

**Family history of abuse**

**Physical and social isolation**

**Stress**

**Unrealistic expectations**

**Poverty**

**Unemployment or underemployment**

**Marital strife**

**"Target" or "special child syndrome"**

**Physical, emotional, or psychological handicap**

**Crisis**

## Underlying causes

Knowledge of the dynamics of child abuse can be most helpful in investigating incidents of suspected child abuse and in understanding why someone might physically harm a child. For example, the investigator should know that if a parent or caretaker was abused as a child, the potential for abusing his or her children is much greater. Although other factors should, of course, be considered, a **family history of abuse** is one of the factors that creates a high predisposition for a parent to abuse a child.<sup>1</sup> Another factor is the influence of alcohol or other chemical substances on the abuser; substance abuse is a major correlating factor with the emotional and physical abuse of children.<sup>2</sup>

All too frequently an investigation of child abuse does not take into consideration the abuser's family environment at the time of the incident. Leading the list of factors to look for is **physical and social isolation** and poor impulse control. It helps to know about any situation that leaves a family cut off from other adults, family members, or social activities. This isolation might have a negative impact on the family and present a source of **stress**.

Additional areas to consider are **unrealistic expectations** the parent or caretaker may have of the child. Other child-centered factors include difficult pregnancies or deliveries as well as prematurity and infant illness. Combine any of these with other factors, such as a lack of knowledge about child development, and a clearer picture of the causes of child abuse evolves.

**Poverty** can be a powerful factor in the potentiality for child abuse. Adults attempting to raise children without adequate financial resources, often because of **unemployment or underemployment**, are under great stress. The poverty-level family does not have the benefit of many of the material goods the average middle-class family may take for granted. **Marital strife** is a natural result of economic pressures, but is not, of course, limited to poverty-level families.

Some children are singled out for abuse because of a characteristic the parent perceives as negative in the child. Repetitive abuse of this kind is known as the **"target" or "special child syndrome."** All too frequently this characteristic is a **physical, emotional, or psychological handicap**. A disproportionate number of handicapped children are abused because of additional pressures caused by their special needs. Targeted children are not always easy to identify. Targeting can be a factor when the parent claims or the investigator observes that the child:

1. Is hyperactive, aggressive, or disobedient.
2. Is inept, awkward, timid, or weak.
3. Is sickly, unwanted, or unattractive.
4. Has a poor appetite or a speech difficulty.

It has been clearly established for many years that a **crisis** usually precedes and precipitates an abusive incident.<sup>3</sup> This crisis might be referred to as a

### **"Trigger mechanism"**

**Job, illness, or death**

**Crying and toilet training**

**Everyday happenings**

**Visible signs**

**"trigger mechanism,"** which may cause the parent or caretaker to become overwhelmed and overreact to a situation while interacting with the child.

The crisis or trigger mechanism could be the loss of a **job, illness, or death** in the family; however, the greatest degree of stress is most often produced by common daily occurrences. Young children who have not learned about fairness or cooperation and are unable to take care of themselves require constant attention. Therefore, **crying and toilet training**, both soiling and wetting, often stimulate a caretaker's abusive behavior. A child may be scalded in a caretaker's attempt to cleanse or purify the child's skin of stool or urine (scalding, particularly from hot tapwater, is the most frequent cause of accidental injury in children<sup>4</sup>). Other **everyday happenings**, such as a child's unwillingness to eat, spilled milk, soiled clothing, or backtalk also can act as trigger mechanisms to child abuse.

## **Child neglect**

Maltreatment of children usually falls into four categories: child physical abuse, child sexual abuse, emotional and psychological abuse, and child neglect. The most prevalent maltreatment is neglect. Law enforcement investigators usually are not involved in this type of abuse unless dire physical harm or exceedingly protracted situations are alleged. Child neglect can be defined as "inadequate or dangerous child rearing practices." This type of maltreatment may not produce any **visible signs** and may occur over a period of time.

Neglectful parents often were victims of neglectful parenting. The following indicators describe the personal characteristics or behaviors of neglectful parents.

1. Apathetic.
2. Craving excitement.
3. Desiring to be rid of the child's demands.
4. Lack of interest in the child.
5. Low acceptance of the child's needs.
6. Unskilled as parents.
7. Lacking in planning and organization.
8. Unkempt and poor personal hygiene.

The neglected child usually will demonstrate a variety of behavioral indicators that commonly include:

1. Failure to thrive as an infant.
2. Falling asleep at school.
3. Poor learning and sporadic school attendance.
4. Hunger or fatigue.
5. Arriving at school early and leaving late.
6. Apathy.
7. Incurability.
8. Personal hygiene problems.

**Children under the age of 6 are at the greatest risk**

**Age and developmental characteristics**

**Social, emotional, and physical**

**Reasonable explanation**

**Conceal the child's injuries**

**"Hospital shopping"**

**Nonverbal and nonambulatory**

## Assessing the incident

Because **children under the age of 6 are at the greatest risk** of being abused,<sup>5</sup> an investigation into allegations of child abuse must be coupled with information about **age and developmental characteristics** of children. Because it is frequently the youngest child in a family who is abused, the investigator will be better prepared if he or she has a working knowledge of what a normally developed child should be capable of doing. Knowing at what age a child begins to crawl, stand, or walk is part of the child abuse assessment process. A chart depicting the **social, emotional, and physical** developmental characteristics of children from birth through adolescence is attached as Appendix B to this chapter.<sup>6</sup>

How the injury allegedly occurred should be supported by a **reasonable explanation** from the parent or caretaker. A lack of explanation, or a contradictory or unconvincing reason, can offer clues as to whether the injury was caused by abuse. The explanation, location, and severity of the injury should all relate.

In some incidents of abuse, the caretaker may seem unconcerned about the child or attempt to **conceal the child's injuries**; it is even possible an adult will protect the identity of the person responsible for the injuries. People have been known to delay or even fail to provide medical treatment for injured children. Or, they may select a different hospital and doctor each time an examination or treatment is necessary. This practice is known as **"hospital shopping."**

Often a parent or caretaker is reluctant to admit to abusing a child because of:

1. Fear of punitive legal action.
2. Feelings of guilt or remorse.
3. A desire to shield a spouse or loved one.
4. A need to avoid social stigma.<sup>7</sup>

In a case of suspected abuse, the investigator should ask himself or herself the following questions early in the assessment process:

1. Is the extent of the injury or condition compatible with the history provided?
2. Does the injury appear to conform to or suggest the use of an instrument?
3. Is the appearance of the injury consistent with the sequence of events (time element) described in the explanation?
4. Does there appear to have been a delay in the presentation of the child for medical attention?
5. Are there other unexplained injuries present on the child?
6. Does the explanation for the injury seem vague or confused?
7. Is the injury consistent with the child's developmental ability to injure himself or herself?

When child abuse is suspected and is not properly addressed through effective intervention, research has shown that 5 percent of children who are returned to their parents are killed and 35 percent are reinjured.<sup>8</sup> Further, the probability of serious injury is compounded when the victim is so young as to be **nonverbal and nonambulatory**. In these cases, not only age and developmental characteristics should be evaluated, but additional attention should be focused on the nature of the injuries.

**Medical protocol**

**Basic medical information**

**Hands and fists are the most common "weapons"**

**Assault objects**

**Rigid objects**

**Flexible object**

Appendix C of this chapter outlines the **medical protocol** often followed by medical professionals when a child is taken for an examination. Investigators should cooperate with medical personnel to implement these procedures.

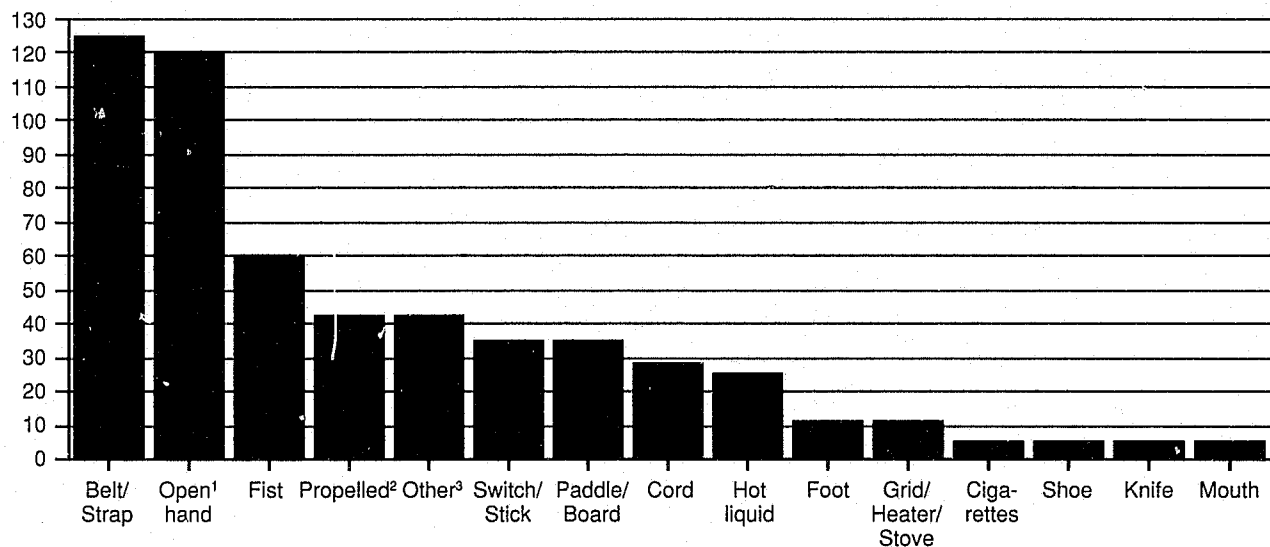
**Investigating the injuries**

A thorough knowledge of the injuries resulting from child abuse can help investigators improve the child abuse investigation process. An investigator's awareness of the causes and typology of nonaccidental injury coupled with an examination by medical professionals can facilitate documentation for proper case handling and ensure the treatment and future safety of the child victim. The following sections contain some **basic medical information** on soft tissue injuries, fractures, head injuries, and abdominal injuries.

It generally is accepted that **hands and fists are the most common "weapons"** used during child abuse. If actual weapons or objects are used, they often are common household instruments. The overall size and shape of the injury pattern left on the child's body may indicate the actual object used. If a hand or fist is not believed to have caused the injury, it is possible to generalize the approach to basic wound identification by grouping the possible **assault objects** into two major categories: rigid or flexible. The injury pattern on the child will suggest in which category the weapon belongs.

**Rigid objects** such as paddles, sticks, boards, or hairbrushes are weighty and incapable of bending around a child's body. The natural contours and folds of the body should be considered carefully in relation to the configuration of the injury pattern. If the pattern does not "bend around the corners" of the child's body, it was probably produced by a rigid object. Conversely, if the injury pattern bends around the natural contours of the child's body, more likely it was caused by a **flexible object**—a belt, electrical cord, or switch.

**Causes of injury<sup>9</sup>**



<sup>1</sup>Open hand: Choked, grabbed, pinched, slapped.  
<sup>2</sup>Propelled: Thrown, dropped, pushed, pulled, dragged.  
<sup>3</sup>Other: Hit by toy, telephone, kitchen fork, bottle, household item, etc.; shot w/gun; dunked in ice water, etc.

**Location, configuration,  
and distribution**

**Bony prominences**

**Multiple edges of  
the body**

**Multiple resolving  
injuries**

The following chart will provide guidance to investigators on how children are most frequently injured in abuse incidents.

### Soft tissue injuries

Investigators should look specifically for the **location, configuration, and distribution** of so-called soft tissue injuries on the child. Soft tissue injuries are bruises, welts, lacerations, abrasions, and burns. They are among the first physical manifestations of dysfunction within the family.

Particular attention should be focused on the location of soft tissue injuries on the child's body. For example, bruises on the child's buttocks, back of the legs, or face would be considered suspicious. Ordinarily, the average preschooler can be expected to bruise along what are called **bony prominences**, any area on the child's body where the skeletal structure is close to the surface of the skin. Combine this knowledge with the fact that in an accidental fall or incident, a child's body usually will produce injuries along a single leading edge or surface of the body depending on how he or she was positioned just prior to the incident.

---

### Soft tissue injuries

#### Bruises

Intradermal hemorrhage or bleeding within the skin.

#### Petechiae

Very small bruises caused by broken capillaries.

#### Purpura

Small bruises occurring in groups or a single small bruise (up to 1 cm.).

#### Ecchymosis

Larger bruise.

#### Welts

Raised ridge or lump on the skin.

#### Lacerations

Jagged cut or wound.

#### Abrasions

Body surface denuded of skin by a scrape.

#### Burns

Effects of thermal energy on the skin.

---

Contrast these injuries with the type of injuries that may occur when a family crisis or trigger mechanism produces an out-of-control adult who strikes out at the child. The resulting injury pattern frequently involves **multiple edges of the body**, dissimilar to what customarily is expected in a nonabusive injury.

Knowledge about the location and configuration of injury patterns found on a child's body can lead to a more accurate appraisal of whether abuse has occurred, and if it has, under what circumstances. There also are obvious implications for interviewing and collecting evidence.

The distribution of soft tissue injuries on a child's body addresses the issues of when and how frequently the alleged abuse may have occurred. Technically, the investigator is looking for evidence of **multiple resolving injuries**, injuries that have occurred at different times and are in various stages of healing. In the assessment process, location, configuration, and distribution should be considered jointly. The investigator also should substantiate the absence of abuse when the evidence so indicates.



The parent or caretaker's explanation and the location and severity of the injury should all interrelate. Do not overlook the child's age and current development stage. Ask the question: Could these injuries have been self-sustained? Look for indicators such as size, shape, location, color, and degree of healing. Because most physical child abuse falls within the category of soft tissue injuries, the investigator always should be looking for these signs on the child's body.

The most frequently observed soft tissue injury is the **bruise**. A bruise is an escape of blood into the tissues of a living or recently deceased person following the breakage of capillaries by blunt force.<sup>10</sup> A thorough investigation should include the possibility of a delay in the appearance of a bruise. Hours or even days may elapse before the blood comes to the surface of the skin.<sup>11</sup> Soft tissue injuries primarily will be found on the backside of the child beginning at the neck and continuing down to a point at the back of the knees. This area includes the shoulders as well as the entire length of the child's arms. This entire area has been referred to as the child's "**primary target zone**," with the back and the buttocks representing the largest region.<sup>12</sup>

---

### Investigating bruises

#### Age-dating bruises<sup>13</sup>

Age	Color
0-2 Days	Swollen, tender
2-5 Days	Red, blue, purple
5-7 Days	Green
7-10 Days	Yellow
10-14 Days	Brown
2-4 Weeks	Clear

#### Age-dating abrasions<sup>14</sup>

Age	Color
Within several hours	Raw surface, oozing blood and clear fluid
After 6 hours	Dry, red, depending on treatment
Over 24 hours	Scabs form

#### Photographing bruises<sup>15</sup>

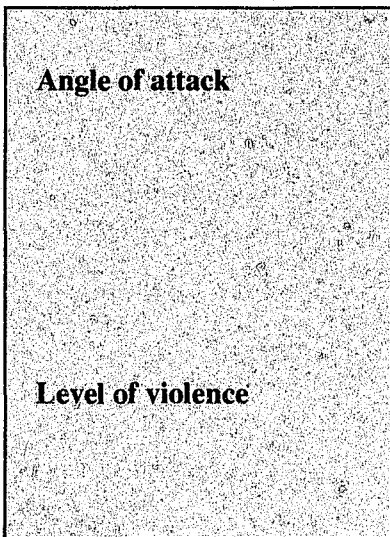
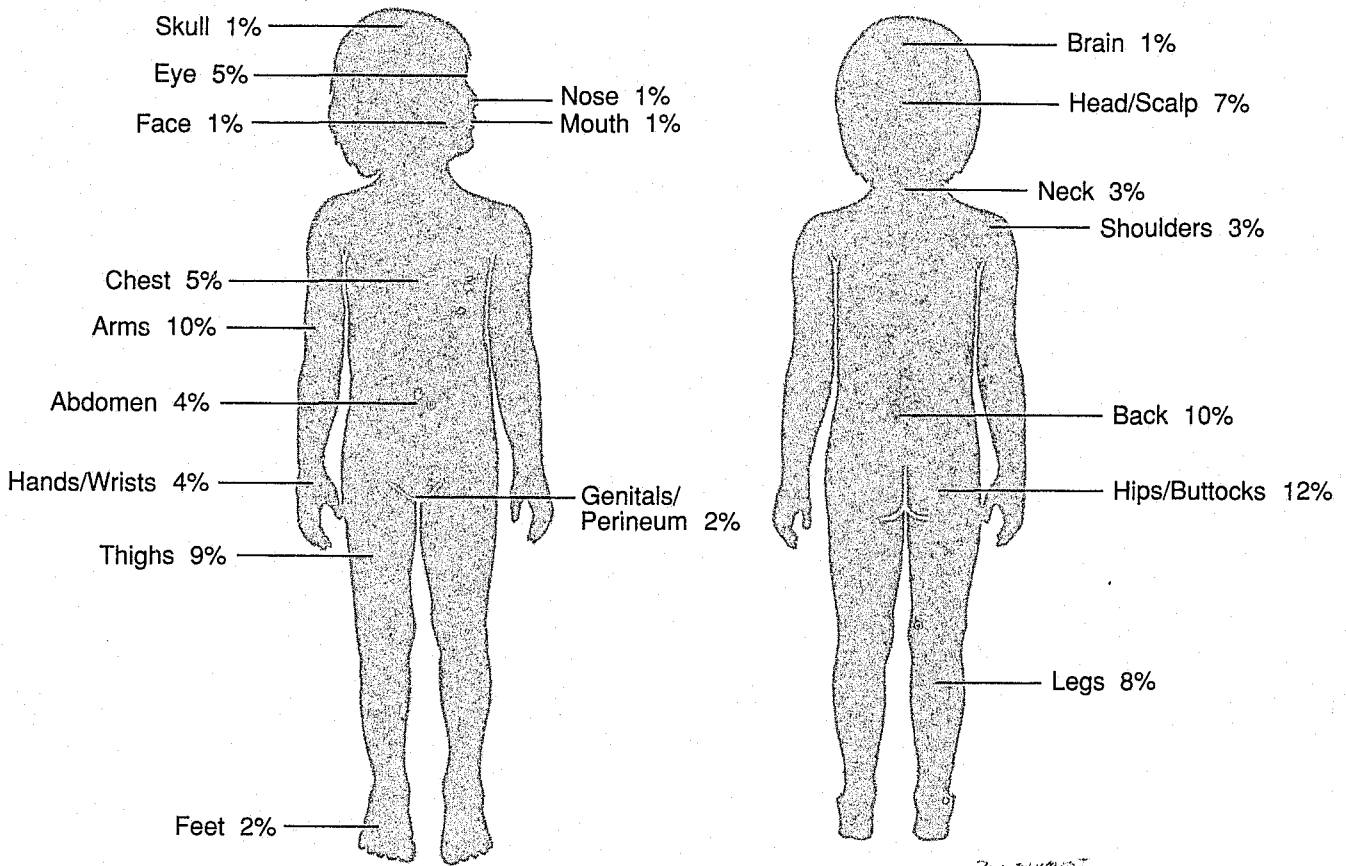
1. Use color film.
2. Place a ruler in the photograph to demonstrate size.
3. Photograph existing bruise immediately.
4. Photograph again several hours/days later.
5. In death cases, use caution when handling the victim to avoid postmortem marks.
6. Avoid an immediate autopsy—important tissue damage may not develop for hours.

---

Johnson and Showers' study of 616 physical abuse cases found a number of locations on a child's body that are targeted for abuse. These locations are represented in graphic form in Figure 1.

This study and several others corroborate the theory that the child's backside is the most frequently targeted area for assaultive behavior, and injuries in this area usually can be attributed to a parent's or caretaker's attempt at corporal punishment.

**Figure 1. Location of injuries<sup>16</sup>**



Knowledge about location of injury can provide insight into how the child may have been positioned at the time of the attack. This information is valuable in establishing the **angle of attack**. Where the adult was positioned in relation to the child at the time of the assault will substantiate whether the parent or caretaker is providing accurate information about the incident. Knowledge about the angle of attack will help develop strategies for questioning the adult and the child.

Fixed and flexible objects usually leave injury patterns that will sometimes enable the investigator to determine which side of the child the attacker was on during the incident, whether the child was bending or standing, and if the child attempted to block the attack.

It is important to document the **level of violence** to which the child was subjected.<sup>17</sup> The investigator should be able to recognize defense wounds and control-type injuries. The child who is able to protect his or her body from pain often will do so during an assault.



**Defense wounds**

**Control-type injuries**

**Finger-tip bruises**

**Skin conditions**

**Mongolian spot**

**Maculae cerulae**

**Allergic shiners**

**Under 24 months**

**Defense wounds** represent a child's attempt to block blows from hands or objects with the use of his or her hands, arms, or legs. The resulting damage frequently manifests itself in soft tissue injuries, or worse. The investigator should be aware of this type of wound and include the possibility of defense wounds in the investigative process.

**Control-type injuries** reflect an abuser's attempt to hold the child in a certain position or angle during the course of the attack. The level of violence during the abusive incident can lead to injuries produced by the adult's control-oriented grabbing or holding. The most obvious form of injury caused by this encounter is **finger-tip bruises** left on the child's arms, legs, or torso.

Control-type injuries can be missed if areas such as the underside of each arm is not carefully examined during the investigator's interaction with the child. During crying episodes involving babies, it is not unusual for an out-of-control parent to grab the infant around the torso, producing small circular bruises on the rib cage and back.

When investigating bruises, an investigator should be cautious not to mislabel certain **skin conditions** as bruises and to await the medical report before presuming they are bruises. These skin conditions are sometimes referred to as "pseudobruises," the most common being the **Mongolian spot**. This is a type of birthmark, steel gray-blue in color, that can be found anywhere on the child's body. It does not change color and is differentiated from a bruise by its clear-cut margins and color. It may be present for up to 3 years and is sometimes found on adults.

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#### **Mongolian spots—incidence**

95% Black babies.

81% Oriental and American Indian babies.

70% Hispanic babies.

10% Caucasian babies.<sup>18</sup>

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Two other forms of skin conditions commonly mistaken for bruises are **maculae cerulae**, unexplained bluish spots on the skin where pubic lice are present, and **allergic shiners**, which look like black eyes. Allergic shiners are caused by eye allergies and are more brownish than blue in color.<sup>19</sup>

#### **Burns**

Burns are the second most frequent cause of accidental death in children aged 1 to 4 years.<sup>20</sup> As a form of child abuse, burns received little attention before 1965 when the first article entirely devoted to burns, authored by R.W. Gillespie, was published.<sup>21</sup>

Early studies found the average age of the burn victim to be **under 24 months**. Boys are victimized more frequently than girls, and this type of abuse occurs more commonly in lower socioeconomic single-parent families.<sup>22</sup>

## Stressful times

## Suspicion index

## Two layers

## Classification of burns

## Depth of a burn

More than 70 percent of childhood burns occur in the home during the more **stressful times** of the day and during months in which children are more often indoors, such as:

1. Winter months, when the family is indoor-oriented.
2. Late afternoon, when the child is more fatigued and hungry.
3. Morning, when the child has just awakened.<sup>23</sup>

Burn injuries to children often are classified as accidents, when abuse was the real cause. The **suspicion index** below lists indicators of abuse.

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### Suspicion index

1. Unexplained treatment delay that exceeds 2 hours.
2. Injury that appears older than when the incident allegedly happened.
3. Ambivalence about seeking medical attention.
4. An account of the injury incompatible with the age and developmental characteristics of the child.
5. Caretaker's insistence that there were no witnesses to the "accident."
6. Someone other than a parent or caretaker brings the child to the emergency room.
7. Burn is blamed on the actions of a sibling or other child.
8. The injured child is excessively withdrawn, submissive, overly polite, or does not react to painful procedures.
9. Isolated burns on the child's buttocks.
10. History of what happened changes several times, or there are discrepancies in the stories given by each parent.<sup>24</sup>

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Burns result from the effect of thermal energy on the skin. The skin, the body's largest organ, is divided into **two layers**, epidermis and dermis. The epidermis is the thinner of the two and rests on the outside of the body, serving as a protective cover. The dermis makes up the bulk of the skin and is located between the epidermal layer and a subcutaneous area of muscle and bone. The nerve endings that transmit pain, temperature, and sensation are located only within the dermal layer of skin<sup>25</sup> (see Figure 2).

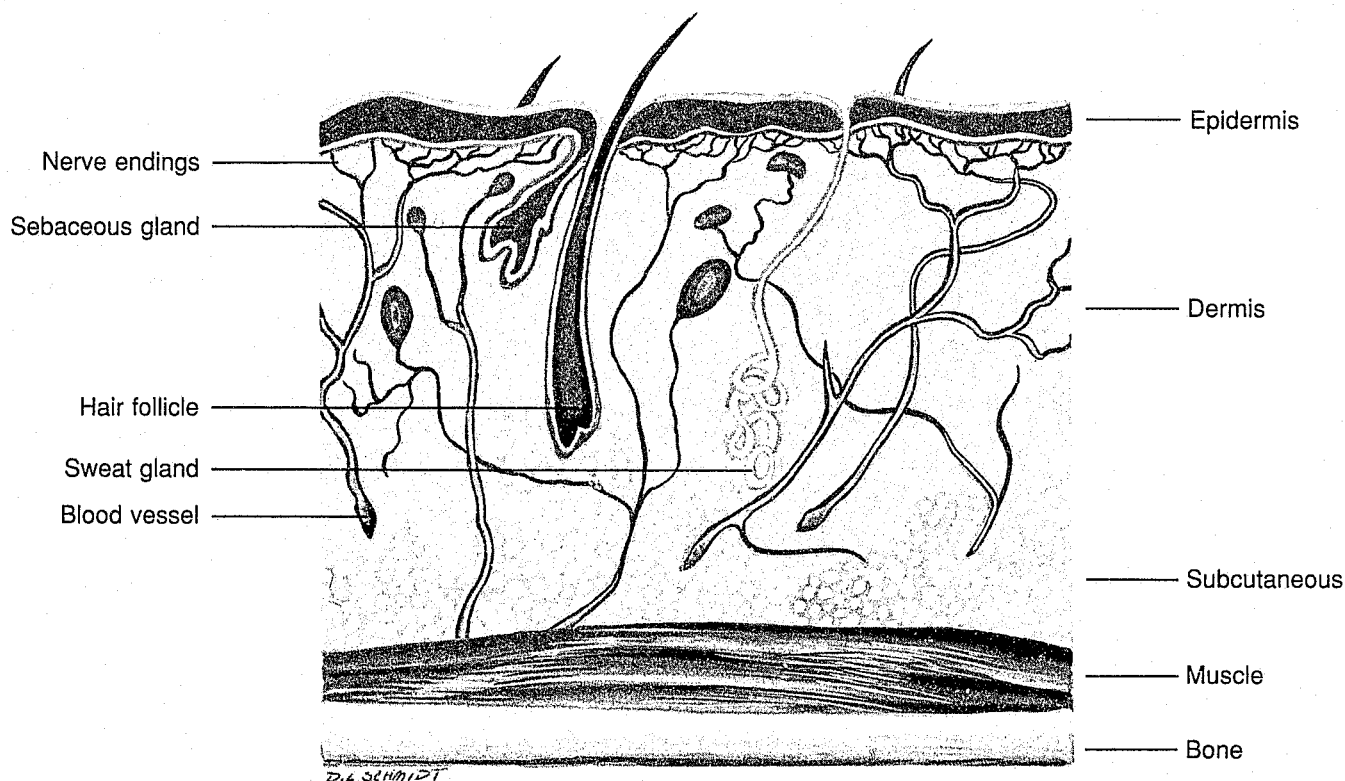
The most commonly used **classification of burns** is first, second, or third degree, the most serious being third degree. This type of classification provides only for a visual characteristic of the wound and is not actually descriptive of the injury. The preferred classification of burns used by most physicians is "partial" or "full" thickness burning.

**Partial thickness burn** Only part of the skin has been either damaged or destroyed. Equivalent to first degree or second degree burns. This wound will heal by itself; however, a physician should determine if treatment is necessary.

**Full thickness burn** All the skin is destroyed. May include destruction of muscle and bone. This wound cannot heal by itself and requires medical treatment.<sup>26</sup>

The **depth of a burn** will be determined by the temperature and the amount of time the victim is exposed to the source of heat. The age of the victim is also a factor because younger children have thinner skin than adults.

**Figure 2. Anatomy of skin**



**Distinguishing features**

**Complete destruction**

Only an experienced medical practitioner can make the difficult determination of how deep a burn the child has sustained. However, there are several **distinguishing features** of partial thickness and full thickness burns observable immediately after the incident. Patches of reddened skin that blanch when touched and refill are shallow partial thickness burns. Blisters usually indicate a deeper partial thickness burning, especially if the blisters increase in size after the burn occurs.<sup>27</sup>

A leathery surface with a color of white, tan, brown, red, or black represents a full thickness burn. The child will feel no pain because of the **complete destruction** of nerve endings. Small blisters may be present but will not increase in size.<sup>28</sup>

One reason for the increased mortality rate in children who have been burned is that a young child's thinness of skin increases the chances for a full thickness burn.

**Thicker skinned areas**

- Palms of hands
- Soles of feet
- Back
- Scalp
- Back of neck

**Thinner skinned areas**

- Front trunk
- Inner thighs
- Bottom of forearms
- Inner arm area

### **Wet burns and dry burns**

### **Scald burn**

### **Line of immersion**

### **Flexed position**

### **“Doughnut” burn**

### **Examples of flexion**

### **Zebra burn**

A relatively small burn on a young child is likely to produce a more severe injury than on an adult because more body surface per pound is affected. Because of their thinner skin, young children can also be more seriously burned than adults by water of a cooler temperature and a shorter exposure time to a source of heat.

Burns can be categorized in two general types—**wet burns and dry burns**—each type having its own set of characteristics. A wet burn is characterized by a splattering effect combined with sloughing and peeling of skin. There also will be varying degrees of burns in close proximity. Conversely, a dry burn will lack the former characteristics and will have a well-defined “branding” margin around the injury. Scabbing will begin around the edges of the burn and the odor of burned skin is sometimes present. This type of burn also will have a general dry nature or appearance at the burn site.<sup>29</sup>

The most common abusive **scald burn** occurs when the child is dunked or immersed into a container of hot fluid. The resulting injury pattern on the child’s body will help the investigator reconstruct how the child was positioned in the container in which the injury is thought to have occurred. The first consideration should be whether the injury pattern appears consistent with the caretaker’s version of what happened. Next, if a **line of immersion** is present, it represents the areas of the child’s body that were beneath the surface of the fluid, contrasted with those areas that did not come into contact with the fluid.

Parents and older brothers and sisters have been known to lower a child into a scalding tub accidentally. Their reactions to the child’s injuries in terms of promptness in seeking medical treatment and degree of concern over the child’s welfare are factors to consider when accidental causes are claimed. Accidental immersion burns would include splash burns.

The most common immersion burn occurs when the caretaker dips the child’s buttocks into liquid while holding the child in a **flexed position**. The child’s upper torso, lower legs, and feet never come into contact with the fluid.

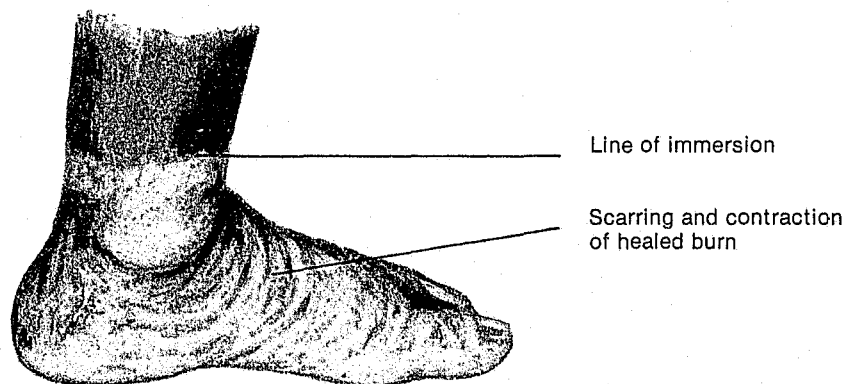
A child forced to sit in a vessel of hot liquid frequently will produce a **“doughnut” burn** because the buttocks make firm contact with the bottom of the container, thus sparing this area from burning. The presence of a doughnut burn indicates someone was holding the child in place, making escape impossible.

When a child is involved in an immersion burn incident, he or she will go into a state of flexion, the tensing of body parts in reaction to what is happening. **Examples of flexion** areas on a child’s body include:

1. Folds in the stomach.
2. Calf against the back of the thigh.
3. Arms tightened and held firmly against the body or folded against the body.
4. Thighs against the abdomen.
5. Head against the shoulder.
6. Legs crossed and held tightly together.

The flexing action will not allow burning within the creases of the child’s body, causing a striped configuration of burned and unburned zones. This type of burn is called a **zebra burn**.

**Figure 3. Stocking burn**



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**“Stocking” burn or a  
“glove” burn**

**Dipping was intentional**

**Gravitational flow**

**Amount of heat needed**

**Burns more rapidly**

**Above 127°F**

Other common areas for immersion burns are a child’s feet and hands. When any of these appendages are immersed in hot liquid, the resulting injury pattern is known as a **“stocking” burn or a “glove” burn** (see Figure 3).

Immersion burns on the hands and feet in the form of splash burns are expected if the child was unrestrained and thrashing in the fluid. An absence of glove or stocking burns, combined with the presence of well-developed or sharp lines of immersion limited only to the buttocks, back, and perineum, would indicate that the child was cradled and **dipping was intentional**.

Liquids of a thicker consistency than water, such as soups, sauces, oils, and gravy will retain heat longer. These substances will continue to damage the skin long after thinner fluids have cooled. The **gravitational flow** of the burn pattern and the position of the child at the time of the incident can be determined through close observation of this type of burn. This burn should not be confused with immersion burns; the splash burn will produce multiple depths of burns interspersed with unburned areas. The splash burn also tends to be less severe than the immersion burn because of the rapid cooling of the liquid after it strikes the skin.

The most frequent question asked by investigators of burn-related injuries centers on the **amount of heat needed** to burn a child. Secondary to this issue is the amount of time the child needs to be exposed to a certain level of heat before the skin burns.

The difficulty researchers have had in answering these questions reflects the differences in the thickness of an adult’s skin compared with that of a child. The temperature necessary to destroy an adult’s skin is known; all that is known about a child’s skin is that because it **burns more rapidly**, it will be destroyed more rapidly and by less heat.

The likelihood of a deep partial thickness to full thickness burn increases drastically when the water temperature is **above 127°F**. The incidence of major injury to a child is much less at water temperatures below 120°F. For an adult, even a temperature of 110°F would take 6 or 7 hours to cause a full thickness burn.<sup>30</sup> The following chart provides the temperature and length of exposure required before a full thickness burn would be produced on an adult.

### Full thickness burns on an adult <sup>31</sup>

Temperature of liquid	Duration of exposure
111°F	6-7 hours
120°F	10 minutes
125°F	2 minutes
127°F	1 minute
130°F	30 seconds
136°F	10 seconds
140°F	5 seconds
149°F	2 seconds
158°F	1 second

#### Contact burns

**Contact burns**, also known as dry burns, are a frequent type of abusive burn. Examples of devices that have been known to cause contact burns are irons, stoves, heaters, grates, radiator pipes, hot plates, and curling irons. Essentially, any device capable of producing heat could be used in an abusive incident.

#### Cigarettes

However, the most common type of abusive contact burn is caused by **cigarettes** deliberately placed on a child's body. These burns have certain characteristics that may help distinguish them from an accidental encounter. The first item to look for is the location of the cigarette burn. Deliberate burning usually will occur on multiple areas, including the belt line on the trunk of the child, external genitals, and the hands and feet. Cigarette burns found in multiple patterns are abusive and indicate intent.

#### Deliberate burning

The hot ash portion of the cigarette tends to break off after its contact with the skin. Any subsequent attempts at burning would require the relighting and maintenance of the ash to produce the number of injuries found on the child. Careful observation in conjunction with a physician's opinion about the age of the burns will provide insight into whether the injuries were produced during one or several episodes over a period of time.

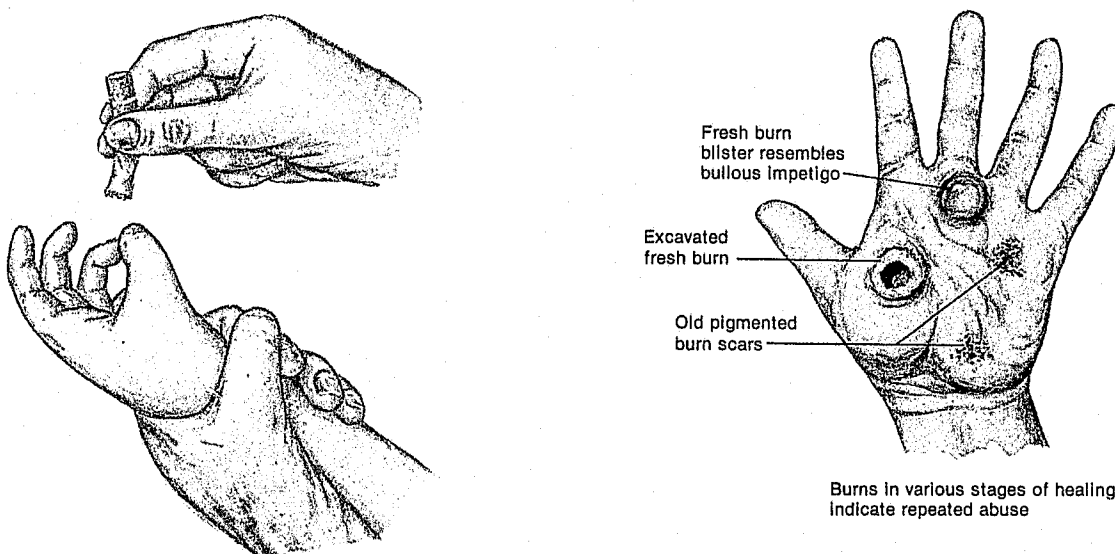
**Deliberate burning** by a cigarette will produce small circular burns approximately 1/4 inch in diameter. The wounds will vary from a blister to a crater type of injury depending on the length of contact.<sup>32</sup> The healing process will involve the formation of a scab in the center of the wound which will then move toward the surrounding edges. Healed cigarette burns will appear similar in size. The depth of the scar will be related to the depth of the burn (see Figure 4).

#### Accidental cigarette burns

**Accidental cigarette burns** appear irregularly shaped, are not as deep as deliberate burns, and frequently occur on the face. The investigator should suspect abuse if a cigarette burn appears on a normally clothed part of the body.

Various other forms of contact burns leave symmetrical and deep imprints with crisp margins along the entire burned surface. This suggests a prolonged firm contact with a portion of the hot surface (see Figure 5). Comparatively, the accidental scenario would involve a briefer, glancing contact of a smaller area of the skin against the object and slurred margins that lack the full branding effect of the object's surface. One edge of the accidental contact burn is usually deeper and more serious in nature.<sup>33</sup>

## Figure 4. Cigarette burn

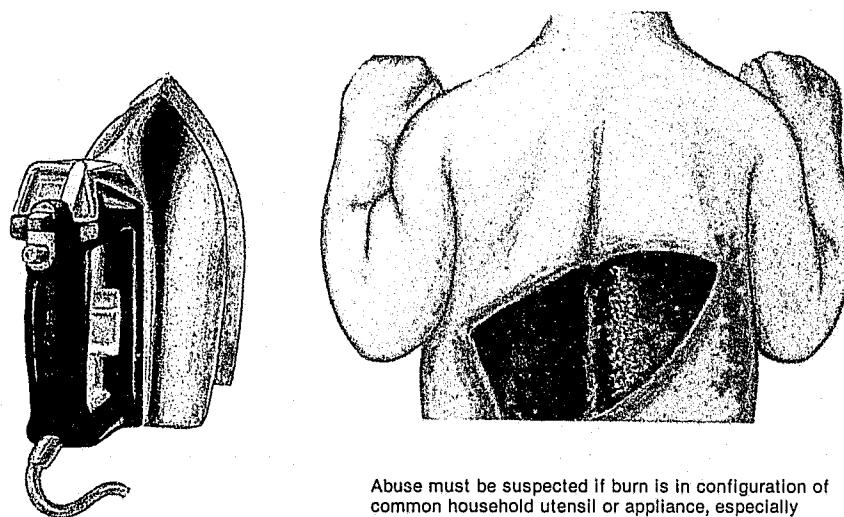


Cigarette burns are usually inflicted on palms, soles, and buttocks

Burns in various stages of healing indicate repeated abuse

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## Figure 5. Contact burn



Abuse must be suspected if burn is in configuration of common household utensil or appliance, especially if burn is located where injury could not be accidental

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**Small hot objects**

**Light ray burns**

**Brush burns**

**Chemical burns**

**Symmetrical**

**Injury pattern**

**Splash burns**

**Scalded skin syndrome**

**Impetigo**

### Accidental vs. deliberate contact burns

Accidental	Deliberate
Brief glancing contact	Prolonged steady contact
Small area of skin affected	Symmetrical deep imprints
Slurred margins	Crisp overall margins
Deeper burn on one edge	Suspicious areas on body, such as buttocks or perineum
Leading edges of body	Bizarre shape

One final type of contact burn that might be overlooked involves the use of **small hot objects**, such as the top of a metal cigarette lighter or the heated edge of a knife. As with other suspicious burns, the location and shape of the burn will provide some direction for the investigator.

Three additional types of burns to consider are **light ray burns** (the result of overexposure to the sun or other radiant energy), **brush burns**, and **chemical burns**. A brush burn can be caused by the combined effects of heat and abrasion due to friction. This type of burn could result from a child sliding down a metal slide, with his or her bare legs coming into contact with its sun-heated surface. Of course, this form of a burn is not considered abuse. Chemical burns caused by acids or alkalies may destroy tissue for weeks after the initial incident. Chemical burns usually are sharply localized and deeper than other forms of burns.

The location and extent of a burn are not as important as the injury pattern in determining the possibility of abuse.<sup>34</sup> Well-formed or sharp lines of immersion that appear **symmetrical** on either the ankles or wrists are suspicious. Whenever both of a child's feet have been burned and there is no evidence that the child tried to get out of the liquid, abuse should be considered. A child entering a tub of water may place one foot in the tub, having no idea that the water is scalding, but once the painful effects of the water are felt, the child would not place the other foot in the scalding water.

When a child accidentally pulls a container of hot liquid from a counter or tabletop, the **injury pattern** should appear more severe at the point of contact, with lesser degrees of burning on areas where the liquid made contact while descending. A child reaching up to grasp a container of hot liquid usually will be burned on the head, face, neck, upper chest, and arms.<sup>35</sup> Liquids such as hot tea, coffee, or water will produce injury patterns similar to those in bathtub incidents, except the head, face, and shoulders are usually the points of contact. **Splash burns** caused by a liquid pulled from above can be difficult to distinguish from those caused by a deliberate throwing of liquid. This is especially true if the liquid first strikes the top of the head, face, chest, or abdomen, as would happen when an adult throws liquid down at a child. An absence of burns under the chin or within the armpit areas might support a suspicion of deliberate throwing.

A potential problem in identifying burns is the presence of a bacterial infection known as **scalded skin syndrome**. As its name implies, this infection looks like scalded skin and is found on children from infancy to age 10. The infection should not be confused with burning, even though it may resemble skin that has been scalded. It also has been confused with **impetigo**, a skin infection characterized by small blisters that gradually crust and erode. The examining physician should be informed if the parent or caregiver suggests that the child is suffering from an infection.<sup>36</sup> Investigators often report that medical examinations are inconclusive about cigarette burns when impetigo sets in after a burn has occurred.



## Measurements

Number of rotations

Record the child's height

Strength and dexterity

Natural sounds

Hot water heater

Thermostat

Gallon capacity

Water temperature

Dry device

Photographs

Human skeletal system

Thorough investigation of a burn case presents many factors to review and physical evidence to gather. When a child has been scalded, for example, **measurements** should be taken of the container and fixtures. Other measurements and documentation needed are the location of the faucets on the wall or sink; the overall dimensions of the sink, bath, or utility tub; the **number of rotations** needed to turn the water on; and how long it takes before hot water begins to flow from the faucet.

Investigators should **record the child's height** and his or her ability to reach each faucet. Very young children do not reach far above their heads nor do they tend to stretch onto their toes to reach for something. The child's strength should be balanced against the degree of **strength and dexterity** needed to turn on the faucet.

Special attention should be paid to where the parent or caregiver claims to have been at the time of the incident in terms of how long it reasonably would have taken him or her to get to the child once it was discovered the child was in danger. If the adult indicates that no screams were heard, the investigator should find out what **natural sounds** may have caused the child's cries for help not to be heard. Radio, television, traffic, or other children's voices might cause a child's crying to go unheard.

It is important to check the **hot water heater** during a scald investigation. Investigative procedures should include noting whether the heater appears to be in good working order and recording the type of water heater and temperature setting on the heater. On gas hot water heaters the **thermostat** is near the base of the heater. Electric hot water heaters usually have two thermostats; one is located behind a panel (that would need to be removed to read the setting) on the upper level, and one should be in plain view on the lower element. The **gallon capacity** of the heater should be recorded and photographed (this should appear on the front of the heater), and the **hot water temperature** should be measured, using a candy or meat thermometer. An accurate reading is achieved by holding the thermometer in the hot water for 6 to 10 minutes, reading the temperature, waiting 1 minute, and repeating the process five or six times.

When a child has been burned with a **dry device**, such as an iron or hotplate, the device should be checked, if possible, to determine if it is still warm to the touch. The distance from the floor to the site of a burning surface, such as a pan, hotplate, or stove should be carefully recorded, and the device examined for the presence of skin that may have adhered to it. Devices suspected of causing a burn should be seized with a search warrant and tested at a crime laboratory. The child's clothing, if any, should be seized and held as evidence along with any towels, blankets, sheets, or other coverings in which the child may have been wrapped.

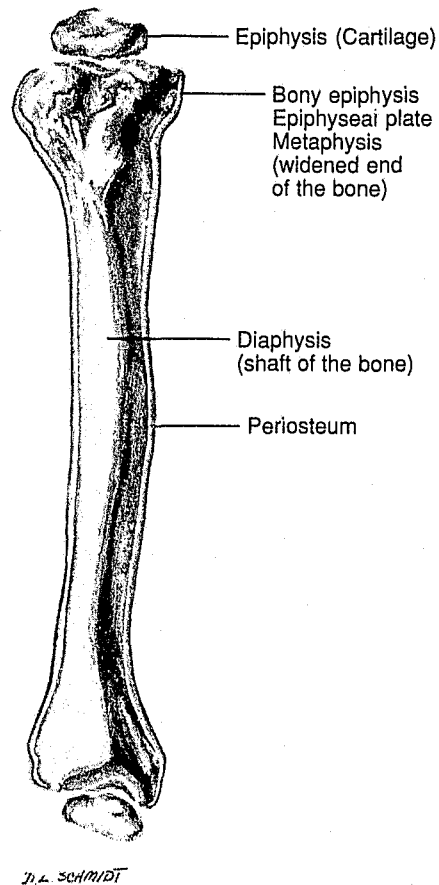
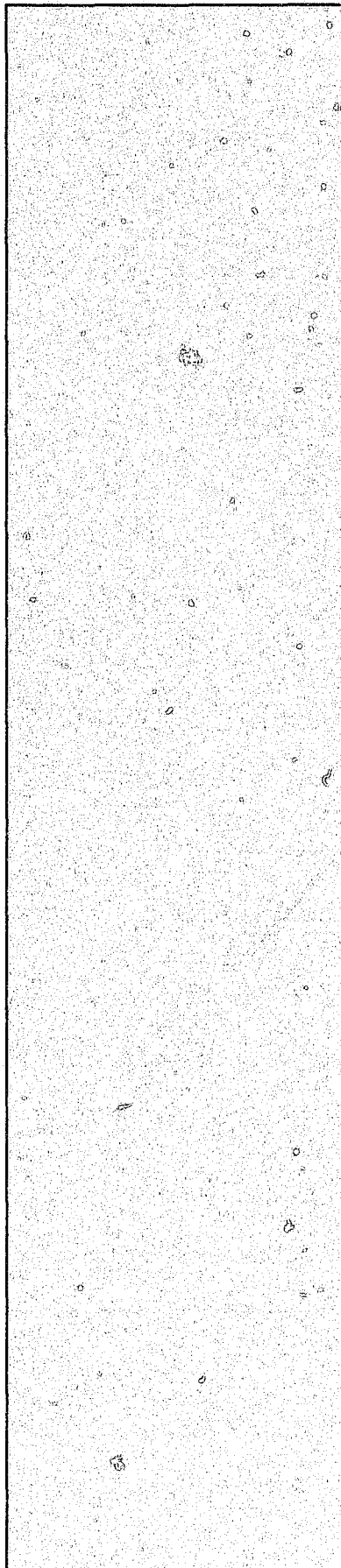
A complete series of **photographs** should be taken of the scene, victim, devices, water heater, or other objects that may have an important role in the investigation.

## Fractures

There is no exact figure for the number of bones in any one person's body. For example, a person may be born with an additional rib or vertebra. However, it is generally accepted that there are approximately 206 bones in the **human skeletal system**.<sup>37</sup>

Bones are a form of living tissue and are in a constant state of change throughout life. The process of bone development, known as ossification, begins at approximately 5 months of age. The changes that take place involve the formation of bone from bony substances, cartilage, and mem-

**Figure 6. Parts of the bone**



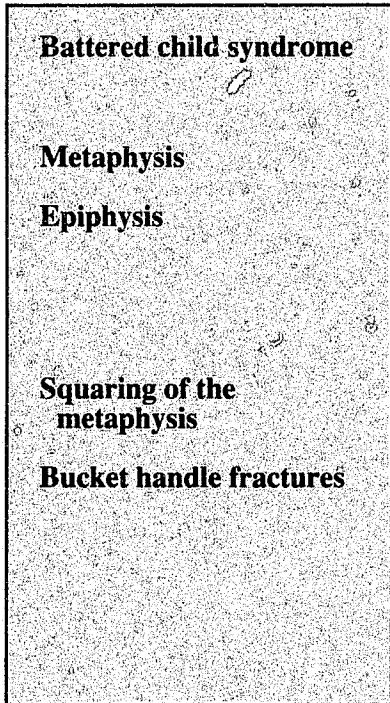
branes. This process in the child's skeletal system begins in the collarbone, skull, and spine and finally leads to the long bones of the arms and legs.<sup>38</sup>

To understand skeletal injuries, investigators need to know the components of bone and some technical terminology (see Figure 6). The basic parts of a bone are:

<b>Diaphysis</b>	Shaft of a long bone; primary center of normal bone formation.
<b>Metaphysis</b>	Widened end of the bone.
<b>Epiphysis</b>	Attached cartilage at each end of a long bone. At maturity it will turn to bone and fuse with bone shaft.
<b>Bony epiphysis</b>	Secondary center of bone formation.
<b>Epiphyseal plate</b>	Area between the metaphysis and the bony epiphysis.
<b>Periosteum</b>	Thin layer of connective tissue containing blood vessels covering the diaphysis.

Bones are classified into three main groups: long bones, short bones, and flat bones.

<b>Long bones</b>	Tubular bones in the arms, legs, ribs, and collarbone.
<b>Short bones</b>	Tubular bones in the hands and feet.
<b>Flat bones</b>	Nontubular bones in the skull, breastbone, shoulder blades, and pelvis.

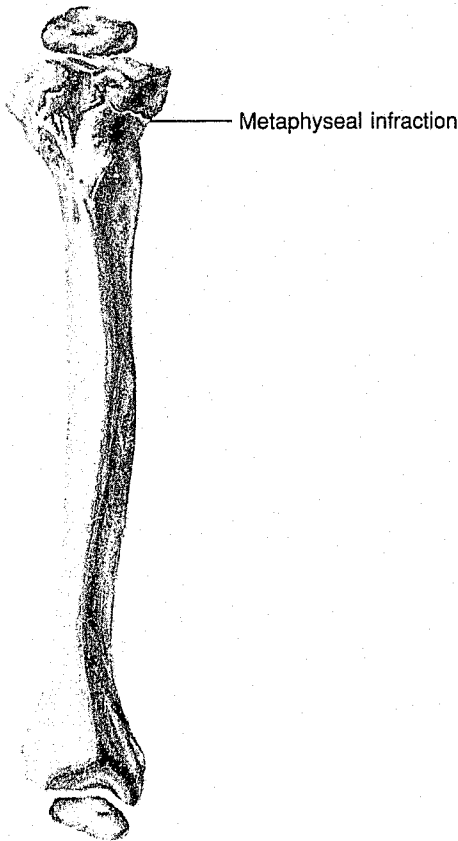


Skeletal damage is common in child abuse cases. In fact, it repeatedly has been demonstrated that the **battered child syndrome** includes the presence of multiple fractures at various stages of healing.

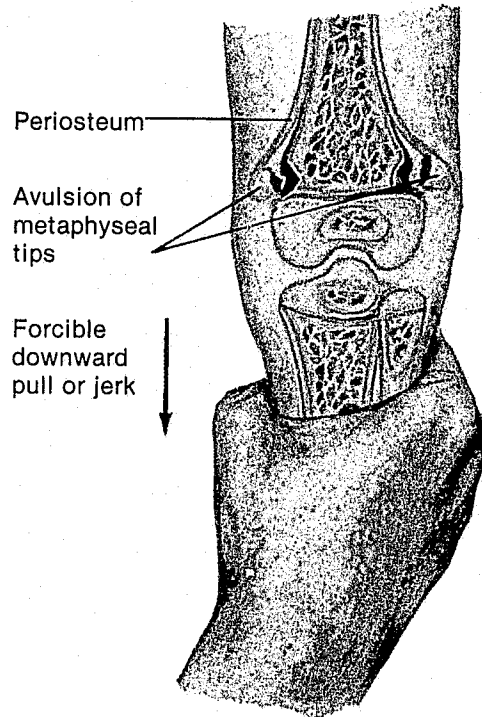
The most common skeletal injuries found in a young child or infant are at the widened end of a bone (**metaphysis**) and within the cartilage area at the end of a bone (**epiphysis**). Injury to the metaphysis frequently is caused by a parent or caregiver grabbing an infant by an arm or leg and violently shaking, jerking, twisting, or swinging the child.<sup>39</sup> This type of injury often is produced on the lower limbs while the child is on his or her back in a crib or bed, making the leg easy to grab. The injury pattern might include a metaphyseal infraction (see Figure 7) or an avulsion of the metaphyseal tips (see Figure 8). This type of injury can occur on any of the long or short bones. Additional types of injuries to this area of bone include **squaring of the metaphysis** and **bucket handle fractures**.

A metaphyseal infraction is an incomplete fracture of the metaphysis. An avulsion of the metaphyseal tips involves the breaking off of the corners of the metaphysis. After an avulsion has taken place, deposits of new calcium and bone form around the resulting bone chips and reunite the chips firmly to the parent bone. This gives the injured end of a long bone a "squared" appearance.<sup>40</sup> A bucket handle fracture gets its name from the resemblance of the new bone, developed around the end of the metaphysis after an injury, to a bucket handle.

**Figure 7. Metaphyseal infraction**



**Figure 8. Avulsion of metaphyseal tips**



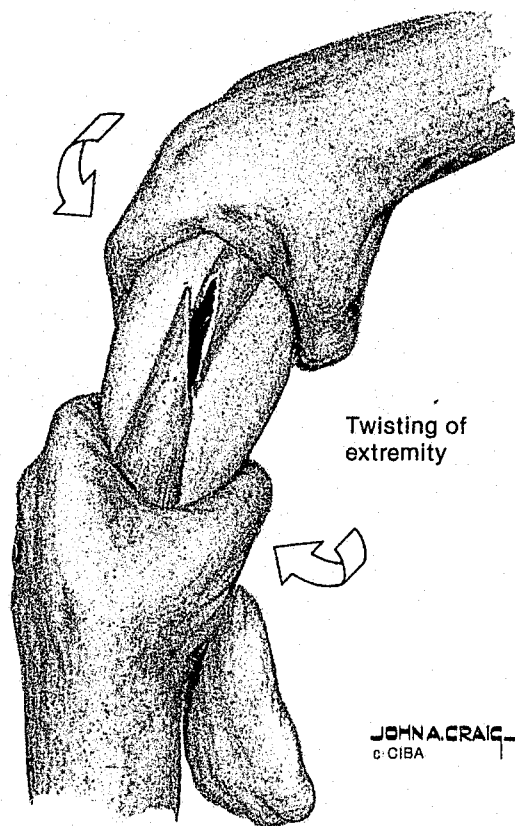
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Figure 9. Greenstick fracture



D. L. SCHMIDT

Figure 10. Spiral fracture



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In toddlers, spiral fractures in lower extremities may occur; in nonambulatory children, such injuries are rare and suggest abuse

**Greenstick fracture**

**Spiral and transverse fractures**

**Fractures of the breastbone**

**Periosteum**

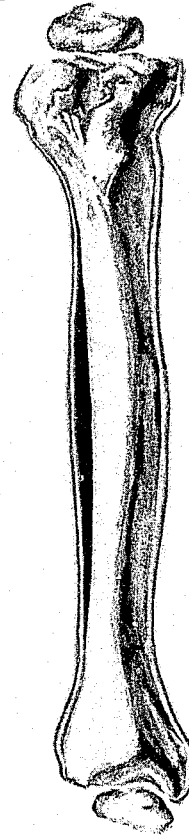
A **greenstick fracture** is a break near the middle of the bone shaft (diaphysis) causing the bone to bend and break (see Figure 9). This type of injury happens when an infant or child is grabbed by the arm or leg, creating leverage between the weight of the child's body and the limb.

**Spiral and transverse fractures** occur in the upper leg bone (femur), the lower leg bone (tibia), and the upper arm (humerus). An abusive spiral fracture happens when twisting or wrenching forces are applied to the limb (see Figure 10). Abusive transverse fractures result from either a direct blow or by grabbing a child by the elbows or wrists and violently jerking in an upward and forward motion.

**Fractures of the breastbone** (sternum) are rare. When this type of skeletal injury is detected, usually the cause is a severe, direct blow by a fist, foot, or instrument.

The **periosteum** is a thin layer of connective tissue containing blood vessels that covers the diaphysis. The periosteum of young growing bones is rich in blood vessels. Whenever any violent trauma such as a direct blow, twisting, or shaking takes place, the blood vessels within the periosteum can separate

**Figure 11. Periosteum**



J.L. SCHMIDT

from the bone and hemorrhage. Bleeding then develops beneath the periosteum (subperiosteal bleeding) along the shaft of the bone. The effect of this bleeding leads to a pocketing of blood, forcing the periosteum away from the bone (see Figure 11). The external sign of this damage is a swollen and tender injury site. Initial x-rays may not show the injury until approximately 3 to 4 weeks after it has occurred.

The periosteum of young infants is attached more loosely to the bone than that of an adult. It will separate more easily, therefore, when direct force is applied.

Some fractures may be obvious to the investigator; however, only medical professionals can substantiate bone injuries. The investigator should suspect **skeletal damage** if he or she observes:

1. Red, warm, swollen joint or limb (most frequent clinical finding).
2. Indications of pain.
3. Local tenderness or irritability.
4. Unwillingness to move the limb.<sup>41</sup>

Small bruises occasionally are present with a skeletal injury; however, some children may not have any symptoms. Although any bone may be involved in an abusive incident, the more **common sites** to suspect for fractures or damage include:

1. Ribs.
2. Skull.

**Skeletal damage**

**Common sites**

## X-ray

## Medical professional

## Cause of any skeletal damage

## Rib fractures

## Efforts to resuscitate

## Skull fracture

## Basal skull fracture

## Jagged lines

3. Upper arm at the shoulder.
4. Upper leg at the knee.
5. Hands.
6. Feet.<sup>42</sup>

The primary investigative tool available when skeletal damage is suspected is the **x-ray**. The x-ray is valuable not only as a diagnostic tool, but also because it can pick up indications of internal soft tissue damage. An experienced physician or x-ray technician should interpret the x-ray for the presence of skeletal damage. The investigator should rely heavily on the **medical professional** during the physical examination stage of the investigation; this individual can evaluate whether the child's skeletal structure deviates from the norm.

When child abuse is suspected as the **cause of any skeletal damage**, it usually results from:

1. A direct blow.
2. A twisting force.
3. Shaking.
4. Squeezing.<sup>43</sup>

Multiple **rib fractures** are rare when a child is injured accidentally, such as in a fall from a bed or crib. Multiple rib fractures normally are caused by violent squeezing of the chest. Ribs also are broken when the infant or young child is hit on the chest, kicked, or thrown against a hard object. Child abuse should be suspected if x-rays show multiple rib fractures in varying stages of healing.

An additional issue to consider in a rib fracture case is the allegation that the damage occurred during **efforts to resuscitate** the child. A recent study in the State of Washington concluded that unexplained rib fractures specifically were caused by abuse and that no child in the study had ribs fractured by cardiopulmonary resuscitation (CPR). The study stated that ribs are rarely, if ever, fractured by resuscitation, but occur frequently in child abuse cases.<sup>44</sup>

## Head injuries

When an infant is dropped or falls, the most common skeletal injury is a **skull fracture** on the side of the back of the child's head. The use of a hard sharp object against the skull tends to produce a localized bony depression that might serve as an investigative lead. X-rays will show a skull fracture immediately after the incident and signs of healing probably would not be visible for at least 6 weeks.

A **basal skull fracture** might be suspected if other signs of abuse are present. These include small bruises behind the ears and blood or fluid discharging from the ears or nose.

Accidental skull fractures can be differentiated from deliberate assaults to the skull because they are usually on the side or back of the head. On the CT scan or x-ray they will look like a simple line whereas the fracture caused by child abuse often resembles the **jagged lines** of a broken eggshell. However, the location and type of fracture alone cannot be used to determine whether a child has been abused. Consideration also should be given to any soft tissue or multiple-resolving injuries described in the medical report.



**Subdural hematoma**

**Shaken baby syndrome**

It is estimated that more than 8 million people suffer head injuries every year, with 50,000 to 90,000 of these injuries serious enough to cause coma. Three additional common head injuries are listed below.

- Concussion**      A jostling of the brain's soft matter, often leaving one dazed or unconscious. Recovery is complete, leaving only a cut or bruise on the scalp.
- Contusion**        More serious bruising of the brain, often involving unconsciousness for days or weeks.
- Laceration**        A tear in the brain substance, bruising, and torn blood vessels often leading to subdural hematoma (see Figure 12).

A more severe head injury in child abuse cases is a **subdural hematoma** (see Figure 12). It is a collection of blood within the outer covering of the brain often produced by a blow to the head or violent shaking (see Figures 13 and 14). This form of abuse is life threatening and frequently leads to disability and permanent damage, such as impaired vision, blindness, motor deficits, seizures, developmental delays, and cerebral palsy.<sup>45 46</sup>

Symptoms of a subdural hematoma include:

1. Irritability and vomiting.
2. Decreased level of consciousness or increased lethargy.
3. Breathing difficulty.
4. Bulging forehead.
5. Convulsions.
6. Inability of eyes to focus and track movement.
7. Unequal size of pupils or bloodshot eyes.
8. Inability to lift head.

The formation of a subdural hematoma commonly results from the laceration of veins within the brain due to one of the following actions:

1. A heavy moving object striking the head.
2. A moving head striking a heavy stationary object.
3. A rapid acceleration or deceleration of an infant's head during shaking.<sup>47</sup>

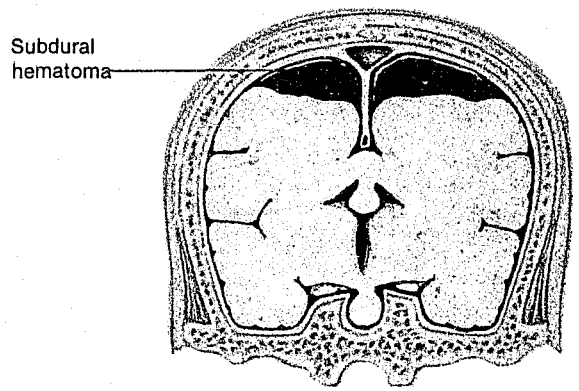
These actions can also cause a skull fracture.

More than 50 percent of children with subdural hematomas have no associated skull fracture, bruising, or swelling over the site of the injury. These cases often are caused by the whiplash shaken infant syndrome or, more commonly, the **shaken baby syndrome**.

The shaken baby syndrome was first documented by Dr. John Caffey in 1974 and was described as "the vigorous manual shaking of infants by the extremities or shoulders with whiplash-induced intracranial bleeding, but with no external signs of head trauma."<sup>48</sup> Infants are especially susceptible to this type of injury during the first 24 months of life because of these developmental characteristics:

1. A soft, flexible skull due to open sutures.
2. A soft, pliable brain, allowing excessive stretching of the brain and blood vessels.
3. A larger, heavier head with weaker neck muscles.

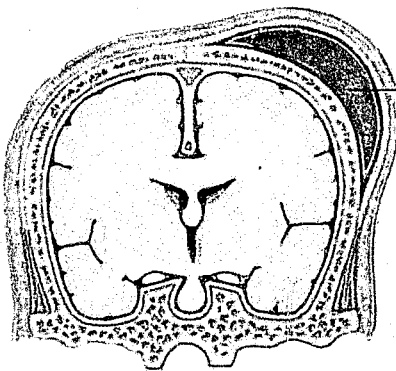
**Figure 12. Subdural hematoma**



Bilateral subdural hematomas, with or without evidence of skull fracture, can occur from head injuries. Seizure or coma may be first clinical sign

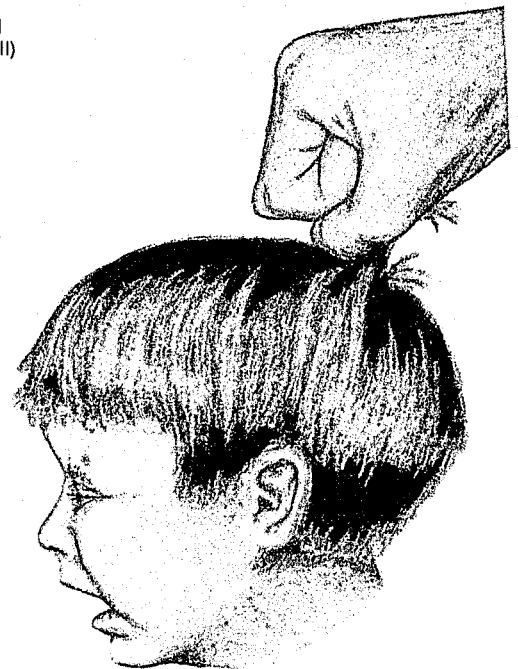
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**Figure 13. Blow to head**



Cephalhematoma (collection of blood between periosteum and bone of skull)

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**Acceleration and deceleration**

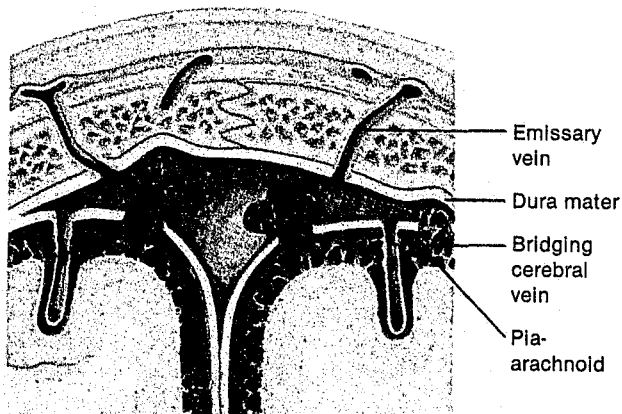
**Violent shaking**

The two-phase cycle of **acceleration and deceleration** causes a flexing of the head during which the chin strikes the chest, followed by the extension of the head back into the spine (see Figure 14). Case history and research support the fact that infants usually are subjected to numerous shaking episodes prior to discovery of an injury. The shaking could take place over a period of days, weeks, or even months.

Children can be seriously injured by a **violent shaking**. The rationale parents often give for shaking an infant are:

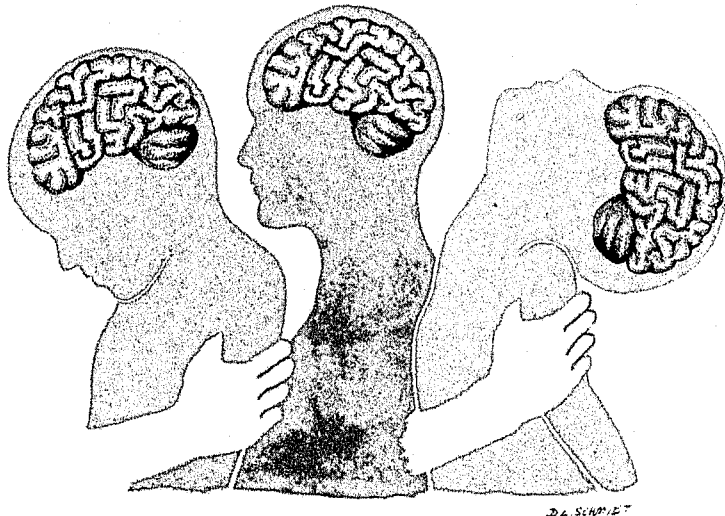
1. As a means of resuscitation.
2. Breathing difficulty.
3. Irritability.
4. Lethargy.
5. Decreased appetite.
6. Vomiting.
7. Crying.

**Figure 14. Shaking**



In children, bridging cerebral veins are poorly supported as they pass through subdural space. Violent shaking may cause vulnerable veins to tear, creating subdural hematoma

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**CT scan**

**Fall from a bed or crib**

**Black eyes**

**"Raccoon eye"**

Doctors and researchers believe that shaking is not disclosed during initial interviews because parents do not associate shaking with subsequent injury to the child. One researcher put it this way:

One has the impression that a good shaking is felt to be socially more acceptable and physically less dangerous than a blow on top of the head or elsewhere.<sup>49</sup>

Confirmation of the diagnosis of shaken baby syndrome has become easier for medical practitioners since the introduction of the **CT scan**, which is also superior to the skull x-ray in diagnosing depressed skull fractures.<sup>50</sup>

Sometimes parents will attempt to attribute serious head injury to an accidental **fall from a bed or crib**. Dr. Ray Helfer reviewed the injuries of 246 children under the age of 5 who fell out of bed, and his findings are presented below.

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### **Injuries to children who fall out of bed**

- 80% No injury.
- 18% Single bruise, lump, or cut.
- 1% Simple linear skull fracture.
- 1% Fresh fracture on collarbone or upper arm.<sup>51</sup>

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The most important finding in this study was that no child sustained a subdural hematoma (see page 26 for a description) or any life-threatening injury from falling out of bed.

### **Facial injuries**

Injuries to the head include damage to the eyes, mouth, teeth, nose, ears, and brain, as well as skull fractures. The child may have been repeatedly struck on the head with any number of common household instruments or by a fist, which could cause any or several of these injuries.

*Eyes.* The child with a black eye may have received the injury accidentally. However, when a child has two **black eyes**, the investigator needs to determine exactly how the child obtained the injuries. It is more logical to assume that assaultive behavior was involved when both eyes have observable soft tissue damage. However, the possibility of the bilateral black eye, or "**raccoon eye**," cannot be ruled out. Bilateral black eyes occur when blood seeps down from an injury on the head into the eyelids. A single blow, produced either accidentally or deliberately, could cause both eyes to blacken. Raccoon eyes are distinguished from direct trauma to the eyes by:

1. Only a small amount of lid swelling.
2. No lid tenderness.
3. Several days' delay in discoloration.
4. "Mirrored image," where both lids look the same.

Another eye injury is retinal hemorrhages; these are present in more than 50 percent of children with subdural hematomas and are difficult for even an experienced physician to diagnose. Also, moderate, habitual shaking (see page 26 for a discussion of shaken baby syndrome) can cause bleeding that gradually affects vision and hearing and may lead to learning difficulties, mental retardation, or cerebral palsy.<sup>52</sup>

<b>Bruising of the scalp</b>
<b>Ear damage</b>
<b>Mouth</b>
<b>Teeth</b>
<b>Nose</b>
<b>Kick or a punch</b>
<b>Visible marks</b>

Other soft tissue injuries on the head and face include **bruising of the scalp** and cauliflower ears. Swelling or damage can be missed easily because hair on the child's head may cover the affected area.

*Ears.* The same is true for **ear damage**. Hair covering the child's external ear areas, even partially, can hide the fact that he or she has been hit repeatedly or pulled by the ears, causing cauliflower ears. Inner ear damage, which is more serious, is almost impossible for the field practitioner to detect. Ruptures and tears produced by blows to the ears could leave a child permanently hearing impaired.

*Mouth.* Inside the mouth are several areas of small folds of skin known as frenula. These are attached to the upper lip, lower lip, and underside of the tongue. When an adult attempts to force objects such as a bottle or spoon into an infant's **mouth**, those strips of skin can be damaged. Direct blows also can cause injury to the frenula. Ordinarily, an infant's frenula are well-protected and should not become damaged unless this area has been deliberately assaulted. (Note: Frenula tears in an older child can be accidental.)

When a child has developed to the stage where **teeth** are present, the investigator should look for the following types of damage if the child has been hit in the area of his or her mouth:

- Luxations**      Teeth that are loosened, but have not fallen out.
- Intrusions**     Teeth that have been forced into the gum or bone line.
- Avulsions**        Teeth that are knocked from their sockets.
- Fractures**        Teeth that are broken or chipped.

*Nose.* The **nose** should be examined for any dried blood or blood clots in the nostrils. Any obvious swelling may indicate the child has a broken nose or a deviated septum.

### **Abdominal injuries**

Abdominal injuries are a common cause of death in battered children. This type of injury usually is caused by a **kick or a punch** from an adult. As with head injuries, the investigator may not know immediately the extent of the injury. Therefore, a medical report is essential to the investigation.

Three common consequences of abdominal injury (see Figure 15) are:

- Compressing**    Punch or kick to abdomen ruptures stomach or colon.
- Crushing**        Organ is compressed against lower rib cage or vertebral column, damaging the kidney, pancreas, spleen, or liver.
- Accelerating**    Child is propelled after being struck or thrown, causing a shearing effect on organs.<sup>53</sup>

This form of injury has at least a 50-percent mortality rate.<sup>54</sup> An abdominal injury may not be obvious to the investigator because more than half of the children with abdominal injuries do not have any **visible marks** or bruises on the stomach area. The energy from the blow is absorbed by the internal organs.<sup>55</sup> The internal organs most commonly injured are the kidney, spleen, intestine, liver, and pancreas. When multiple organ damage occurs, it usually involves the spleen and left kidney.

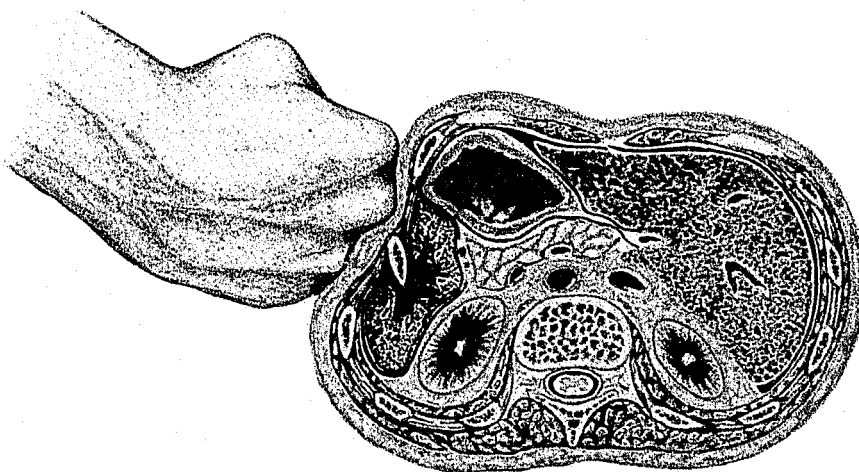
Investigators should consider abdominal injury when any of the following indicators occur:

1. Vomiting (greenish material or blood).
2. Fever.
3. Shock (caused by internal bleeding).
4. Bloody urine.
5. Complaints from the child of stomach ache or other pain.

Any or all of these symptoms may begin within several hours or over a period of several days. If symptoms are persistent and severe, a surgeon may perform exploratory surgery to determine the exact nature and extent of the injury.

### Figure 15. Abdominal injuries

Forceful nonpenetrating trauma to left side of abdomen may result in rib fractures, ruptured spleen, or renal injuries



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### Conclusion

Knowledge of underlying contributors to child abuse and of basic medical information on different types of injuries and how these injuries can be inflicted on a child can be invaluable to an investigator. Knowledge prepares the investigator to be alert to such factors as drug or alcohol abuse by the caretaker, family isolation, unrealistic parental expectations, marital strife, inadequate financial resources, and triggering mechanisms. During an initial assessment of an incident of abuse, the investigator should check that the explanation given by the caretaker is relevant to the location and severity of the child's injury. Once the child receives medical attention and the full extent of his or her injuries is determined and documented by medical professionals, the investigator can begin the process of determining the exact cause and the person(s) responsible.

# Chapter 1: Appendixes

## Physical Child Abuse

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- A. Notes
- B. Developmental characteristics of children
- C. Medical protocol for management of physical abuse
- D. Physical child abuse—investigator's checklist
- E. Child abuse by burning—investigator's checklist

## Appendix A: Notes

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## Appendix B: Developmental characteristics of children\*

Age	Social and emotional abilities	Physical abilities
0 to 12 months	<ol style="list-style-type: none"> <li>1. Cries to protest or make needs known</li> <li>2. Conscious and fearful of strange persons and/or settings</li> <li>3. Knows familiar persons</li> <li>4. Reacts to voice tones, understands some words</li> <li>5. Imitates actions with hands and/or face</li> <li>6. Cannot play with others</li> </ol>	<ol style="list-style-type: none"> <li>1. Progresses from lifting head to kicking and reaching to sitting</li> <li>2. Explores toys and surrounding objects</li> <li>3. Stands and then crawls</li> <li>4. May begin walking</li> <li>5. Begins single word speech</li> <li>6. Birth weight               <ul style="list-style-type: none"> <li>—Doubles in first 6 months</li> <li>—Triples in first 12 months</li> </ul> </li> </ol>
12 to 24 months	<ol style="list-style-type: none"> <li>1. Responds to simple questions by pointing and jabbering</li> <li>2. Seeks approval/affection/attention</li> <li>3. Gives some affection</li> <li>4. Plays independently</li> <li>5. May resist parents' wishes</li> <li>6. Cannot follow household rules</li> <li>7. Loves rough-house play and chasing games</li> <li>8. Trusts parents—invests in them magical abilities</li> </ol>	<ol style="list-style-type: none"> <li>1. Listens to others speaking; understands more than can speak</li> <li>2. Sings</li> <li>3. Rapid growth</li> <li>4. Progresses through walking, running, jumping</li> <li>5. Develops bowel control (toilet training)</li> <li>6. Identifies body parts and functions</li> <li>7. Finger dexterity improves—zippers</li> <li>8. Throws objects</li> </ol>
2 to 3 years	<ol style="list-style-type: none"> <li>1. Follows simple commands</li> <li>2. Increasing interest in TV and radio—uses everyday words</li> <li>3. Enjoys rhymes and counting</li> <li>4. Starting to share and play with others</li> <li>5. Separates from parents easily</li> <li>6. Uses imagination and dramatic role play</li> <li>7. Begins to adhere to safety and health rules</li> </ol>	<ol style="list-style-type: none"> <li>1. Drops baby talk</li> <li>2. Can string beads, do buttons</li> <li>3. Can pedal a tricycle</li> <li>4. Tumbles, dances, balances</li> <li>5. Feeds self</li> <li>6. Draws some shapes and objects</li> </ol>

\*Child Abuse and Neglect: Reference Manual and Trainer's Guide. 1983. New York State Police.

## Appendix B: Developmental characteristics of children (continued)

Age	Social and emotional abilities	Physical abilities
3 to 4 years	<ol style="list-style-type: none"> <li>1. Begins using complete sentences to indicate needs (verbal skills may imply better comprehension than actually exists)</li> <li>2. Plays with others, more able to share</li> <li>3. Can control emotions</li> <li>4. Shows affection and concern for adults, younger children, and animals</li> </ol>	<ol style="list-style-type: none"> <li>1. Draws simple persons—more identifiable shapes</li> <li>2. Climbs, tumbles, balances</li> <li>3. Takes apart and reassembles toys</li> <li>4. Dresses self</li> </ol>
4 to 5 years	<ol style="list-style-type: none"> <li>1. Participates in group play</li> <li>2. Accepts some chores and supervision</li> <li>3. Knows right and wrong</li> <li>4. Takes some responsibility for self</li> <li>5. Enjoys being silly and teasing</li> <li>6. Understands concept of sizes</li> <li>7. Curious about the outside world</li> <li>8. Relates to seasonal changes, weather, and time in a personal manner</li> <li>9. Accepts connections between events, but does not understand causality</li> </ol>	<ol style="list-style-type: none"> <li>1. Plays sports, accurate with a bat</li> <li>2. Improved eye-hand coordination</li> <li>3. Identifies words, pictures and letters</li> <li>4. Copies letters and numbers, writes down name</li> <li>5. Develops interest in stories and TV drama</li> <li>6. Dresses and bathes self</li> <li>7. Knows left and right</li> <li>8. Draws accurately</li> <li>9. Counts to 20 or more</li> </ol>
5 to 6 years	<ol style="list-style-type: none"> <li>1. Identifies with parent's ideas, goals, and behavior</li> <li>2. Begins to compete</li> <li>3. Relates stories and events well</li> <li>4. States feelings about self and others</li> </ol>	<ol style="list-style-type: none"> <li>1. Clear speech, can carry on conversations</li> <li>2. Very active physically</li> <li>3. Begins reading</li> </ol>
6 to 8 years	<ol style="list-style-type: none"> <li>1. Dawdles, easily distracted</li> <li>2. Uses phone well</li> <li>3. Boys and girls play together</li> </ol>	<ol style="list-style-type: none"> <li>1. Gets permanent teeth</li> <li>2. Usually running, jumping, chasing</li> <li>3. Adds 3 to 5 pounds a year</li> </ol>

## Appendix B: Developmental characteristics of children (continued)

Age	Social and emotional abilities	Physical abilities
6 to 8 years (continued)	<ol style="list-style-type: none"> <li>4. Curious about differences in sex and where babies come from</li> <li>5. Teachers' opinions are very important</li> <li>6. A lot of name calling and vulgar language</li> <li>7. Likes dramatic play—role playing</li> </ol>	<ol style="list-style-type: none"> <li>4. Able to tell time, day of the week, and month</li> </ol>
8 to 9 years	<ol style="list-style-type: none"> <li>1. Develops modesty due to social pressure</li> <li>2. Enjoys being in a group, but doesn't engage in real teamwork</li> <li>3. Recognizes property rights</li> <li>4. Sense of humor obvious</li> </ol>	<ol style="list-style-type: none"> <li>1. Ability to write progresses</li> <li>2. Has approximately 10 permanent teeth</li> <li>3. Likes games of coordination (hitting, catching balls)</li> <li>4. Can swim, bicycle, and rollerskate</li> <li>5. Reads funnies and comics</li> <li>6. Likes different people/places (American Indians, jungles, etc.)</li> </ol>
9 to 10 years	<ol style="list-style-type: none"> <li>1. Few fears</li> <li>2. Sex differences in play obvious</li> <li>3. Has interests in club/gang activities</li> <li>4. Spends time away from home—at camp, school, friends</li> </ol>	<ol style="list-style-type: none"> <li>1. Slower, sporadic growth</li> <li>2. Requires more sleep and rest</li> <li>3. Reading comprehension increases</li> <li>4. Interest in how things are made, science, nature and mechanics</li> </ol>
10 to 12 years	<ol style="list-style-type: none"> <li>1. Teamwork begins in organized games, teams, clubs, and groups</li> <li>2. Privacy is more important</li> <li>3. Shyness may develop</li> <li>4. More complicated thinking—interested in facts primarily</li> <li>5. Plans ahead</li> <li>6. Criticizes own efforts</li> <li>7. Understands human reproduction</li> <li>8. Willing to work to earn money</li> </ol>	<ol style="list-style-type: none"> <li>1. Girls increase in weight</li> <li>2. Boys increase in physical strength</li> <li>3. Diligently perfects physical skills</li> <li>4. Likes hazardous activities</li> </ol>

## Appendix C: Medical protocol for management of physical abuse\*

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1. See child abuse and neglect patients immediately.
2. Maintain a helping approach toward patients.
3. Hospitalize selected cases.
4. Elicit a detailed history of the injury.
5. Perform a thorough physical examination.
6. Order bone x-rays on selected cases.
7. Order a bleeding disorder screen on selected cases.
8. Request a child protection team (CPT) pediatric consultation on difficult cases.
9. Request a CPT social worker consultation on selected cases.
10. Complete an official written report of the physical abuse within 48 hours.
11. Provide for a followup appointment.

Whenever a victim of physical child abuse is taken to a hospital or clinic, the above protocol should be followed. In cases of child abuse involving children under the age of 5, x-rays should always be ordered.

The bleeding disorder screen will prove valuable in situations where the parent alleges the child is an "easy bruiser" or has a medical problem.

\**Guidelines for the Hospital and Clinic, Management of Child Abuse and Neglect*. Washington, D.C.: National Center on Child Abuse and Neglect, pp. IV2-IV7.

## Appendix D: Physical child abuse— investigator's checklist

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1. What causation factor(s) are present?
2. What type of trigger mechanisms contributed to the crisis?
3. What are the age and developmental skills of the child?
4. Is the child a target child?
5. Was any delay in treatment or hospital shopping involved?
6. What are the location, configuration, and distribution of the soft-tissue injuries?
7. Do the injuries appear to have been caused by a hand, or a fixed or flexible household item?
8. Are multiple resolving injuries present?
9. Are the injuries within the primary target zone and on more than one leading edge of the body?
10. Is there an identifiable angle of attack?
11. Are there any defense or control-type injuries present?
12. Was a careful check made for the presence of visible injuries on the head, mouth, ears, and nose?

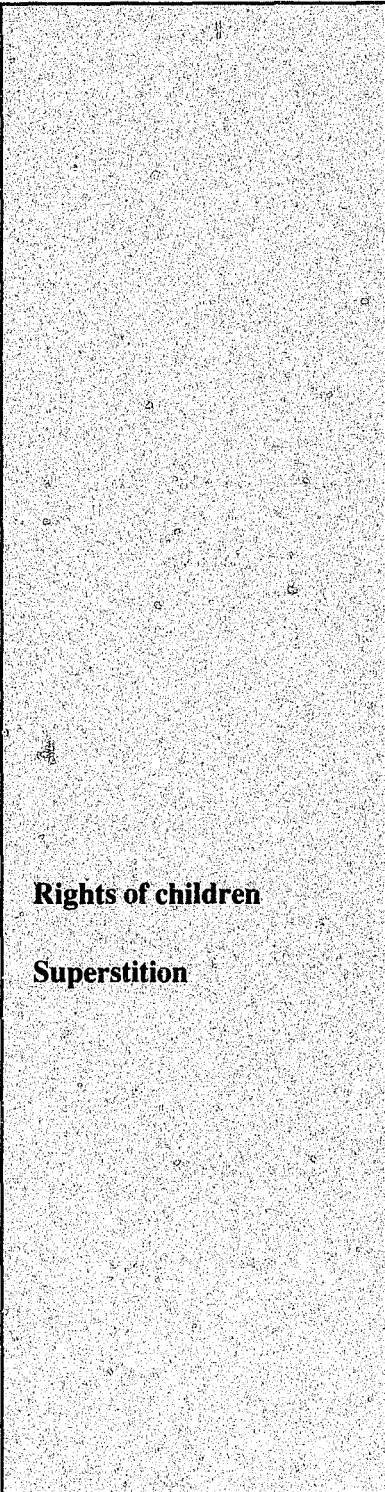
## **Appendix E: Child abuse by burning— investigator's checklist**

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1. Is the burn a wet or dry burn?
2. Where is the burn located on the child's body?
3. Have you considered the 10 suspicion index factors?
4. Is toilet training an issue?
5. How serious is the burn?
6. If the burn was produced by a hot liquid, was the child dipped or fully immersed?
7. What does the line of immersion look like?
8. Are there any splash burns present?
9. Was the child in a state of flexion?
10. How symmetrical are the lines of immersion if stocking or glove burns are present?
11. Have you checked the hot water heater for size, normal functioning, and temperature?
12. If the burn appears to have been caused by a dry source of heat, what is the shape of the burn?
13. Have you recorded information concerning the child's height, location of fixtures, etc.?
14. Where was the primary care provider at the time of the incident?

**Incest and  
Intrafamilial Abuse**

# Chapter 2: Incest and Intrafamilial Abuse



**Rights of children**

**Superstition**

## Introduction

The *New Scholastic Dictionary of American English* defines incest as “a sexual relationship between persons so closely related that their marriage is forbidden by law.”<sup>1</sup> The National Center on Child Abuse and Neglect uses the term “intrafamilial sexual abuse” and defines that term as “sexual abuse that is perpetrated on a child by a member of the child’s family group.”<sup>2</sup> As can be seen by the two definitions, the emphasis on marriage in defining incest means that in some States, relatives would be guilty of incest, just for getting married. In the United States, the term “incest” has been defined as a criminal act as opposed to intrafamilial sexual abuse, which is defined as a type of family child abuse. In the past, the emphasis on this crime prohibited only intercourse. It is only in the last decade that this crime has been broadened to include fondling, rubbing one’s genitals against a child, or any penetration of the child or offender.

Intrafamilial abusers can be:

1. A biological father or stepfather.
2. A biological mother or stepmother.
3. A biological or nonbiological sibling.
4. Another family member from the biological or nuclear family, such as a grandparent, uncle, aunt, boyfriend, girlfriend, or cousin.

## History of incest

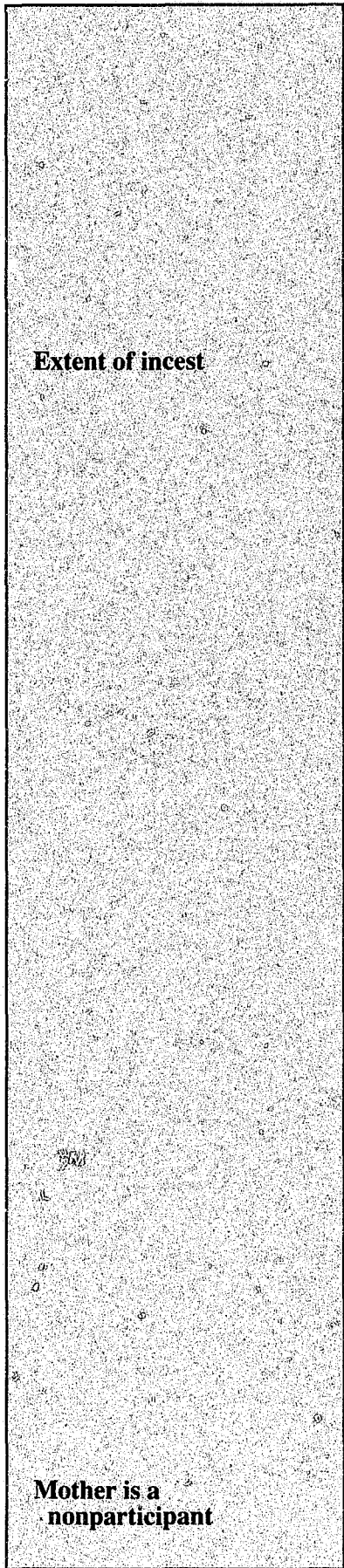
Early incest laws and cultural prohibitions historically were concerned only with preventing people related by close blood ties from marrying one another. It is only recently that the **rights of children**, who have been sexually abused by family members, has been raised as an issue.

**Superstition**, which abounded in earlier cultures, proved to be one effective means by which to hold incest at bay. It is known, for instance, that even those individuals in very early cultures believed that “inbreeding” would make survival of their clan less likely, with defective offspring resulting from intercourse between father and daughter, mother and son, or brother and sister.<sup>3</sup> A superstition among early French peasants held that marriage between first cousins would cause crop failures or epidemics among the flocks.

In cultures where the head of the church was also king of the country, incest was labeled a sin. Christianity held that individuals could marry no one closer than a 32nd cousin.<sup>4</sup> The Church of England in its *Table of Kindred and Affinity*<sup>5</sup> determined those individuals who were prohibited from marrying.

In later societies, having sex with a child was identified as a criminal act. In England, circa 1832, the crime of having sex with a child was called statutory rape. Statutory rape was defined as having sex with a person under 10 years of age. An automatic defense to this crime was proof that the sex act





Extent of incest

Mother is a nonparticipant

took place after the child's 10th birthday.<sup>6</sup> In England today, the crime of incest, which is defined as having sex with an immediate family member who is under the age of 16, is identified as a misdemeanor crime. In the United States, we no longer take action against incest using civil or religious codes. Since the early 1960's, incest has been identified as a form of child abuse and the criminal act of having sex with an underage family member. Each of the States has defined this criminal act based on the age of the offender, the age of the child, and the offender's relationship to the child. Unfortunately, there are still some parents who appear to believe that this type of behavior should continue to be "private family business."

### Characteristics of incestuous families

The actual extent of incest in American society is unknown. Surveys in California and Massachusetts in the 1980's found that as many as one in five girls and one in seven boys under the age of 18 had been sexually abused by a relative, anyone from a father to a mother to an inlaw.<sup>7</sup>

Incest is found in families at all socioeconomic levels and with varying outward appearances—from an average family, well respected and involved in community activities, to a poverty-level, troubled family.

An even greater incidence of incest would undoubtedly be recorded if it were not for the veil of secrecy surrounding incest. The incest abuser often promises love and affection to the victim, with a message, often stated, that the child is the most loved of all the children in the family. The incestuous activity is a "secret" shared only by the abuser and the victim, and no one will ever know about their "special relationship."

Children of all ages are sexually abused. Cases are on record of children no more than several weeks old being abused within the family. In some cases, every child within the family is sexually abused regardless of gender; in other cases, the abuse is limited to boys only or girls only.

### Abusive fathers

When the father figure (the biological father, stepfather, or custodial father) is the abuser, he generally fits one of the following profiles:<sup>8</sup>

1. *Introvert.* This abuser, while outwardly appearing very protective of his family, often uses protectiveness as an excuse to essentially isolate the family from society. He distrusts anyone outside the family and believes that the younger family members are his exclusive property to do with as he wishes.
2. *Rationalizer.* Often using grandiose words to justify an incestuous relationship with his child, this abuser may insist that sexual activity with his child is the only way he can show him or her the "highest form of love." If the victim is a girl, the abuser often refers to her as "daddy's little girl." He may rationalize the abuse by calling it sex education. In some cases, he intends even to impregnate his daughter because no one else "deserves" to father her child.
3. *Authoritarian (tyrant).* These individuals often are alcoholics or battering husbands. The father "rules" the family and enforces strict discipline. The child is bullied into having sex by the macho attitude of the abuser. In most cases, this type of abuse takes place in the home.

In many sexual abuse cases where the father or stepfather is the abuser and the mother is a nonparticipant, the mother may fit into one of three profiles. A situation may exist where it appears that the mother wants the fe-

### Mother abusers

### Sibling abusers

### Indicators

male child to take over the mother's role as the family's "matriarch." This mother—though she may appear to be competent as a mother—will be distant with her children and will feel a sense of relief when the daughter assumes the mother's role.<sup>9</sup> In other scenarios, the mother may be dependent economically on the father and afraid to assert herself by acting to protect her daughter. Or, the mother may be viewed by the child as rejecting and vindictive.<sup>10</sup> She might tell her child that "the abuse is your fault" or "that is just part of growing up." When interviewed by an investigator, this mother-type often will be found to have been abused as a child.

**Mother abusers** often rationalize their behavior as a way to teach sex education or to keep a child at home and away from outside interests. With a male victim, these often single-parent mothers frequently tell the child that he is "the man of the house" and it is the son's role to take care of the mother's economic and sexual needs.

**Sibling abusers** may get involved in incestuous sexual activity because they are curious or shy with others their own age. These abusers may choose their child victims based upon a potential victim's perceived vulnerability. Other children may become sexual abusers because they wish to intimidate their child victims by force. Oftentimes, an interview reveals that these abusive children also were victims of sexual abuse.

## Indicators of sexual abuse

The following are some **indicators** which may help to signal the occurrence of an abusive situation.<sup>11</sup>

1. *Fear of being around or alone with certain adults.* Sexually abused children may try to deal with an abusive situation themselves by attempting to stay away from the abuser. If it is observed that they cry or scream, soil their clothes, or feign sickness around certain individuals, it may be an indication that the child is being abused sexually. (However, abused children often do not exhibit the "typical" developmental stage of shyness.)
2. *Extreme repulsion or fear when being touched.* Sexually abused children often attach sexual significance to being touched by an adult. The investigator should never touch a child abuse victim on the hand or shoulder without first asking the child's permission. This allows the child to have control of a situation involving touching by an adult, perhaps for the first time in his or her life.
3. *Age-inappropriate knowledge of sexual matters.* Children who have been sexually abused may have detailed knowledge of sexual matters that are inappropriate to their age. A suspected abuser may tell the investigator during an interview that the child learned about sex from another source, such as an x-rated video, magazine, or cable station.
4. *Overt sexual acting out with adults.* Children who have been sexually abused often think that all adults like to be treated in a sexual manner. This is a result of conditioning by their abuser.
5. *Simulation of sophisticated sexual activity.* Children who have been sexually abused may be observed simulating sexual acts on other children while at school or at play.
6. *Bruises or "hickeys."* Abused children may have bruises or hickey-type marks on their faces or necks. These injuries or skin discolorations sometimes can be observed in suspect areas, such as the child's groin or buttocks.

7. *Public masturbation.* In some cases, very young female victims may be observed masturbating in environments such as the classroom.
8. *Self-mutilation.* Children who have been sexually abused may attempt to stop the abuse by not taking a shower or a bath, thinking that perhaps the smell of body odor will stop the abuser. Other sexually abused children have been known to use razor blades or knives to cut areas of their bodies such as breasts, buttocks, or groin. In some cases, sexually abused children even attempt suicide.
9. *Fear of bathroom or shower.* As part of the sexual abuse seduction process, the abuser may use the bathroom or shower as a place where the child's inhibitions can be lowered. In this way, the abuser can "help" the victim undress, dry the child with a towel, or help him or her dress, while inappropriately touching the child's body.
10. *Violence toward younger children.* Children who have been sexually abused may react violently toward younger children, generally in two distinct ways: the abused child may experience a personality change wherein he or she changes from a relaxed individual to one who will fight violently with everyone he or she encounters; or, the child may begin to sexually abuse other children.

Other possible indicators of child sexual abuse, such as prostitution and runaway behavior, problems relating to others, low self-esteem, problems in the school and community, mental health problems, and delinquency all are evidence of the very real dangers to children who are the victims of sexual child abuse.

### **Incest cycle of abuse—a scenario**

Although each incest case is unique, like patterns have been found in cases where one or both parents suffered incest as a child. Accordingly, sexual abuse of children has been found in some cases to be a generational phenomenon. Therapists involved in treatment programs with abusive adults advise that sexual abusers of children are very likely to have been abused themselves as children. It may be helpful for the investigator to examine the studies of Beverly James and Maria Nasjlets, who describe specific steps they have concluded make up a progressive scenario that leads eventually to intrafamilial sexual abuse.<sup>12</sup> Eventually, the abused child, as an adult, is likely to repeat a similar scenario. When this happens, the cycle of abuse continues into the next generation.

*Marriage.* The cycle of abuse begins with two adults who, for one reason or another, marry. In the case of this abusive cycle, the wife was deprived of affection as a child; she longed for closeness with her parents but instead got a sexual response from her father, while her mother pulled away physically and emotionally. As an adult, this woman blocked herself from feeling affection for men because she knew that closeness got a sexual response. From the outside, it appears that these two people are living traditional roles, with the woman being the model wife. In fact, this is not true because although there is not physical isolation, there is **emotional isolation** in this marriage.

*Baby girl.* At this point, the wife maintains the belief that a baby will provide the marriage with love and tenderness. The baby is perceived as a way to meet the wife's needs that were never satisfied when she was a child. A baby is a person to be trusted. A baby will not ridicule or exploit the mother/wife. From watching other mothers and their children, the wife knows that a baby will increase her **self-esteem**.

*Toddler.* The mother in this potentially abusive cycle **begins to withdraw** physically from the female child when the child becomes a toddler. The

**A scenario**

**Emotional isolation**

**Self-esteem**

**Mother withdraws  
from child**

**Father begins to seduce child**

**Child tries to stop the abuse**

**Triggering mechanism**

mother feels uncomfortable touching the toddler because touching, for the mother, has a sexual connotation. The mother may or may not realize that this is the same stage of development where her mother pulled away from her. As the mother pulls away from the child, sexual activity with the husband also will diminish within the marriage. The husband begins to feel less manly, becomes angry, and, because he does not understand the underlying problems, begins to silently blame the wife for ruining the marriage.

*Preschooler.* Sexual abuse of the child in this cycle often begins when the child is 4 to 5 years of age. Children love adult attention and games and are seduced easily by someone they have learned to trust. The **seduction** begins slowly with fondling and extends to oral copulation, all under the guise of something special. This specialness is sometimes negative, and the child will try harder to please the father. If the specialness is positive, this may build resentment against the child by other family members, resulting in the child trying even harder to please the father.

*School-age child.* As the child reaches school age, she learns that sex is something that you nervously giggle about and that sex with a parent does not happen to other kids. The early specialness that was seen in the relationship with the father begins to lose its power. As the power diminishes, the father, out of fear, attempts to isolate the child. The father tells the daughter that if she resists, he will begin having sex with a younger brother or sister, although he may be doing this already.

*Roles become confused.* At this point the roles in the family are very confused. The father is the authority figure for the child but also is the child's lover. The child has some power as a lover but must obey as a child. The child is Mom's confidant and is responsible for making Mom feel better, but in their outside relationship it must appear as if Mom is in charge. Because of the confused roles within the family, the child becomes alienated from the other siblings.

*Role reversal.* As the mother withdraws from the child, the child begins to comfort the mother and take over some of the mother's roles, such as cooking and cleaning. At 5 p.m., when Dad comes home from work, it is the child who greets him at the door and gets him a newspaper or a drink. The father then begins to turn to the child for companionship and tenderness. As the mother continues to become distant in her relationship with the father, the father grows more seductive with the child.

*Breakdown.* At this point the child begins making excuses to the father, **trying to stop the abuse**. The father responds with money, toys, or extra privileges. The father also reminds the child that the abuse is her fault, and the mother would be destroyed if she became aware of the abuse. The child's isolation and shame increases. Resentment against the mother often builds, especially when the child begins to leave items for the mother to find, such as condoms and semen-laden clothing or sheets.

*Adolescent child.* At this age the child becomes more aware of the exploitation because full intercourse now puts more pressure on her. The child at this stage may make an outcry about the abuse to the mother. Although the mother may believe the child initially, the mother, in this cycle, can offer only advice to the child, such as locking her bedroom door at night. The mother knows all too well what the child is going through because, in many cases, the mother was abused as a child. The child then will become embittered against her mother for the rejection.

*Disclosure.* At this point, some **triggering mechanism** may cause disclosure of the abuse. It may be simply a power struggle about curfew between the daughter and father that will precipitate the abuse outcry. In other cases, the child, although not streetwise, will run away from home in an attempt to stop the abuse. When the child is picked up by the police, she becomes

## Confrontation

Fearful, tentative, and confused

terrified about returning to the home and will attempt to deal with the police by making an outcry about the abuse, although minimizing the actual facts of the abuse.

*Parents' reactions.* The parents then are **confronted** by the police about the abuse. In some cases, the father will tell the police that the abuse could have happened, but he was drunk and mistook his daughter for his wife. In private, the father will admit to the wife that the abuse occurred one or two times. The father then will explain his actions by saying "she seduced me" or "she wanted it." Initially the mother supports the daughter, but within 2 weeks she begins to minimize the abuse by focusing on special treatment given the child. The emotional pull on the child at this point is to care only for the mother's needs.

*Child's reaction.* The child believes that everything happening to the family and to herself is happening because she came forward and told. The child is frightened and often will feel that she let down everyone in the family. Guilt and shame will increase, although the child will attempt to hide these feelings. Uppermost in the child's mind is to return to the family home and comfort mom.

*Result of incest.* The child's confused sexual identity, feelings of shame, and low self-esteem lead her to choose partners who feel generally the same. On the outside, they look good and competent. They desperately want to have a family, so they marry, often starting the cycle of abuse again.

## Child sexual abuse accommodation syndrome

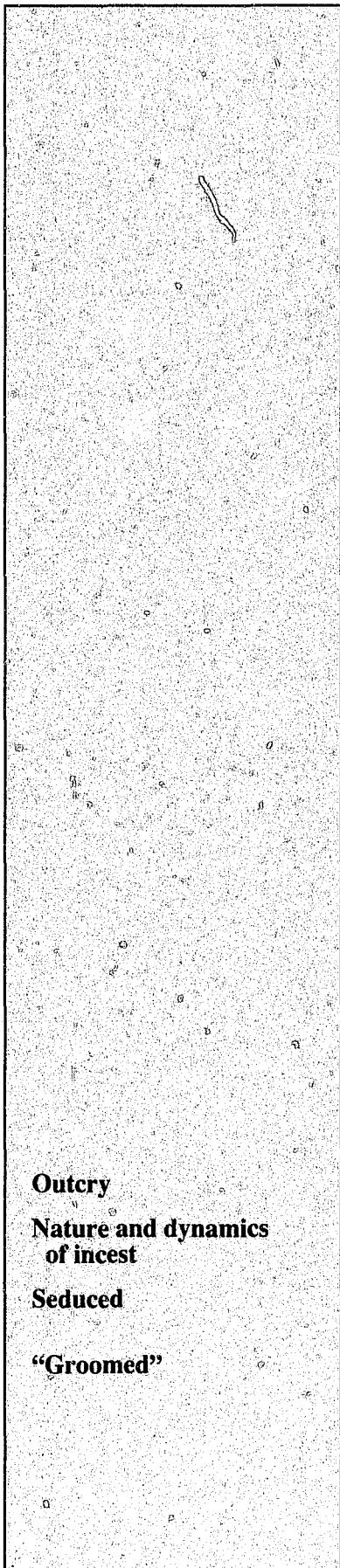
The child sexual abuse accommodation syndrome is derived from the collective experience of Dr. Roland C. Summit and from dozens of sexual abuse treatment centers.<sup>13</sup> After reviewing the categories of the syndrome, the investigator will discover that a victim, either male or female, rather than being calculating or practiced, is most often found to be **fearful, tentative, and confused** about the nature of the continuing sexual experience and the outcome of disclosure. (For the sake of brevity and clarity, the syndrome is presented here as it would apply to the typical female victim.)

The syndrome includes five categories, two of which are preconditions to the occurrence of sexual abuse. The remaining three categories are sequential contingencies that take on increasing variability and complexity. While it can be shown that each category reflects a compelling reality for the victim, each category also represents a contradiction to the most common assumptions of adults. The five categories of the syndrome are:

1. *Secrecy.* No child is prepared for sexual abuse by a trusted adult. The child victim, suffering from self-blame that may be reinforced daily by the offender, is dependent entirely on the offender for whatever reality is assigned to the sexual abuse situation. Because the offender is terrified that the child will reveal the abusive behavior, the child is sworn to secrecy by first making "special" promises and then by using threats as the child gets older. During the sexual abuse, the only consistent and meaningful impression the child gains from the offender is one of danger and a fearful outcome if the secret is ever told.

In the event that the child attempts to talk about the abuse, most adults, even close family members, will respond with silence or disbelief. The average child never tells. Unless the child can share the secret and experience a nonpunitive response to the disclosure, the child may spend a lifetime of self-imposed exile from intimacy, trust, and self-validation.

2. *Helplessness.* Children are given permission to avoid the affection of strangers but are required to be obedient and affectionate with any adult



Outcry

Nature and dynamics  
of incest

Seduced

"Groomed"

entrusted with their care. No child has the power to say "no" to a parental figure, but like the adult victim of rape, the child is expected to forcibly resist, cry for help, or to simply escape. By using that standard, every child victim fails.

3. *Entrapment and accommodation.* Typically, sexual abuse is not a one-time occurrence. The child victim finds that there is no way out of the situation and nowhere to run. The healthy, normal child will learn to simply accommodate the continuing abuse.

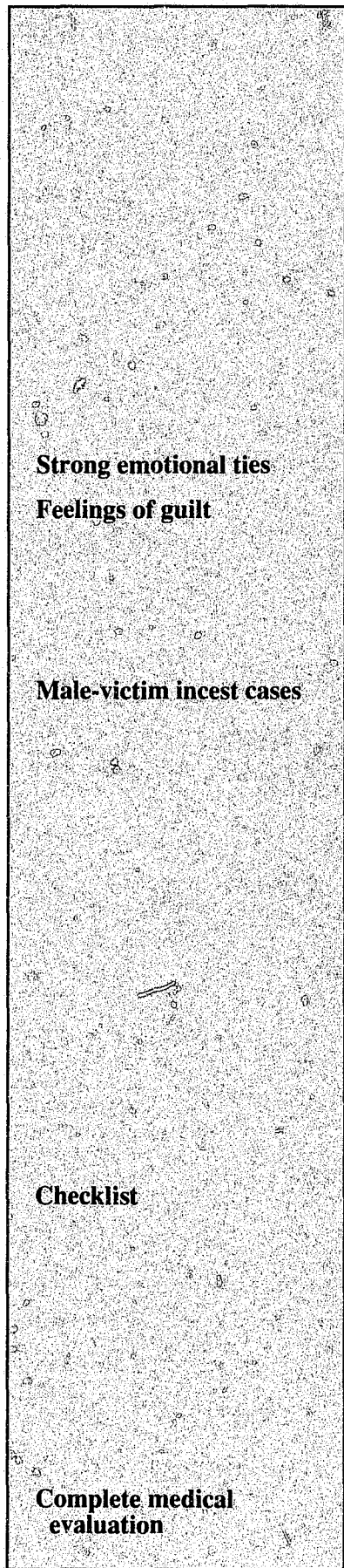
In a classic role reversal scenario often found to occur in situations of child abuse, the child is given the "power" to destroy the family and the "responsibility" to keep the family together. The offender offers a "reward"—if the child keeps the secret, she can protect her siblings from involvement in the abuse. Also during role reversal, in addition to the abuse, the victim often must assume many of the functions ordinarily performed by the mother.

To deal with a situation of role reversal and sexual abuse, the victim may structure her own reality. She may turn to imaginary companions for reassurance and may develop multiple personalities, assigning specific feelings to the various personalities. The victim also may discover altered states of consciousness to shut off pain or disassociate herself from her body. Often, these different states will lead to self-destruction by a reinforcement of self-hate.

4. *Delayed, conflicted, and unconvincing disclosure.* Most ongoing sexual abuse is never disclosed outside the family unit. Disclosure usually is an outgrowth of overwhelming family conflict, incidental discovery by a third party, or community education. In addition, if the complaining child appears unreliable or does not exhibit anger, his or her behavior may be misinterpreted to mean that the abuse did not happen or that the child was not harmed.
5. *Retraction.* Following a disclosure of abuse, the information that the child has related to the authorities is often retracted. Following the outcry, the child will discover that her father's threats about his going to jail and protective custody are very real. With disclosure, the father abandons the child and calls her a liar. The mother often does not believe the child or acts out in rage against her. Unless there is immediate counseling intervention and the blame is directed to the abuser, the child will often retract her statements.

## Investigation

To understand why a child abuse victim does not come forward readily and make an outcry about being sexually abused, the investigator needs to understand the **nature and dynamics of incest**. The abuser essentially has **seduced** the child victim. Children can be ideal victims of a sexually abusive family member because they are relatively helpless and dependent on the older family members within their family unit. The abuser may have partial or full access to the child and the seduction process may take from months to several years to complete. A younger child may view incest as a natural part of life. Very young children have been known to be "**groomed**" by the abuser. This grooming process involves a sequence of events, including physical closeness and touching. The physical contact may be perceived even as pleasant by the younger child; however, these sensations usually are accompanied by curiosity, puzzlement, and fear. The incestuous family member, in most cases, is patient while leading the child victim through various stages of sexual activity. The process often begins with the abuser



**Strong emotional ties**

**Feelings of guilt**

**Male-victim incest cases**

**Checklist**

**Complete medical  
evaluation**

fondling the child or forcing the child to perform masturbation. These initial acts may lead to forced acts of mutual masturbation between the abuser and the child. This often progresses to oral sexual acts, intercourse, or sodomy with the abuser.

Because they are too young and inexperienced to evaluate what is appropriate behavior within the family, children particularly are susceptible to a family member who might choose, for whatever reason, to sexually abuse them. Because the child has little basis for comparison, he or she can form the impression that what is happening is "normal." This impression may be reinforced constantly by the abuser, who in most cases, implies that the child is in some way responsible for what is occurring. It may not be until the child matures and learns from external sources that the behavior is unacceptable and is looked upon as exploitative and abnormal by society as a whole. At this point, the child may begin to experience shame and guilt and believe that he or she is at fault or shares responsibility for what has occurred.

An investigation of incest always should focus on the entire family. Disclosure by an abused child can be complicated if he or she has **strong emotional ties** to the abuser or oppressive **feelings of guilt** about harming the family if he or she tells. Experience has shown that some victims remain silent and comply with the abuse in a misguided effort to protect younger family members from abuse. This belief often comes from the father's attempts to convince the oldest daughter that if she cooperates with him, he will not make advances toward her younger sisters. In reality, the father may be sexually abusing each of his daughters simultaneously.

**Male-victim incest cases** can be more difficult than female-victim cases to investigate. A number of factors need to be considered when an investigation indicates that a male child or children were targeted. The first obstacle to overcome will be the child's possible lack of cooperation. If he was abused by a male, he may question his own sexuality. He probably will not report the assault because he feels a loss of masculinity. He also may fear being labeled a "sissy" or "gay" by his peers. All these factors should be considered, along with the child's fear of not being believed.

## Medical examination

In all investigations of child sexual abuse, a medical examination should be performed on the child by a physician who has expertise in this area. This exam should identify not only any acute trauma, but also chronic, physical indicators of sexual abuse. The investigator must be aware that not all physicians are trained sufficiently to perform a sexual abuse examination on a child. Because of this, the investigator must know which physician will be performing the examination. To determine a physician's expertise in the area of child sexual abuse, the investigator can present the physician with a protocol or **checklist** of items that the physician must address during an examination. One example is the "Checklist of Medical Examination and Laboratory Tests for Sexually Abused Children," which was developed by the Cook County State's Attorney's Child Advocacy Advisory Board<sup>14</sup> and adapted for a report by the Cook County Sheriff's Police Department.<sup>15</sup> (See Appendix B.) If the physician indicates that he or she is unable or unwilling to examine all of the areas on the checklist, this may indicate the physician's lack of expertise.

Depending on the jurisdiction, the medical examination is performed before or after the interview with the child victim. Because child abuse victims often are embarrassed to tell an investigator the details of a sexual assault, even if the child alleges "only" that he or she was fondled, a sexual abuse medical examination should be completed. The physician should begin by conducting a **complete medical evaluation** of the child and noting any

**Examination of male genitalia**

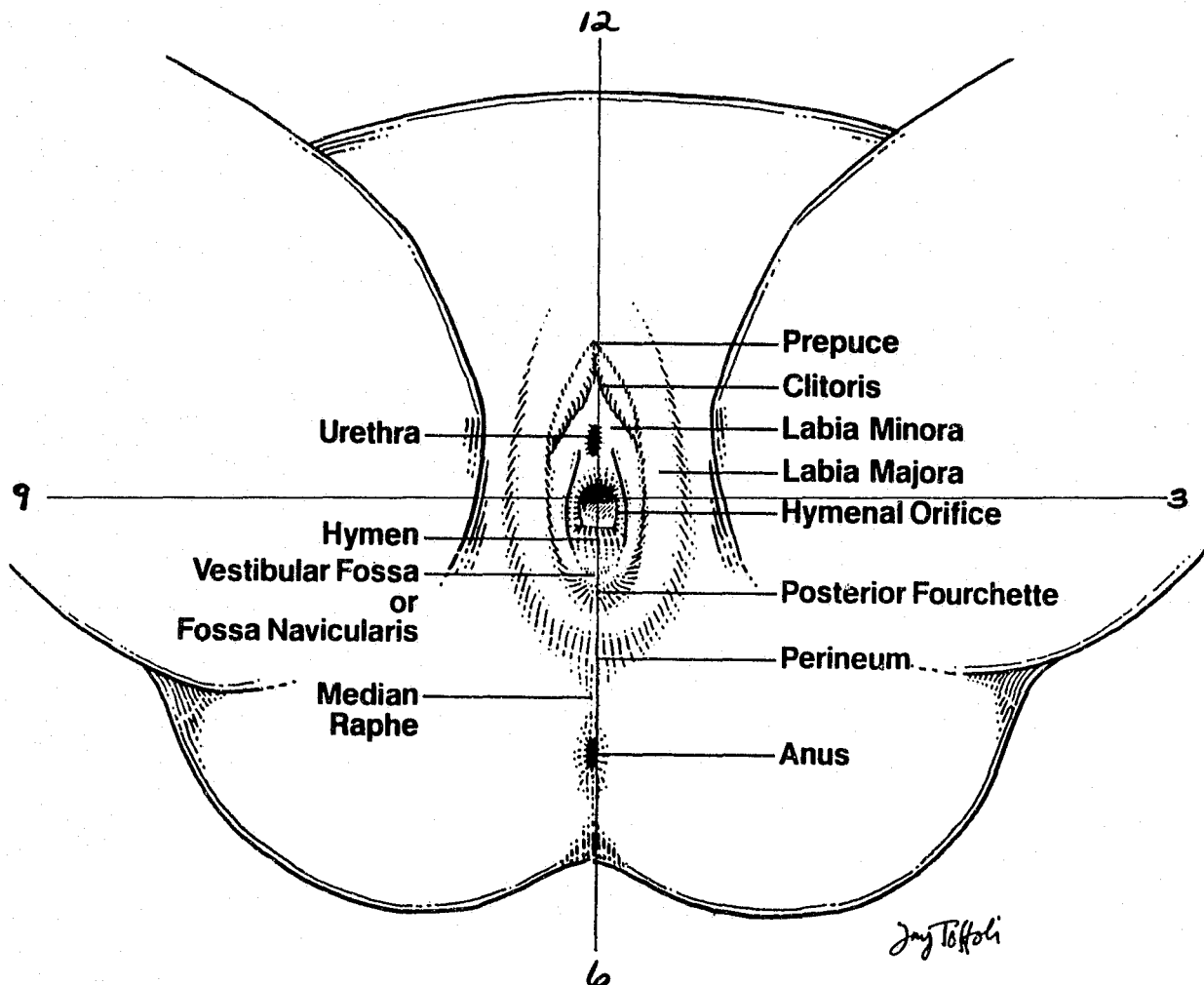
**Female child sexual abuse examination**

injuries. The degree and extent of sexual abuse soft tissue injuries will depend, in many cases, on the size and age of the child and if lubricants were used by the abuser. The investigator also needs to be aware that any statements the child makes to the physician during the examination can be used in most jurisdictions in the physician's court testimony.

In an **examination of male genitalia**, the penis should be examined to determine if there is any discharge, lacerations, erythema (redness), unusual tenderness, or lesions (abnormal tissue formations). The testicles should be examined for bruises, tenderness, lesions, and abnormal marks.

During a **female child sexual abuse examination**, the physician should identify the child's position during the examination. Most physicians use the face of clock for a descriptive correlation of injury locations. The clitoral hood usually is described as at the 12 o'clock position. The midline raphe, the area between the posterior fourchette and the anus, is at the 6 o'clock position. An imaginary line between the 3 o'clock and 9 o'clock position bisects the hymenal orifice (see drawing below of female genitalia). Fondling injuries most often occur above the 3 o'clock to 9 o'clock position. Penile penetration injuries most often involve the posterior fourchette and the hymen between the 4 o'clock and 8 o'clock position. The 6 o'clock position is the single most frequent location of penile trauma.<sup>16</sup> Masturbation or tampon insertion does not produce abrasions, lacerations, or contusions.

**Figure 1. Female genitalia<sup>17</sup>**







**Anal findings**

The physician should examine the labia for bruises, internal or external erythema and abrasions, and adhesions. The vagina should be examined and the physician should note any discharge and take cultures, if necessary. Bruises, erythema, lacerations, scarring, and tenderness also should be noted, as well as whether the vagina gapes open. All women are born with hymens, although there are several shapes and types.<sup>18</sup> The physician should note whether a hymen is present (if so, note the type), absent, or partially absent. In some cases, a partially absent hymen will cause an adhesion. Scarring or thinning of the hymenal opening also should be noted by the physician. Minor introital injuries can be observed in 70 to 80 percent of all victims of vulvar coitus, attempted coitus, or completed vaginal penetration.<sup>19</sup>

Because a female child's labia are more rigid than the usually more elastic adult female labia, an abuser often will attempt to penetrate the anus of a female child victim rather than her vagina. The anus of male victims also should be examined for physical indicators of sexual abuse. Some chronically sodomized children may exhibit no **anal findings**, particularly if the abuser was relatively careful and used lubricants.<sup>20</sup>

The anus should be examined to determine if the rectal sphincter is relaxed, causing a gaping opening. Then, by perianal stroking with a cotton swab, the physician can determine if the wink reflex (muscle constriction at anus opening) is appropriate. Perianal fissures should be examined for scarring, and the anus should be examined for posttraumatic skin tags.

**Conclusion**

The victimization of children has grown to such exceptionally high proportions in American society that each citizen should be vitally concerned with the ramifications of such acts. Children must not be viewed as objects to be used, abused, and discarded. They are the future of our society, and we, as instruments of law enforcement and as concerned adults, have a legal as well as moral obligation to protect them from those who would do them harm.

## **Chapter 2: Appendixes Incest and Intrafamilial Abuse**

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- A. Notes
- B. Checklist of medical examination and laboratory tests for sexually abused children
- C. "Drawing Interviews": An Alternative Technique
- D. Incest: Intrafamilial abuse student outline guide

## Appendix A: Notes

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## Appendix B: Checklist of medical examination and laboratory tests for sexually abused children

### CHECKLIST OF MEDICAL EXAMINATION AND LABORATORY TESTS FOR SEXUALLY ABUSED CHILDREN

DATE OF EXAMINATION:								
PATIENT'S NAME:				POLICE AGENCY NAME:				
DATE OF BIRTH:				AGENCY CASE NUMBER:				
COMPLETE MEDICAL EXAMINATION								
FACILITY NAME:				ADDRESS:				
NAME OF PHYSICIAN:				HOSPITAL TELEPHONE:			OFFICE TELEPHONE:	
EVIDENCE OF PHYSICAL INJURIES								
TYPE OF INJURY	YES	NO	TYPE OF INJURY	YES	NO	TYPE OF INJURY	YES	NO
DERMATOLOGICAL INJURIES			BURN (S)			HEAD INJURY		
ABRASIONS			RECENT			1): ORAL CAVITY		
LACERATIONS			HEALED			2):		
BRUISES			ABDOMINAL INJURY			3):		
SCARS			BODY CHART COMPLETE			OTHER:		
EXAMINATION OF THE FEMALE GENITALIA								
EXAMINATION POSITION: (INDICATE)								
LABIA	YES	NO	VAGINA	YES	NO	HYMEN	YES	NO
BRUISES			DISCHARGE			ABSENT		
ERYTHEMA (REDNESS)			LACERATION(S)			PARTIALLY ABSENT		
EXTERNAL			ABRASION(S)			PRESENT		
INTERNAL			SCAR(S)			LACERATION(S)		
ABRASIONS			ERYTHEMA			IRREGULAR		
EXTERNAL			TENDERNESS			THINNED		
INTERNAL			BRUISE(S)			THICKENED		
OTHER:			GAPING INTROITUS			SCAR(S)		
OTHER:			LESIONS			INTERRUPTED		
OTHER:			OTHER:			OTHER		
OTHER:								
EXAMINATION OF THE MALE GENITALIA						EXAMINATION OF THE ANUS		
TESTICLES	YES	NO	PENIS	YES	NO		YES	NO
BRUISE(S)			DISCHARGE			GAPING		
TENDERNESS			LACERATION(S)			SCAR(S)		
HEMATOMA			LESION(S)			LESION(S)		
MARKS			ERYTHEMA			LACERATION(S)		
LESIONS			TENDERNESS			PERIANAL FISSURE(S)		
OTHER:			ABRASIONS			SKIN TAGS		
OTHER:			OTHER:			INCREASED TONE		
OTHER:			OTHER:			DECREASED TONE		
OTHER:						OTHER:		
ADDITIONAL:								

LABORATORY TESTS AND X-RAYS									
TRIMUCOSAL	YES	NO	URINE	YES	NO	SERUM	YES	NO	
ORAL			PREGNANCY			SCREENING FOR SYPHILIS			
RECTAL			TYPE OF TEST:			VDRL			
VAGINAL			URINALYSIS			RPR			
PENILE			URINE CULTURES & SENSITIVITY			OTHER:			
GONORRHEA			OTHER:			SKELETAL SURVEY	POS	NEG	
CHLAMYDIA			PAP SMEAR			SPECIFY TYPE:			
TYPE OF TEST:			WET MOUNT FOR			OTHER:			
OTHER:			TRICHOMONIASIS			OTHER:			
EVIDENCE COLLECTION									
SEXUAL ASSAULT KIT PREPARED	YES	NO	CLOTHING INVENTORIED	YES	NO	PHOTOS TAKEN	YES	NO	
STATEMENTS BY CHILD (TO BE ENTERED, WHERE APPLICABLE)									
TO SOCIAL WORKER:									
SIGNATURE:									
TO NURSE:									
SIGNATURE:									
TO DOCTOR:									
SIGNATURE:									
OTHER:									
SIGNATURE:									
PATIENT AND PARENTAL DATA									
PATIENT'S HOME ADDRESS:					TELEPHONE NUMBER:				
PATIENT'S MOTHER'S NAME:					MOTHER'S ADDRESS AND TELEPHONE NUMBER:				
PATIENT'S FATHER'S NAME:					FATHER'S ADDRESS AND TELEPHONE NUMBER:				
INVESTIGATING POLICE OFFICER'S NAME (PRINT)						DEPARTMENT TELEPHONE:			
EXAMINING PHYSICIAN'S NAME (PRINT)					PHYSICIAN'S SIGNATURE:				
AUTHORIZATION FOR RELEASE OF PATIENT INFORMATION									
I HEREBY AUTHORIZE THE FOLLOWING NAMED EXAMINING PHYSICIAN, _____,									
WHOSE ADDRESS IS _____, TO									
RELEASE THE ABOVE INFORMATION ABOUT _____ WHOSE									
DATE OF BIRTH IS _____, TO THE FOLLOWING NAMED POLICE AGENCY									
_____									
<small>AGENCY'S NAME AND ADDRESS</small>									
FOR THOSE PURPOSES THAT POLICE AGENCY BELIEVES TO BE APPROPRIATE IN THEIR INVESTIGATION.									
SIGNATURE:						DATE:			

## Appendix C: "Drawing Interviews": An Alternative Technique

### "Drawing Interviews": An Alternative Technique

By Robert Hugh Farley

In our first child abuse case, over 11 years ago, my partner and I were assigned to investigate the apparent physical abuse of a 5-year-old boy. During our short interview with the victim, we learned that he had been caught playing with matches and was subsequently punished by his mother's boyfriend, who placed the boy's hand on the open flame from a gas stove.

At the conclusion of the interview the boy was transported to the hospital, where he was treated for the burn before being turned over to a protective service worker from the Illinois Department of Children and Family Services.

On the way from the hospital to the Protective Service Office, the worker and the boy stopped at a restaurant for a hamburger. While he was eating, the 5-year-old boy told the worker the hamburger smelled funny—"like my mom's [vagina]." The worker rushed the boy back to the police station, where we finally conducted a lengthy interview. From this interview, it was learned that the victim had been subjected to extensive sexual abuse not only from his mother, but also from the mother's boyfriend. If not for his spontaneous announcement, however, the sexual abuse would have gone undetected, and the court would have returned the boy to the mother.

This incident demonstrated plainly that "simple" cases of physical child abuse are rare. We had thought that, once established from the victim, the interview could be concluded. But experience shows that in all child abuse investigations, a detailed, lengthy, and very sensitive interview of the victim is critical.

In recent years, extensive publicity has been given to the use of anatomically correct dolls for the interviewing of sexually abused children. While it is true that many clinical professionals have had very good results with these dolls, unfortunately, it is also true that a significant number of youth officers across the country have been expected to use the dolls in child abuse interviews despite a lack of training in their proper use.

### Drawing Pictures

An excellent alternative for a police officer to use—either in conjunction with or instead of the dolls—is to have the child draw his own pictures. In many cases, using the child's own "drawings," rather than anatomically correct dolls, will provide a more productive interview with the child abuse victim.

Prior to starting the child abuse "drawing interview," the police officer should learn as much as he can about the case. It should be determined when the child last ate or if he is hungry. The interview should never be conducted during the child's regular nap time or when he normally goes to bed for the night.

When starting a child abuse interview, the police officer must first address the victim's fear of retaliation for revealing the circumstances of the abuse or identifying the abuser. This initial action is very difficult for both the victim and the interviewer, since a police officer represents a threat in the sense that he can arrest the abuser.

The interviewing officer should furnish the child abuse victim with a box of crayons, pencils, and several sheets of paper at the start of the interview. If he presents himself to the child as a warm and caring person, the child may think that the drawings are a game, not even realizing that he is being interviewed.

The "drawing interview" should begin with the interviewer asking the victim to write or print his name on a sheet of paper that, depending on the victim's age, is either lined or unlined and colored. This step of the interview will provide the police officer with some idea of the educational and developmental stage of the victim.

The second step is to ask the child to draw a "picture of himself." The child may object at this point, telling the interviewer that he can't draw very well, but he should simply be encouraged to do the best he can.

When the child has finished the drawing, the interviewer can use it to go over the child's name and the locations for the different body parts. The interviewer should begin this portion of the interview by asking the child the color of the hair on the drawing and locations of the eyes, the mouth, belly button, etc. The last questions asked should be the locations and names of the sexual body parts. In some cases, the interviewer may wish to have the child label the body part locations on the drawing.

If the drawing the child has done of himself portrays an unhappy face or scene, the interviewer should then ask, "She doesn't look happy; why is that?"

In the third step, the child is provided with another sheet of paper and asked to "draw a picture of his family." This step is very important as it may provide the interviewer with important information concerning an outsider such as a boyfriend, grandfather, etc., who is living in the family residence or has daily access to the family.

When the family drawing is completed, the child is asked to label all the people in the drawing, including the family pet. The interviewer can then ask such questions as where the various people sleep in the house, which person the child likes the least or the best, etc.

For the final step of the drawing interview, the child is provided with another sheet of paper and asked to "draw what happened." When the drawing is completed, the child is asked to explain the circumstances of the abuse portrayed in the picture. He is asked to label the name of the abuser and the victim and, in cases of physical abuse, asked to identify the instrument of abuse and where it is stored.

As the child completes each drawing, the interviewer must take the time to go over it in detail with the child. If the interviewer observes some portion of the drawing that is unusual, exaggerated or overemphasized, such as the mouth in figure 1, he should ask the child for an explanation rather than making assumptions of any kind.

Of course, the police officer/interviewer, who is typically untrained in art therapy, must remember not to fall into the trap of playing amateur psychologist and attempt to analyze the drawings himself. This job must be left to the professional art therapist.

## Conclusions

"Drawing interviews" offer some advantages that the anatomical dolls do not:

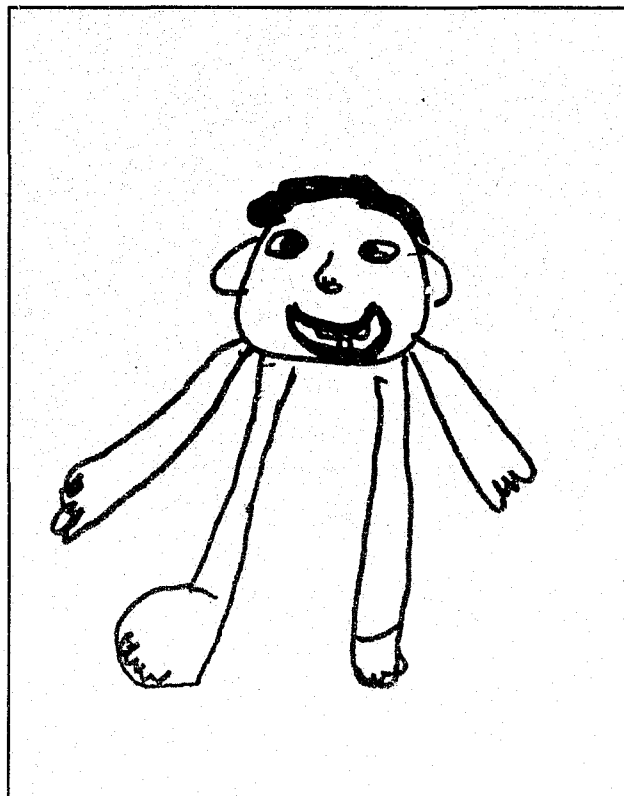
- They allow an abused child to express graphically what he may be afraid or unable to express verbally.
- They decrease the child's anxieties during the interview by providing him with a motor activity.
- Drawings of "what happened" will provide written evidence of what actually happened to the child. The drawings may also allow the resurfacing of repressed feelings or facts that normally would not be uncovered in another type of interview.

- Drawings will provide "hard physical evidence" of what the child has related to the police investigator during the interview, making it easier for a police officer on the witness stand to explain the child's version of what happened.
- The paper, pencils, and crayons used in the drawings, if not readily available, can be carried easily by a police officer.

In conclusion, the police officer must remember that the child who has been sexually or physically abused has also been emotionally abused. The "drawing interview" can be conducted in such a manner that it is nonthreatening, nonaccusatory, and, hopefully, nonharmful to an already scarred child.

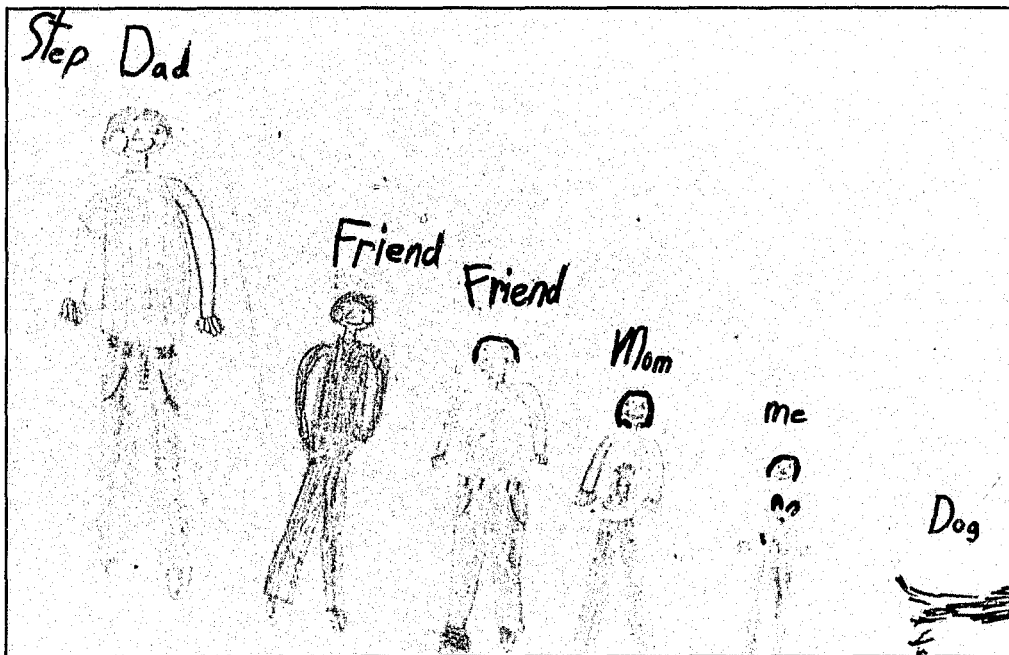
## Figure 1: "Draw Yourself"

This drawing was done by a 14-year-old boy who had been anally and orally sodomized by his stepfather for over 6 years. When the picture was first drawn, there were no arms. When the boy was later questioned by the interviewer about the missing arms, he advised that he had forgotten to put them in, and the arms were then added to the drawing. When questioned about the object depicted in his mouth, the boy said it was a "wanger." Further questioning established that a "wanger" was the stepfather's penis.



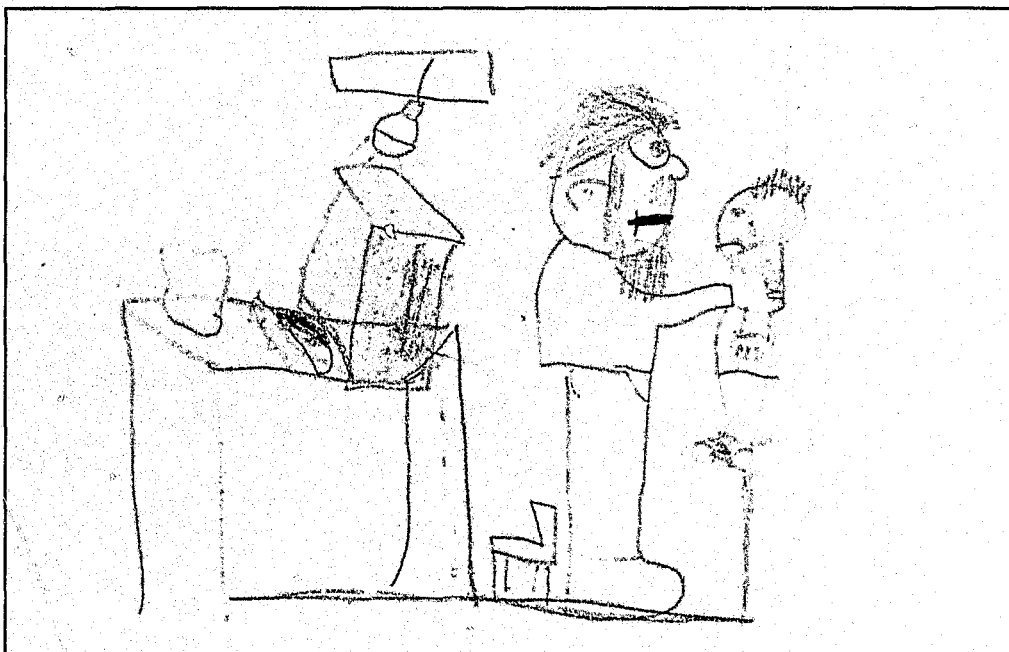
**Figure 2: "Draw Your Family"**

The purpose of this drawing, done by a 10-year-old-girl, was to identify the other members of the family unit. The girl depicted two "friends" between Mom and Step Dad. When later questioned by the interviewer, the girl advised that "those are Mom's two boyfriends, who visit the house when Step Dad is out driving his truck on the road."



**Figure 3: "Draw What Happened"**

This drawing was done by an 8-year-old boy who has suffered a history of physical abuse from his stepfather. In this drawing, the boy had knocked over a bag of feed in the basement of the family home. The boy's 6'5" stepfather grabbed him by the neck and, while holding him in the air, choked the breath out of him. Going over the drawing with the interviewer, the boy explained that the shading on his face was when he had turned red and the tear was when he was crying. Note the heavy black line depicting the anger on the stepfather's face. Although the incident had been witnessed by the boy's uncle, the boy later recanted his testimony under pressure from his mother.





## Appendix D: Incest: Intrafamilial abuse student outline guide

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### A. Sexual abuse indicators

1. Fear of being alone with an adult
2. Extreme repulsion or fear when being touched
3. Inappropriate knowledge of sexual matters
4. Overt sexual acting out towards adults
5. Simulation of sophisticated sexual activity
6. Bruises or hickeys on the face, neck, groin, or buttocks
7. Public masturbation
8. Self-mutilation
9. Fear of bathroom or shower
10. Violence toward younger children

### B. Incest sexual activity

1. Fondling erogenous zones
2. Mutual masturbation
3. Oral and genital
4. Intercourse

### C. Sexual soft tissue injuries

1. Examination of the male genitalia
  - a. Penis examination:
    - Discharge
    - Erythema (redness)
    - Abrasions
    - Lacerations
    - Lesions (abnormal tissue formations)
  - b. Testicle examination:
    - Tenderness
    - Bruises
    - Hematoma
  - c. Anus examination:
    - Gaping
    - Wink reflex
    - Increased tone
    - Decreased tone
    - Scars
    - Lacerations
    - Lesions
2. Examination of the female genitalia
  - a. Labia examination:
    - Bruises
    - Erythema (redness)
    - Abrasions
    - Adhesions
  - b. Vagina examination:
    - Discharge
    - Bruises
    - Erythema (redness)

Abrasions

Lacerations

Scars

Gaping vaginal opening

### c. Hymen examination:

Absent

Present (type)

Laceration

Thinned

Thickened

Scarred

### D. Family breakdown

1. Nuclear family: blood kinship
2. Horizontal legal relationships
3. Enhanced polarization

### E. Incest: "taboo" history

1. Superstition, sin, or criminal act
2. Moses born of his nephew and aunt
3. Cleopatra married her brother
4. Early Christianity: "32nd cousin"
5. Count Borgia; Pope Alexander VI
6. Church of England: *Table of Kindred and Affinity*

### F. Incest abusers

1. Father/father abuser profile:
  - a. Introvert, isolated
  - b. Rationalizer, lover, teacher
  - c. Elitist, intelligent
  - d. Sexually free
  - e. Tyrant, authoritarian
  - f. Alcoholic
  - g. Psychopath, child molester
2. Mother/mother abuser profile:
  - a. Drifter
  - b. Seductive possessor
  - c. "Man of the house"
  - d. Psychopath, child molester
3. Sibling/sibling abuser profile:
  - a. Curious
  - b. Shy, introverted
  - c. Brutal, intimidator
  - d. Psychopath

### G. Incest victim's mother

1. Passive, child-woman
2. Intelligent, competent, distant

3. Rejecting, vindictive
4. Psychotic or severely retarded

#### H. Incest cycle

1. Marriage or joining of two people
2. Deprived of affection as children
3. Closeness received a sexual response
4. Appear to be living traditional roles
5. Emotional isolation, not physical isolation

#### I. Baby

1. Baby meets parents' infantile needs of love, affection, and tenderness
2. Baby is a person to be trusted
3. Baby will not ridicule or exploit
4. Baby will increase self-esteem

#### J. Toddler

1. Mother withdraws physically after child's infancy
2. Child's behavior is seen as sexual
3. Same period of development when the toddler's mother withdrew
4. Sexual activity will diminish
5. Husband feels less "manly," is angry, hurt

#### K. Role reversal

1. Child/mother comforts mother
2. Child/wife greets Dad at 5 p.m.
3. Mother grows distant
4. Father grows seductive with child

#### L. Preschooler child

1. Abuse often begins at age 4 or 5
2. Child loves adult attention, games, secrets
3. Easily seduced by someone they trust
4. Oral copulation, masturbation, and genital manipulation
5. Child "special," is treated differently by father
6. Specialness negative; they will try harder
7. Specialness positive; resentment, try even harder

#### M. Roles become confused

1. Father is authority figure, but also lover
2. Mother's confidant, responsible for her well-being, but must act as if mother is in charge
3. Alienated from siblings because of relationships

#### N. School-age child

1. Learns sex is something secret you giggle about
2. Sex with a parent does not happen with other kids
3. Secret and specialness loses their power
4. As child matures, desires affinity with peers
5. Isolation enforced by fear of father

#### O. Breakdown

1. Child resists; extreme forms of coercion begin: money, toys, privileges
2. Father would be punished, mother destroyed
3. Everyone will know it was the child's fault
4. Child's isolation and shame increase
5. As child is parenting mother, resentment builds
6. Child begins to leave signs for mother to discover

#### P. Adolescent child

1. Child becomes more aware of the exploitation
2. Intercourse increases the pressure
3. Father begins to use threats of violence or another sibling as a lover
4. Possible "outcry" to mother
5. Embittered against the mother who rejects

#### Q. Disclosure

1. Usually from a power struggle between abuser and child
2. Child wants the behavior to stop, but shame is intense
3. Child will attempt to escape by running away
4. Child not "streetwise," will attempt to deal with police when caught
5. Victim will minimize the abuse

#### R. Parents' reactions

1. Confrontation with authorities
2. In private, molester admits to wife "one to two times," but "she wanted it," "she seduced me," "I don't remember, I must have been drunk"
3. Initially mother supports daughter, but begins to minimize the abuse within 2 weeks

#### S. Child's reaction

1. Questioned by police or social service
2. Child: Alone, frightened, "deserved it," "all of this is happening because I told"
3. Child wants to take care of mother

#### T. Result of incest

1. Confused sexual identity, feelings of shame
2. Low self-esteem, leads to partners who feel the same
3. Appears fine from the outside
4. Desperately wants to marry and have a family
5. The cycle begins again

#### **U. Child sexual abuse accommodation syndrome**

1. Secrecy
  - a. Source of fear; promise of safety
  - b. Intimidation, isolation, self-blame
  - c. Happens only with the offender, not other adults
  - d. Child is entirely dependent on the offender
  - e. "Outcry" is countered by silence and disbelief
2. Helplessness
  - a. Children are told to avoid strangers
  - b. Required to be obedient and affectionate with others
  - c. Child expected to call for help or resist
  - d. Bed covers protect against monsters
3. Entrapment and accommodation
  - a. Dependent molestation not a one-time act
  - b. Child learns to accept and survive
  - c. Child given power to destroy the family or the responsibility to keep it together
  - d. Child must build pockets of survival
  - e. Begins to seek active expression; self-destruction or exploitation
4. Delayed, conflicting, and unconvincing disclosure
  - a. Most ongoing abuse is never disclosed
  - b. Disclosure is the result of overwhelming family conflict, incidental discovery by a third party, or outreach by social agencies
  - c. Not all victims are angry or unreliable

5. Retraction
  - a. The victim discovers the threats are real
  - b. Father calls her a liar
  - c. Mother faults the child
  - d. Child "admits" she lied

#### **V. Dangers of syndrome testimony**

1. Abused children exhibit certain characteristics
2. Rape trauma syndrome
3. Does the offender exhibit molester characteristics?

#### **W. Vocal parental alienation syndrome**

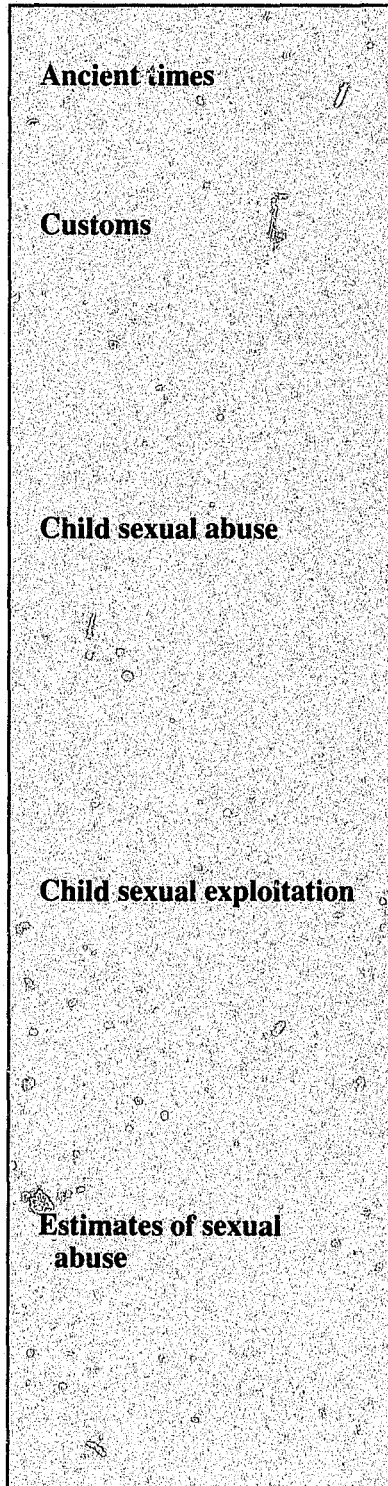
1. Father is the hated parent
2. Mother is the loved parent
3. Child obsessed with minor complaints
4. Fabrication of sex abuse: Quick action, valuable in custody
5. Extends to father's family

#### **X. Vocal "accommodation"**

1. Child can accommodate parent's expectations
2. Child can be self-directed
3. Child can be shaped toward beliefs that are not valid or are lies
4. Children accommodate interviewers

**Child Sexual  
Exploitation**

# Chapter 3: Child Sexual Exploitation



## History of child sexual abuse

Child sexual abuse is not a new phenomenon. During **ancient times** boy brothels flourished in Rome and virtually every city in Greece. Greek mythology is filled with incestuous themes. Infants were castrated in their cradles for later use as eunuchs in brothels.<sup>1</sup> Throughout history, children have been a marketable commodity; they were sold outright to houses of prostitution. In some cultures it was not an uncommon **custom** to lend a wife or a daughter to a visiting guest as the ultimate act of hospitality.

Today it has been clearly established that the incidence of child sexual abuse is exceedingly high in both large and small communities throughout America. The problem is centuries old, but is now a primary issue for law enforcement investigators everywhere.

## Definitions

As a general rule, **child sexual abuse** refers to *any* sexual contact between an adult and a child. However, investigators should rely on the definition of child sexual abuse established by their State legislatures.

The National Center on Child Abuse and Neglect defines child sexual abuse as:

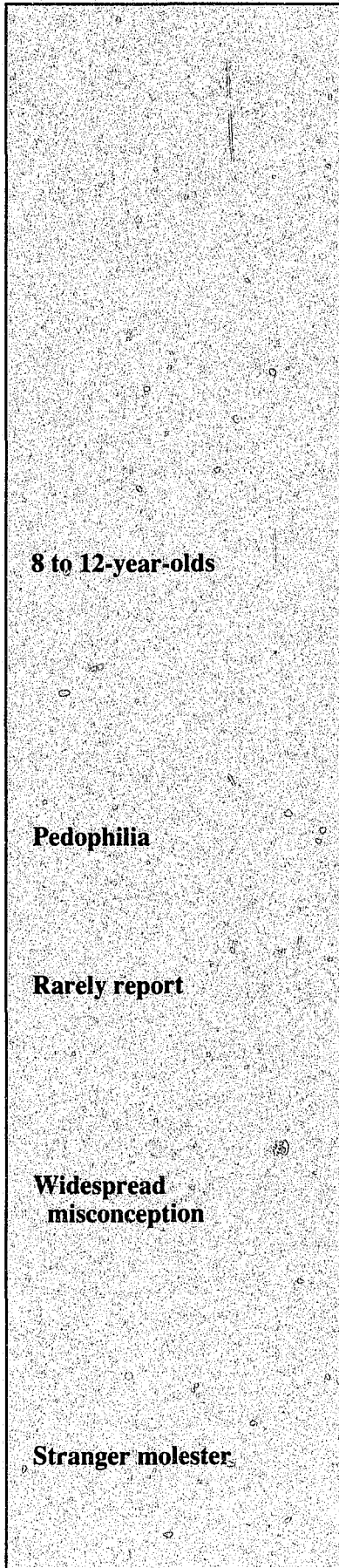
Contacts or interactions between a child and an adult when the child is being used for the sexual stimulation of the perpetrator or another person. Sexual abuse may also be committed by a person under the age of 18 when that person is either significantly older than the victim or is in a position of power or control over the child.<sup>2</sup>

There are three primary categories of **child sexual exploitation**: (1) the physical molestation of children, (2) child prostitution, and (3) child pornography.

## Facts about child sexual abuse

*A child is sexually abused within the United States every 2 minutes.*  
—Senator Christopher Dodd

Estimates regarding the incidence of child sexual abuse range from 45,000 to 1 million incidents a year.<sup>3</sup> The National Committee for the Prevention of Child Abuse **estimates** 200,000 to 600,000 cases every year. The American Humane Association cites a 200-percent increase in the recorded number of child sexual abuse cases since it first began keeping statistics in 1976.<sup>4</sup> Most authorities agree that for every case reported there are 20 that go unreported. Another distressing statistic is that in most cases, the child knows the perpetrator.<sup>5</sup>



To fully appreciate how frequently this type of crime is committed in a community, consider that one out of three girls and one out of six boys will be sexually abused by age 13. In addition, research conducted by Dr. Gene Abel at the New York State Psychiatric Institute in Manhattan shows the average number of molestations either attempted or completed by child molesters he studied was 68.<sup>6</sup>

Many of the same factors described in Chapter 1 also can exist in a family where a child is sexually abused. They include:

1. A family history of abuse.
2. The influence of alcohol or other chemical substance on the abuser.
3. Physical and social isolation of the family.
4. Unrealistic expectations of the child.
5. Marital strife.
6. "Targeted" children.

Children of all ages are sexually abused. Cases are on record of children no more than several weeks old being sexually abused. However, children between the **ages of 8 and 12** appear to be the most vulnerable.<sup>7</sup>

## Sexual exploitation

The sexual exploitation of children is a sensitive and emotional topic that has received increasing public attention in recent years. While children have been sexually exploited for centuries, authorities have only lately begun to understand the severity and scope of the problem. The common belief that child sexual molestations are infrequent and isolated is gradually being replaced by the knowledge that there is a significant population of pedophiles who actively prey upon children (**pedophilia** is a sexual perversion in which children are the preferred sexual objects).

Sexual exploitation of children is occurring in virtually every community in our Nation. Typically, the victims are persuaded rather than forced into submission by someone who shows them attention and caring, and the children **rarely report** the molestation. This is true even after the pedophile has rejected them for having grown past the age or physical development of the pedophile's preference. The child might fear punishment, feel guilt, or may not want to get his or her "best friend" in trouble. Although denying involvement, the child frequently is looking for a way to end the relationship with the molester, but does not want to see him or her punished for actions for which the child has been made to feel responsible.

The **widespread misconception** that child molestation consists solely of children being seized from the street and forcibly molested also is undergoing a gradual change. Although these incidents do occur, the vast majority of child molesters are adults who seduce children through subtle intimidation and persuasion.

Child molesters are generally males ranging in age from young adults to elderly persons and are divided into three classifications. The classifications may overlap, and this overlapping can be determined only by a thorough investigation.

The **stranger molester** will use force or fear to molest children. As the term implies, the child does not know the molester. This type of molestation is usually reported promptly to authorities because the trauma to the child is readily apparent. The investigator conducts this type of investigation as he or she would any other sexual abuse case.

### **Incestuous or intrafamilial molester**

### **Pedophile**

### **Victims**

### **Effects**

### **Emotional impact**

The **incestuous or intrafamilial molester** is usually an adult male (father, stepfather, or live-in boyfriend of the mother) who molests the female child or children. Although physical abuse may occur, the molestation usually is secretive and is accomplished through mental duress and threats—that the child would be removed from the family if she did not succumb to his wishes, that she would be blamed for hurting the family if the offender is arrested, or that a sibling would be sexually abused if the victim did not consent. The molestation occurs over an extended period of time, occasionally into the victim's adulthood. Through intimidation, the child is made to feel responsible for the molestation and for keeping the acts a secret. This secret normally is retained between the offender and the victim, or within the immediate family. (See Chapter 2 for a discussion of Incest.)

The **pedophile** takes pride in his sexual interest in children. (Because most pedophiles are men, the pronoun "he" is used in this chapter when referring to pedophiles.) He believes society is wrong in condemning sexual activity between an adult and a "consenting" child. However, because he fears apprehension, he may never physically molest a child, but may gain sexual gratification through child pornography or child erotica. The pedophile is a producer, consumer, and noncommercial distributor of child pornography, although on occasion he also is a commercial distributor. His desire is for children to obey his requests and to not inform anyone of their relationship.

While **victims** range in age from infants to the legal age of adulthood, they are most often between 6 and 17 years of age. They often are underachievers in school and at home. They lack parental supervision, are usually from unstable homes, are often runaways, and lack love and attention. Most spend the majority of their time in public places, such as parks, theaters, or arcades. Pedophiles find victims by offering friendship, interest, and a concerned attitude. Children fear telling anyone because of implied or direct threats of physical harm, possible disbelief by their parents, or fear of exposure to their peer groups.

The **effects** of sexual exploitation of a child may be recognizable immediately by certain behavioral indicators. (These behavioral indicators, however, may be generated by other problems and do not necessarily point to sexual exploitation as their cause.) An immediate reaction to sexual abuse usually entails emotional and behavioral problems wherein the juvenile has difficulty relating to family and friends—most children are not equipped to handle such emotional trauma. If the child's friends learn of the abuse, the **emotional impact** can be devastating.

Long-term effects of sexual exploitation could be even more serious. The victim may have extreme difficulty in relating normally to a sexual partner later in life and may also become a child molester.

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### **Characteristics and behavioral indicators of a sexually exploited child**

1. Is usually between 6 and 17 years of age.
2. May be unsupervised (is frequently a runaway at an older age).
3. May have poor family ties, a broken home, or an unstable home environment.
4. May be an underachiever at school and at home.
5. Arrives at school early and leaves late.
6. Has abrupt or recent changes in mood, attitude, and behavior.

7. Seeks affection, attention, praise, and rewards.
8. May have more money than normal for such things as new toys or new clothing.
9. Spends more than the normal amount of free time at recreation areas, theaters, or other youth hangouts.
10. May spend an inordinate amount of time with adults.
11. May withdraw from family and peer groups or may form new peer groups.
12. May "act out" or sexually abuse younger children either inside or outside the home.
13. May use age-inappropriate language or sexually explicit language.
14. Draws sexual pictures (if prepubescent).
15. Resumes bedwetting.
16. Exhibits discomfort around specific adults.
17. Is sexually self-conscious.
18. Begins using alcohol or drugs.
19. Declines abruptly in school performance.

**Psychiatric term**

## Pedophilia

"Pedophilia" is a **psychiatric term** used to describe a person who has an exclusive or preferred sexual interest in prepubescent children. As such, there is no criminal statute making it illegal to be a pedophile. Through widespread use in the media, pedophilia has taken on a broader definition to include any person who is sexually attracted to children.

The American Psychiatric Association's diagnostic criteria for a pedophile in its *Diagnostic and Statistical Manual of Mental Disorders (DSM III)* are:

1. Having recurrent, intense sexual urges and sexually arousing fantasies involving sexual activity with a prepubescent child or children; fantasies occur over a period of at least 6 months.
2. Acting on these urges or being markedly distressed by them.
3. Being at least 16 years of age and at least 5 years older than the child or children.

Studies have shown that many pedophiles were themselves sexually abused at an early age.<sup>8</sup> Most pedophiles prefer children of a specific age group or stage of physical development. For example, a pedophile may be sexually attracted only to boys between the ages of 8 and 11 or boys in that stage of physical development. He will foster relationships with children in this age range and sexually exploit them. When a child passes the upper age limit, the pedophile usually will terminate the relationship, sometimes passing the child on to another pedophile whose preference might be for children between the ages of 11 and 14 or in that stage of physical development. While pedophiles usually have a sexual or age preference for children within either a narrow or broad age range, any child who is accessible to the pedophile is at risk.

**Pornographic material**

**Pornographic material** depicting children involved in sexual activities is frequently used to entice children into thinking the behavior is acceptable and to lower their inhibitions. Pedophiles tell the children that sexual activity is normal, and photographs, magazines, movies, and videos are used as supporting evidence. Offenders sometimes give the children alcohol, drugs, or narcotics to dull their senses and make them more susceptible to the



### **Pedophiles may take photographs**

### **Single-parent family**

### **Developing relationships**

abuse. During this enticement process, pedophiles continually provide encouragement to the victims by saying there is nothing wrong with the sexual activity: "If they [the children in the pornographic materials] can do it, you can too."

During the course of their sexual activity with children, **pedophiles may take photographs** and make movies, which they use for sexual fantasies later. Some of these photographs also may appear in *Lollitots*, *Piccolo*, and *Lolita*, publications that feature child pornography. Additionally, some movies portraying these activities are reproduced and distributed privately or commercially. The sale of child pornography is estimated to be a multimillion dollar business involving an international network of pedophiles and purveyors of child pornography.

The **single-parent family** is particularly vulnerable to the pedophile; the parent usually has a full-time job and is attempting to fulfill the role of both parents, as well as run the household. In many cases the parent is unable to provide the psychological support the child needs. These situations may contribute to the success of the child molester who can and will provide the caring and attention, however superficial, that may be lacking at home. Of course, domestic problems in intact families also can make children vulnerable to the pedophile.

The method of operation used by pedophilic pimps closely parallels that used by the pedophile in encounters where no money is exchanged. The pimps spend time **developing relationships** with the children they desire to exploit (several cases have disclosed that they may be familiar with one or both of the children's parents). Pedophilic pimps take their victims to parks, the beach, the movies, or amusement parks, wherever the children want to go. In addition, they may buy the children gifts, anything from candy or toys to an expensive vacation or a car. When a positive rapport has been developed, the pimp usually makes sexual advances and recruits the child into prostitution.

The traditional picture of the child molester, an unkempt old man in a trenchcoat huddled on a street corner clutching a bag of candy, has been effectively dispelled through information obtained in sexually exploited child investigations in recent years. Child molesters come from all walks of life and from all socioeconomic groups.

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## **Characteristics and behavioral indicators of a pedophile**

1. Is most often an adult male.
2. Is usually unmarried.
3. Works in a wide range of occupations, from unskilled laborer to corporate executive.
4. Relates better to children than to adults.
5. Socializes with few adults, unless they are pedophiles.
6. Usually prefers children in a specific age group.
7. Usually prefers either males or females, but may be bisexual.
8. May seek employment or volunteer with programs involving children of the age and sex of his preference.
9. Pursues children for sexual purposes.

10. Frequently photographs or collects photographs of his victims, either dressed, nude, or in sexually explicit acts.
11. Collects child erotica and child-adult pornography:
  - (a) To lower the inhibitions of victims.
  - (b) To fantasize when no potential victim is available.
  - (c) To relive his sexual activities.
  - (d) To justify his activities. (The depiction of others engaged in these acts legitimizes them in the pedophile's mind.)
  - (e) To blackmail victims to prevent them from telling.
12. May possess and furnish narcotics to his victims to lower their inhibitions.
13. Is usually intelligent enough to recognize that he has a personal problem and understand the severity of it.
14. May go to great lengths to conceal his illicit activities.
15. Often rationalizes his illicit activities, emphasizing his positive impact upon the victim and repressing feelings about the harm he has done.
16. Often portrays the child as the aggressor. This usually occurs after the child realizes that by withholding "sexual favors" the child will obtain what he or she desires, such as new toys, clothing, or trips.
17. Talks about children in the same manner as one would talk about an adult lover or spouse.
18. Often was a child molestation victim and frequently seeks out children at the age or stage of physical development at which he was molested.
19. Often seeks out publications and organizations that support his sexual beliefs and practices.
20. Usually corresponds with other pedophiles and exchanges child pornography and erotica as proof of involvement.
21. Is usually nonviolent and has few problems with the law (pedophiles frequently are respected community members).

### **Pedophile organizations**

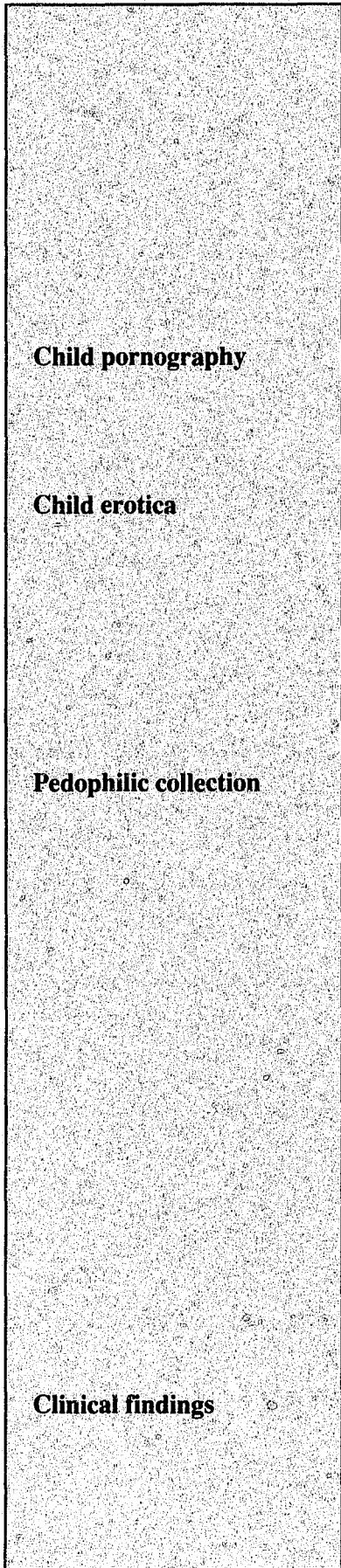
Several studies regarding causation report that pedophiles often claim to have been victims of molestation as children or come from homes where discussion of sex was prohibited. However, while this information is possibly relevant for later involvement with the courts, it has no relevance to the investigation unless the alleged offender is a juvenile.

There are a number of **pedophile organizations** that not only favor child sex but have joined forces with others that share their point of view. Groups such as the North American Man/Boy Love Association (NAMBLA), Rene Guyon Society, the Childhood Sexuality Circle, Person to Person, and the Lewis Carroll Collectors Guild publish newsletters supporting their positions and exposing police methods of identifying pedophile offenders.

### **Child prostitution**

Within the United States the use of prepubescent children for prostitution is rare; adolescent prostitutes are more common. Many of these juveniles come from physically or sexually abusive homes or have been victimized by pedophiles who have discarded them. Often they are throwaways or runaways.

These juveniles are actively sought by pimps, who will frequent bus or train stations seeking youth who are alone and appear lost or confused. These juveniles also may be introduced to the pimp by others who have had prior contact with him.



**Child pornography**

**Child erotica**

**Pedophilic collection**

**Clinical findings**

The pimp will create a situation in which the adolescent becomes indebted to him for food, shelter, and possibly drugs. Once indebted, the juvenile can be forced into prostitution to meet a demand for repayment by the pimp, who controls the juvenile's earnings and often uses violence to enforce his demands.

Prostitution frequently leads to child pornography. These cases are difficult to prove because the child may be developed physically. Proof must be shown that the actor is a child and that the offender had knowledge of the child's age.

## **Child pornography and erotica**

Federal law defines **child pornography** as "the visual depictions of a person under 18 years of age in actual or simulated sex acts, lewd exhibition of genitals or rectal area, urination, or defecation." Although definitions and statutes vary, in many States it is a criminal offense to possess child pornography.

**Child erotica** is anything that may cause sexual arousal in the pedophile. This can range from nudist magazines depicting children to school photographs, literature, or a collection of children's clothing. Possessing child erotica is not illegal, but if discovered during an investigation, should be considered as an indication of an individual's proclivity.

Unlike adult pornography, there are few commercial producers of child pornography. The material on the commercial market is usually amateurish and produced by the pedophile. He either sends photographs, films, or videos directly to the distributor or distributes it via pedophilic networks where the material is reproduced, eventually becoming available for commercial distribution. Pedophiles have been known to retain a **pedophilic collection** of photographs, magazines, movies, videos, and correspondence for many years.

## **Investigating the crime**

When beginning an investigation into an allegation of child sexual abuse, the investigator should find out the relationship of the suspected abuser to the child. (An investigator's checklist is presented as Appendix B to this chapter.) This will assist in determining how to structure interviews and who to interview. The sexual abuse will fall into one or more of the following categories:

1. A natural parent.
2. A family member other than a natural parent.
3. A trusted adult.
4. An older child.
5. A stranger or remote acquaintance.

While there sometimes is no immediate physical evidence of sexual contact, medical professionals can detect clinical signs. Children who allege sexual abuse and those suspected of being abused should receive a thorough medical examination, even if the abuse took place months before. Typical **clinical findings** might include:

1. Anal tears.
2. Genital injuries (lacerations, swelling, or bruises).

3. Irritated or reddened genitals, itching around genitals or anus.
4. Vaginal tears.
5. Injury to penis.
6. Vaginal or penile discharge.
7. Bruising of the perineum.
8. Chancres, ulcers, or venereal disease.
9. Urinary infection or difficulty with urination.
10. Unusual or offensive odors.
11. Bruises or "hickeys" on face, neck, abdomen, buttocks, inner thighs, or rectum.<sup>9, 10, 11</sup>

The various behavioral characteristics usually present in a sexually abused child are just as important as physical evidence in supporting an allegation or suspected incidence of sexual abuse. The investigator should watch for these characteristics; knowledge of these "red flag indicators" will prove extremely beneficial in the investigation's primary stages.

The child's age will determine the types of behavior that might be exhibited. For example, the **toddler or preschooler** might regress to excessive crying, bedwetting, fear of the dark, or a renewed need to sleep with a favorite old toy or blanket. A child might also display signs of sexual aggression toward peers or toys. Toys will be used in sexually oriented ways, such as placing them in the same position the child was in during the sexual contact. The child's drawings may have scary or sexual themes emphasizing enlarged genitalia and may be heavily lined and darkly colored.<sup>12</sup>

**School-age children** may be afraid of certain locations (a bedroom, bathroom, or shower) and show fear toward a certain person (the suspect). The child may cling and be anxious or irritable. He or she may develop self-consciousness about his or her genitalia.

Experienced investigators learn where children congregate. They check the arcades, playgrounds, beaches, and amusement parks and will recognize adults who are continually there speaking with, befriending, and spending money on children with whom they are building a relationship.

**Surveillance** of these adults will identify them, their residences, vehicles, and adult associates and will disclose any pattern of their involvement with children. A check of local and State records will determine any prior criminal involvement, and checks through regional postal inspectors and customs agents will determine if a suspect receives pornography or is a target of a Federal investigation. If a suspect has a proven active sexual interest in children, extreme caution must be used by investigators: no child should be placed in a situation where he or she could be victimized. If an investigation becomes public, the investigator's first concern must be for the **safety of the child**.

Because most child molestations are committed by an interfamilial offender (less than 15 percent are committed by a stranger), an investigation normally starts when the child's disclosure is reported to authorities. This type of investigation is reactive; that is, an investigation that begins when a crime is reported. Pedophilic activity usually is not brought to the attention of law enforcement. Because of the nature of the seduction aspect, the victims normally view themselves as "willing participants" who (1) do not want to be punished for their activity; (2) are afraid to get their friend, the pedophile, in trouble; and (3) are embarrassed by the activity and keep it a secret.

## "Red flag indicators"

### Toddler or preschooler

### School-age children

### Surveillance

### Safety of the child

<b>Searches</b>
<b>Consent to search</b>
<b>Probation search</b>
<b>Parole search</b>
<b>Search warrant</b>

It is necessary, therefore, for investigators to seek out and identify adult suspects as well as their victims. A proactive investigation is one in which police take steps to identify offenders before they are brought to the attention of authorities by witnesses, victims, or victims' families. The investigator can take such proactive steps as rollcall training to educate the officers about pedophilic activity. Also, during routine investigations, radio calls, or traffic stops, officers should remain alert for plain-view evidence of child pornography. Possession of commercial child pornography itself is not necessarily illegal, but it may provide a lead to illegal activities. If the child pornography appears to be noncommercial (for example, Polaroid photographs), there may be sufficient probable cause to justify a search warrant.

Other proactive steps the investigator can take include:

1. Becoming familiar with State laws relating to child molestation, child pornography and erotica, and other related crimes, both felony and misdemeanor.
2. Making presentations to community service organizations and school organizations to increase public awareness of possible pedophilic activity in the community.
3. Encouraging media involvement to increase awareness of pedophilic activity.
4. Encouraging individuals to report suspicious activities in their communities.
5. Setting up sting operations where officers either place or respond to ads suggesting sexual activity with children.

The physical evidence needed to corroborate the child victim's statement is located through **searches**. Other victims may be identified from the evidence, and other suspects involved in child molestation or distribution of child pornography may be identified through correspondence. Appendixes C through F of this chapter contain a collection of search warrants and describe items that should be seized during a search. A considerable amount of detail must be included in the affidavit of the search warrant to ensure a thorough and valid search. There are various types of searches the investigator may perform:

1. A **consent to search** may be obtained from a suspect; this does not require the investigator to advise the suspect of his or her *Miranda* rights. Consent to search also may be given by a third party who has authority to consent.

If the investigator elects to request a consent search, he or she should obtain the suspect's written approval, witnessed by a third party. If, during the course of the search, the suspect withdraws his consent, the investigator must stop searching. Failure to do so will probably invalidate evidence subsequently seized.

2. A **probation search** does not require the suspect's consent if a condition of that individual's probation requires that he or she must submit to a search by a peace officer without a warrant.
3. A **parole search** allows a suspect's person or property to be searched without a warrant or his or her consent, although the suspect's parole status cannot be used as a pretext to conduct the search.
4. A **search warrant** is an order in writing, signed by a magistrate, directed to a peace officer, commanding the officer to search for personal property and bring it before the magistrate (see Appendixes

**Affidavit**

**Affiant**

**Probable cause**

**Investigating the pedophile**

**Photo laboratories**

**Sexually explicit material**

for sample search warrants). A search warrant can be issued only upon probable cause, supported by an **affidavit**, naming or describing the person, and particularly describing the property and place or places to be searched. The affidavit sets forth the sworn statement of an **affiant**, which seeks to establish the **probable cause** for the issuance of the search warrant. The U.S. Supreme Court has formulated the standard of probable cause as follows: "The task of the issuing magistrate is simply to make a practical commonsense decision whether, given all the circumstances set forth in the affidavit before him, including the 'veracity' and 'basic knowledge' of persons supplying hearsay information, there is fair probability that contraband or evidence of a crime will be found in a particular place" (*Illinois v Gates*, 1983).

The affiant should begin the statement of probable cause by stating his or her name, rank, assignment, and a detailed statement of training experience and expertise. Once the affiant's experience is established, the opinion becomes legally valid and could be so considered by the magistrate issuing the warrant.

Investigators should understand how to prepare search warrants in their own jurisdictions.

Traditional proactive attempts at **investigating the pedophile** have included the investigator assuming an undercover identity, with appropriate identification, historical background, covert telephone number, and post office box or private mail box. Ads in underground newspapers or "swinger" magazines, suggesting an interest in children, will receive responses from pedophiles monitoring these publications. Investigators have been successful in uncovering child molestation and child pornography rings through targeting a suspect with "test" letters. These are written under the investigator's assumed identity and are used to make contact with suspects. Test letters serve as "bait" to begin a relationship, that may lead to the identification of young victims, the confiscation of sexually explicit materials, and the arrest of the targeted suspects. Samples of test letters are reproduced as attachments to Appendixes C and D of this chapter.

Other techniques, including recorded or monitored telephone conversations with the investigator or known victims, can be used to obtain admissions or confessions from the molester. Surveillance tactics include mail covers placed by postal inspectors and, if possible, wiretaps to determine the suspect's involvement with children and other adults. However, these tactics may not be successful. Investigators are cautioned to target only those adults who have shown a prior predisposition to sexual exploitation of children through their purchases or an interest in purchasing child pornography, seized correspondence, or observations of their involvement with children.

Commercial photoprocessing plants are receptive to working with law enforcement personnel when child pornography is suspected. In fact, this is now a legal requirement in some jurisdictions. Investigators should contact **photo laboratories** in the community and ask for their assistance. Some States have mandated that laboratories report possible cases of sexual exploitation. It is advisable to work with department upper management to maintain internal security and follow uniform procedures for handling evidence.

When viewing **sexually explicit material** to determine whether a crime has been committed, the investigator should:

1. Establish a venue for the crime.
2. Detail all items in the photographs.
3. Apply appropriate sex crimes violations.

### **Identifying victims**

### **Youth recreational and social activities**

### **U.S. Postal Inspector, U.S. Customs, Federal Bureau of Investigation**

4. Determine the age of the victim (use a physician).
5. Note commercial techniques (for example, quality of lighting or special effects, backdrops).
6. Watch actions or expressions of the victim and note the victim's attire.
7. Record the presence of sexual aids.
8. List the number of photographs or videotapes.

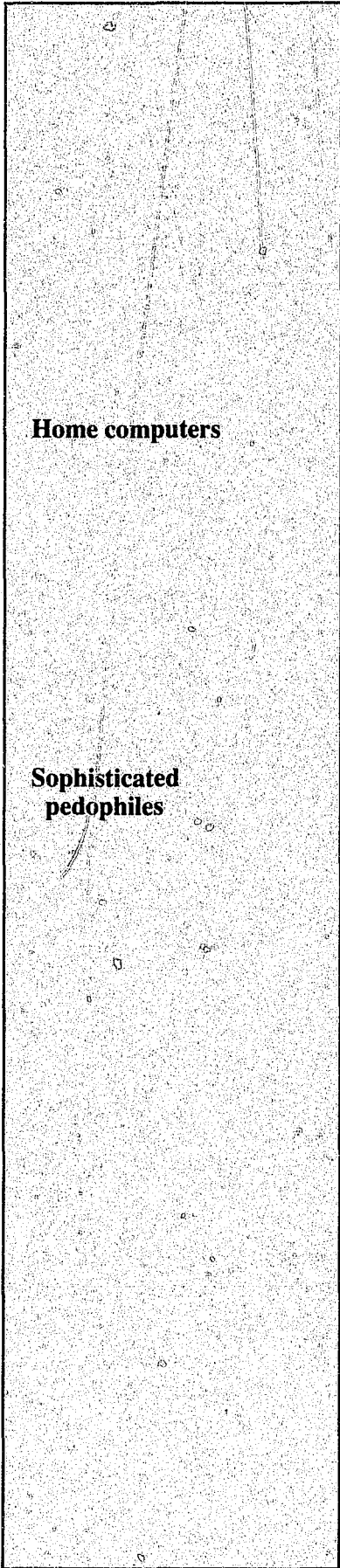
Commonly, investigators are unable to identify children in the child-pornographic materials. Techniques for **identifying victims** should include:

1. Reviewing school yearbooks.
2. Contacting the following (with photographs):
  - (a) Schools.
  - (b) Daycare centers.
  - (c) Social service agencies.
  - (d) Public health nurses.
  - (e) Pediatricians, dentists, and other relevant medical personnel.
  - (f) Recreation departments.
  - (g) Media (as a last resort).

Investigators should acquire a thorough knowledge of all local **youth recreational and social activities**, including those sponsored by local churches. Public awareness programs presented to civic, church, and professional groups can educate members on how to recognize pedophilic activity. Investigators should be familiar with the adult bookstores in the community and with the material available; develop additional leads by reviewing swinger newsletters and magazines; and target those ads suggesting "youth-oriented activity," "family fun," or "young love."

At the Federal level, there are three primary agencies responsible for investigating child sexual exploitation cases. The **U.S. Postal Inspector**, **U.S. Customs**, and the **Federal Bureau of Investigation** have specially trained agents and inspectors who are part of a national network of professionals currently working with State and local law enforcement investigators of child sexual exploitation cases. Detailed information about mail covers and other services is available through these agencies. Before beginning any child pornography investigation, however, consider contacting the nearest regional postal and customs representatives to save time and better coordinate the effort. Occasionally, local investigators will identify Federal crimes relating to child sexual exploitation. Federal agents should be consulted and apprised of the investigation. A determination can then be made if charges should be sought at both the local and Federal levels. The following Federal agencies should be contacted for assistance in an investigation.

1. *U.S. Postal Inspectors*. Their responsibility is to investigate the distribution of child pornography, either locally or nationally through the U.S. Postal Service. Inspectors can furnish investigators with specific details to aid in identifying persons receiving mail at a particular location or post office box. They can initiate mail covers to identify persons sending mail to a specific location. They can conduct sting operations targeting persons that have shown an interest in child pornography.



**Home computers**

**Sophisticated pedophiles**

2. *U.S. Customs Agents.* Their responsibility is the investigation of child pornography entering or exiting the United States. They also conduct sting operations. They can legally open mail or other packages crossing a U.S. border, even without a search warrant, if they believe the items contain contraband (for example, child pornography).
3. *Federal Bureau of Investigation.* Its responsibility is the investigation of interstate transportation of children for immoral purposes and the interstate transportation of child pornography by common carrier (for example, Federal Express or United Parcel Service).

Because Federal agencies do not have the capability or the authority to take children into custody, their policy is to ask local investigators to assist them on Federal warrants. Local investigators should identify these agents and inspectors working in the field and make themselves available during Federal investigation.

**Home computers** and telephone modems are increasingly being used by pedophiles to store information about their victims, catalog pornographic collections, and make contact with other pedophiles. Some computer hardware permits electronic transfer of child pornography that can be detected by investigators monitoring these devices to decipher code names for pedophiles seeking contacts.

An investigator who discovers a pedophile's computer system in the course of an investigation should be aware of "booby traps" that may be programmed into the computer to erase stored material if the computer is tampered with or unplugged. Also, code words may be necessary to extract information. It is, therefore, advisable to have a computer expert extract the information before attempting to move the computer.

Because **sophisticated pedophiles** know that law enforcement is prohibited from sending child pornography as "bait," they frequently will demand that child pornography be sent to "prove" there is no law enforcement activity. Refusal to send the material warns of possible police involvement. Investigators may send child erotica rather than explicit material to help alleviate the pedophile's fear of a sting.

Once a child abuse victim has been identified, one critical step in the investigation is the child's interview. (See Chapter 4.) Because it is difficult to file charges against an adult on the word of a child, corroborative evidence is necessary to substantiate the child's disclosure. Therefore, the investigator needs to elicit details from the child, who often will not volunteer information about being photographed, either dressed or nude; being shown pornography; being furnished with drugs or alcohol; or being sexually involved with others. The child may be embarrassed or fear punishment. He or she also may not consider information "important" unless it is specifically requested by the investigator.

A variety of professionals may need to become involved in the interview process: police investigators, prosecutors, child service personnel, medical doctors, and counselors. One of these individuals may be the first person to learn of a child's molestation. It is important to remember that the interview process often can be confusing or intimidating for the child. (See Chapter 4 for a detailed discussion on the multidisciplinary approach to interviewing child abuse victims.)



## Situational problems

Problems frequently encountered in child abuse investigations are presented with suggested solutions.

### PROBLEM 1

You identify a 9-year-old boy who tells you the following:

1. His Little League coach showed him commercial child pornography.
2. He was photographed nude.
3. He saw nude photographs of six other boys on the team.
4. He supplies you with names and addresses of the other boys.
5. He was molested by the coach.

### Suggestions

1. Obtain and serve a search warrant as soon as practical after interviewing the first victim.
2. Begin to interview the other victims. Frequently, if you try to corroborate the first victim's statements by interviewing other possible victims, you will obtain denials and conflicting statements. It is easier to deny than to admit being victimized.
3. Once the search warrant is served and the evidence seized, conduct your investigation accordingly.

**Important:** A search warrant requires only probable cause and should be considered at the beginning rather than at the conclusion of an investigation.

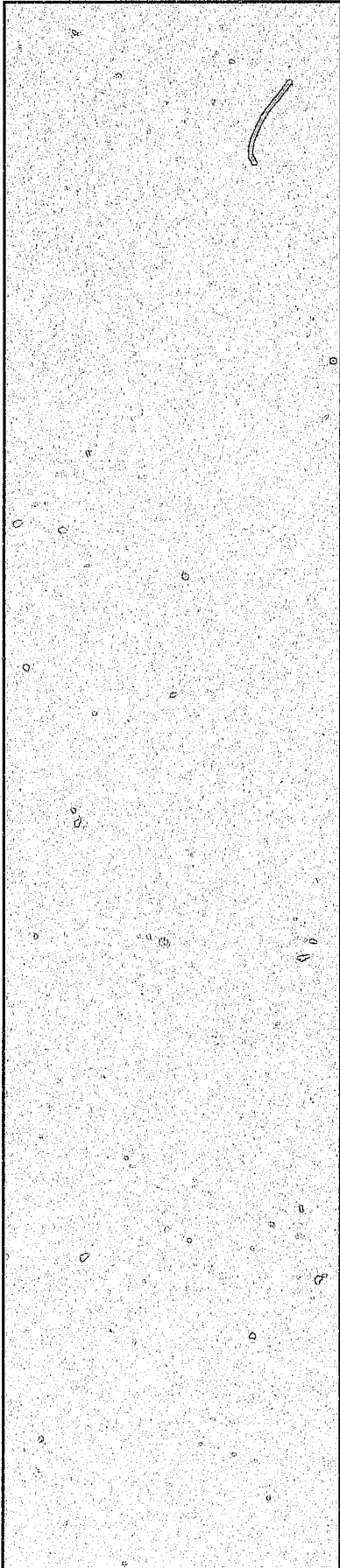
### PROBLEM 2

Because of mandatory reporting laws, a doctor reports that a 10-year-old girl was molested, and she confided to the doctor that the suspect (not known to her family) photographed and videotaped the sexual acts. The doctor does not know the suspect's name, and the victim will not identify him or her. The victim said that she will not talk to anybody else about it and fears that her mother would punish her if she knew.

### Suggestions

1. Make every effort to build trust and rapport with the child.
2. Gain the mother's trust and explain the circumstances of the child's fear.
3. Set up counseling for the child.
4. Continue contacting the child to show you are interested in her well-being.
5. Attempt to identify the child's friends. They may have information on the suspect.

There are cases where, no matter what efforts are made, the child refuses to divulge. Continue to stay in contact, but do not be discouraged if this child refuses your help. Other victims need and want your help. Continue in these investigations.



### PROBLEM 3

A distraught mother complains that her 3-year-old daughter has displayed unusual sexual behavior that consists of masturbation and fondling of her younger sister. When you question the child she states that Mr. James does it to her and gives her a cookie for being good. She tells you that he also takes pictures of her naked. Mr. James is identified by the girl's mother as the owner of her daughter's daycare center.

#### Suggestions

1. If you are satisfied that a crime has occurred, obtain a search warrant for the school, the home, and the suspect's vehicle. Justification for the home and vehicle search warrant may be (a) the expectation that these photographs would not be left at the school where others might see them, (b) the crime occurred at a second location, or (c) the photographs would be viewed in the privacy of the home. Items to be seized should include school records to identify other possible victims. This can also justify a search of the suspect's house for past school records.
2. Once the warrant is served, begin to identify and interview possible victims.
3. Involve State licensing agencies to close the daycare center.
4. Continue your investigation to identify additional victims or suspects.

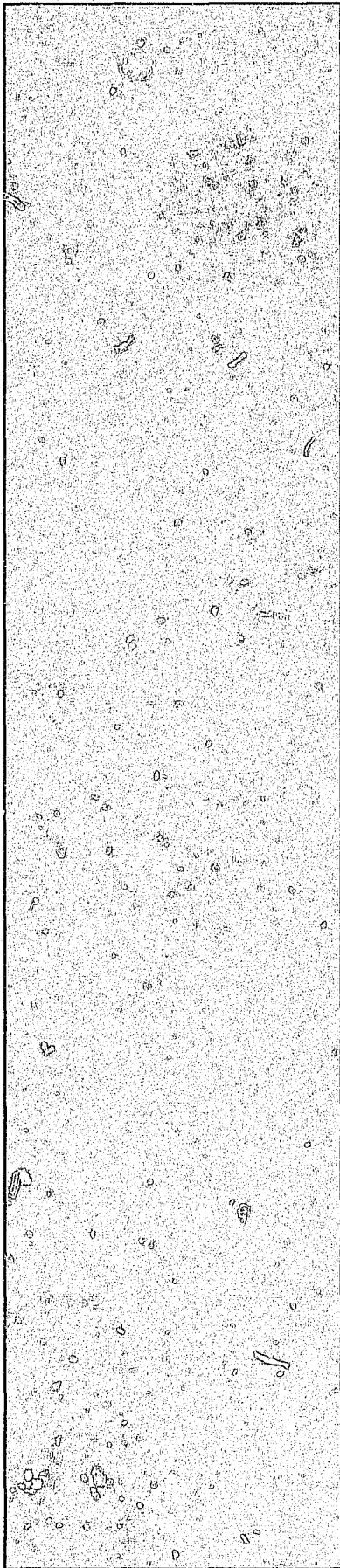
Do not expect to see a 3- or 4-year-old child qualify in court. It is extremely important to locate and seize the physical evidence that will prove the case.

### PROBLEM 4

An 18-year-old male makes a complaint that he was molested by his uncle when he was 10 years old. He describes how his uncle showed him child pornographic movies and photographs and how his uncle photographed him in sexually explicit poses. The boy is now coming forward because his uncle has become a Boy Scout leader. The boy explains that he does not want other boys to be molested. You identify the uncle as a school teacher, Boy Scout leader, and "big brother."

#### Suggestions

1. A search warrant may be justified based upon the 18-year-old's statement. It must be argued in the affidavit that "staleness" is not an issue. Pedophiles retain their pedophilic material for extended periods of time.
2. If a search warrant cannot be obtained, identify and interview the most probable victim. This will most likely be the "little brother" matched to the suspect.
3. Surveil the suspect's house to determine which juveniles frequent the location. Identify and interview those juveniles closest to the suspect.
4. If any of the identified victims are willing, record a conversation between the victim and suspect for incriminating statements. The 18-year-old, as an adult, may be wired and sent into the house. Anyone under age 18 should never be placed in physical danger.
5. Each child to whom the suspect has access should be interviewed as a possible victim.



### PROBLEM 5

A local drug store develops film and discovers child pornography. Included in the photographs are facial shots of the adult male who brought the film in for developing, an adult female, and photographs of a 2-year-old girl being molested. The name on the order is fictitious.

#### Suggestions

1. Consider surveillance of the store until someone picks up the photographs. Identify this individual and proceed accordingly.
2. Request help from the store to obtain the license number of the suspect's vehicle.
3. If the jurisdiction is within a small community, show photographs of the adults and child to the pharmacist and local pediatricians for possible identification.
4. Duplicate photographs of the adults and distribute them to uniformed officers for possible identification.

## **Chapter 3: Appendixes**

### **Child Sexual Exploitation**

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- A. Notes
- B. Investigator's checklist
- C. Affidavit for a search warrant
- D. Warrant based on correspondence
- E. Warrant based on a crime report and a supplemental warrant
- F. Warrant based on probable cause—staleness not an issue
- G. Warrant based on film lab reporting sexual exploitation

## Appendix A: Notes

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2. Roth, R.A., and Kendrick, P. 1981. *Child Sexual Abuse: Incest, Assault and Exploitation*. Washington, D.C.: U.S. Department of Health and Human Services, National Center on Child Abuse and Neglect, p. 1.
3. Sheehy, G. 1984. "Are You Ready to Listen?" *Parade*, July 28, p. 5.
4. Kempe, R.S., and Kempe, C.H. 1984. *The Common Secret: Sexual Abuse of Children and Adolescents*. New York: Freeman and Company, p. 15.
5. Crendson, J. 1988. *Violence Betrayed: Sexual Abuse of Children in America*. Little Brown.
6. Collins, G. 1984. "Studies Find Sexual Abuse of Children Is Widespread," *The New York Times*, May 13, p. 21.
7. Finkelhor, D. 1984. *Child Sexual Abuse*. New York: Macmillan, Inc., p. 152.
8. Crendson, J.
9. Barry, R.J. 1984. "Incest: The Last Taboo," *FBI Journal*, February, p. 19.
10. Muldoon, L. 1979. *Incest: Confronting the Silent Crime*. St. Paul, Minnesota: Minnesota Department of Corrections, p. 9.
11. Broadhurst, D. 1984. *The Role of Law Enforcement in the Prevention and Treatment of Child Abuse and Neglect*. Washington, D.C.: U.S. Department of Health and Human Services, National Center on Child Abuse and Neglect, p. 15.
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## Appendix B: Investigator's checklist

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1. What *crime* has been committed?
2. What is the *relationship* of the perpetrator to the victim?
3. What has been the *duration* of the sexual abuse or exploitation?
4. What types of *behavioral characteristics* is the victim demonstrating?
5. Have there been any *threats of violence* or coercion directed at the child?
6. Are there any other forms of *child abuse* present (e.g., neglect, physical abuse)?
7. Are there any *physical indicators* of sexual contact?
8. Is the child describing *sexual activities* that he or she ordinarily would not have knowledge about?
9. Is the child's story *consistent* with what he or she has told others?
10. Has the child been exposed to any form of *pornography*?
11. Has the child participated in any form of *child pornography*?
12. Have you collected sufficient *background information* from teachers, neighbors, siblings, friends, or others with whom the child may have shared information?
13. If the allegations involve incest, is there a "*safe parent*"?
14. Has the child participated in a *physical examination*?
15. Before talking to the child, do you feel you *know enough* about the child?
16. Have you considered *vocabulary, parental reactions, and unstructured play* techniques?
17. What words does the child use to describe *sexual activities* or *body parts*?
18. Does the child have any *handicaps* that might restrict communication?
19. *Where* is the child going to be interviewed?
20. Is the interview going to be *audio-* or *videotaped*?
21. Has the investigation been *coordinated* with other agency professionals (e.g., protective services, mental health, and prosecutor's office)?

## Appendix C: Affidavit for a search warrant

Note: This Affidavit and its exhibits are true representations of actual documents.

### AFFIDAVIT FOR SEARCH WARRANT

<b><i>United States District Court</i></b>	DISTRICT CENTRAL DISTRICT OF CALIFORNIA	
United States of America vs.  One single family residence 4722 West 191st Street Torrance, CA 90503	DOCKET NO.	MAGISTRATE'S CASE NO.
	NAME AND ADDRESS OF JUDGE <sup>1</sup> OR U.S. MAGISTRATE  Ralph Geffen U.S. Magistrate Los Angeles, CA	
The undersigned being duly sworn deposes and says: That there is reason to believe that		
<input type="checkbox"/> on the person of <input checked="" type="checkbox"/> on the premises known as	DISTRICT CENTRAL DISTRICT OF CALIFORNIA	
One single family residence, being more particularly described as the residence of David H. E. Adams, located at 4722 West 191st Street, Torrance, CA.		
The following property (or person) is concealed:		
See paragraph 22 of affidavit of U.S. Deputy Marshal William H. Dworin, which is incorporated as part of the Affidavit for Search Warrant.		
Affiant alleges the following grounds for search and seizure <sup>2</sup>		
<input type="checkbox"/> See attached affidavit which is incorporated as part of this affidavit for search warrant		
Affiant states the following facts establishing the foregoing grounds for issuance of a Search Warrant		
SIGNATURE OF AFFIANT	OFFICIAL TITLE, IF ANY U.S. Deputy Marshal	
Sworn to before me, and subscribed in my presence:		
DATE	JUDGE <sup>1</sup> OR U.S. MAGISTRATE Ralph Geffen	

<sup>1</sup> United States Judge or Judge of a State Court of Record.

<sup>2</sup> If a search is to be authorized at "any time in the day or night" pursuant to Federal Rules of Criminal Procedure 41 (c), show reasonable cause therefor.

A F F I D A V I T

I, WILLIAM H. DWORIN, do hereby depose and say:

1. I am a Special U.S. Deputy Marshal assigned to a multi-agency task force charged with the investigations of child sexual exploitation.
  
2. Furthermore, I am a detective for the City of Los Angeles and have been so employed for the past 21 years. For the past 10 years, I have been assigned to the Sexually Exploited Child Unit of Juvenile Division. I have participated in an excess of 1,500 investigations involving the sexual exploitation of minors and children. I have personally conducted in excess of 800 investigations, resulting in felony charges of child molestation and exploitation. I have received extensive training and have read numerous publications dealing with the sexual exploitation of children. I have talked to in excess of 1,200 sexually exploited children and in excess of 1,400 admitted child molesters. I have read and examined in excess of 15,000 letters between pedophiles describing their admitted sexual conduct with children and the manner in which they exploited said children for sexual gratification. I have examined tens of thousands of photographs, magazines, movies and video tapes during these investigations which depict children engaged in sexual activities with themselves, with other children, with animals, and with adults. I have examined and read publications distributed from foreign countries and in the United States which describe in detail sexual activities between adults and children. I am familiar with the manner in which pedophiles entice and encourage children to engage in sexual conduct and the manner in which they exchange children with each other and make contact with other adults who engage in such conduct. From my training and experience, I am aware that pedophiles have a specific age preference for the juvenile victim and that when the victim surpasses this age, the pedophile, no longer having a sexual interest in her/him, will seek out



a younger juvenile victim to take the victim's place sexually. It has been my experience that pedophiles will not stop or remain with one juvenile victim but will constantly seek out new victims, using the same method of seduction that has been successful for him. It has been my personal experience and knowledge of pedophiles from other officers that the pedophile has never stopped with one juvenile victim but has continued to molest juveniles whenever the opportunity arises. From interviewing and speaking with pedophiles, both in an official capacity and during undercover operations, I am aware that pedophiles are the producers, noncommercial distributors, and consumers of child pornography and will seek out sources of this material. I am aware that pedophiles will retain photographs, magazines, movies, video tapes and correspondence and this retention will span many years. This material is displayed to juveniles by the pedophile to lower the juveniles' inhibitions and to encourage them to act out what they observe. The child pornography is also used by the pedophile to justify the belief that having sex with juveniles is acceptable and encourages the pedophile to seek out and molest juveniles. The pedophile will also exchange the child pornography with other pedophiles as a means of acceptance and proof of their involvement with juveniles. From the prior investigations that I have conducted and from talking to other detectives involved in pedophilic investigations worldwide, I am aware of pedophiles retaining their pedophilic and pornographic material in excess of 20 years, and that this material has been shown to juveniles to lower the victim's inhibitions. I am aware that, depending upon the age of the juvenile victims, pedophiles will often furnish drugs and alcohol to lower victims' inhibitions. A pedophile will frequently seek out employment or volunteer his or her service to be close to children and to victimize them. I have testified as an expert witness in the fields of sexual exploitation of children, child pornography, and pedophilia in municipal and superior courts in California as well as in Federal courts. I have testified as an expert before congressional and Senate committees, as well as testi-

fyng before the Attorney General's Commission on Obscenity. I have also assisted the United States Attorney's Office in formulating procedures in the federal prosecution for the importation and noncommercial distribution of child pornography.

3. Your affiant received information from Special Agent Kelly M. S. Wilson, U.S. Customs Service, regarding David Adams. The U.S. Customs Service intercepted an international mail parcel addressed to David Adams at 8671 Hayden Place, Culver City, California. This parcel contained a pornographic magazine, *Lolita 51*, that depicts pre-adolescence girls in sexually explicit poses.
4. Based on the knowledge of the seizure and having conversations with Special Agent Wilson, as well as other U.S. Customs Agents throughout the United States, it is my belief that approximately 10 percent of the materials depicting children engaged in sexually explicit conduct is seized by Customs upon entry into the United States and that David Adams has received additional child pornographic material from overseas sources and does have a sexual interest in children and is a pedophile.
5. On May 2, 1986, your affiant, using the alias of Gary Leonard, wrote to David Adams at 8671 Hayden Place, Culver City. The purpose of this letter was to ascertain if Adams is sexually involved with juveniles and/or involved in the dissemination of child pornography. The letter states, "Hi, Your name was given to me by a trusted friend. I believe we share a common interest. I am interested in the physical development of children and I hope that you share this interest. If so, I hope to hear from you. Gary Leonard"
6. On May 7, 1986, your affiant received a reply from D. Adams. The envelope was a business envelope from Interactive Motion Control Inc., 8671 Hayden Place, Culver City, California. Above the printed return address

and written in red is the name D. Adams. The note, also written in red, was on the letter sent by your affiant. The note stated, "Hi, Please send what information you have available (video VHS?). Please mark Personal and Confidential." The note also had a return address of David Adams, 8671 Hayden Pl., Culver City, CA 90230. (A copy of your affiant's letter and Adams' reply and envelope are attached hereto as Exhibits 1 and 2.) [The envelope is not included in this manual.]

7. On May 7, 1986, your affiant replied to Adams' note, stating, in part, "Hope you didn't misunderstand but I don't sell any of my material. I would be willing to trade or share. I do have VHS ... I also have movies. All of my material are pre teen. Please let me know your interest. Gary" (Copy of letter is attached hereto as Exhibit 3.)
8. Having not heard from Adams for approximately one month, your affiant again wrote, stating, in part: "Due to a recent arrest for drunk driving, I find myself in need of some funds. I think I told you the type of material that I have. I would be able to sell certain magazines and any videos since I can easily make copies. If you are interested, please let me know exactly what you would like and what age group you would like to see. My collection is extensive. Magazines would sell for \$25 and video for \$60. Gary" (Copy of the letter is attached hereto as Exhibit 4.)
9. Your affiant received a letter from David Adams on June 16, 1986. The return address was 8671 Hayden Pl., Culver City. The letter states, "Hi, Received your letter of June 6th and I want to buy one of your video's (VHS). I would like to see pre-teen boy and girl with adult male or young girl with adult male. I have enclosed \$30.00. Send me a description of the other video's that you have in your collection as well as magazines. Dave Adams. P.S. Just mark all correspondence Per-

sonal." (Copy of the letter is attached hereto as Exhibit 5.) Enclosed in the letter was a twenty and ten dollar bill.

10. On June 17, 1986, your affiant responded to Adams' letter, stating, in part: "Received your letter and agree to your terms. Before I send you a tape, I would like some type of assurance from you. Please sign a statement that you are not a police officer, postal inspector or other law enforcement agent and that you know that the contents of the tape is sexually explicit. Once I receive the note, I'll mail you the tape. It will have 3 different films on it ... Gary." (Copy of the letter is attached hereto as Exhibit 6.)
11. Your affiant determined that the address 8671 Hayden Place, Culver City, is a business in a light industrial/business center. Your affiant checked several of the vehicle license plates through the California Department of Motor Vehicles and identified a 1982 Datsun 280Z, silver in color, California License 1HBW468, registered to David H. E. Adams and Catherine Adams, 4722 W. 191st St., Torrance. No other vehicle in the parking lot was registered to David Adams.
12. Your affiant checked various seized mailing lists of child pornography distributors. Your affiant noted that on the Cathy Wilson mailing list, the name David H. E. Adams, 1121 W. Sepulveda Blvd., Torrance, CA, Apt. I-204, appeared. Notations under the name indicated that seven different child pornographic items were sent to Adams. Prior to Wilson's arrest and conviction, she mainly distributed child pornographic magazines and movies and was beginning to advertise child pornographic videotapes.
13. Your affiant queried the California Department of Motor Vehicles and identified Adams as David Herbert Edward Adams, 4722 W. 191st St., Torrance, CA. DMV showed Adams with an additional address of 1121 W.

Sepulveda, Apt. I 204, Torrance. This address was in 1980. He is described as a male, red hair, hazel eyes, 6'0", 190 lbs., date of birth July 10, 1941.

14. Your affiant determined that utilities for 4722 W. 191st St., Torrance, are in the name of David H. E. Adams, since November 1981.
15. Your affiant went to 4722 W. 191st St., Torrance, and found it to be a single family residence in a residential area. Your affiant, without identifying himself, talked to neighbors living one house next to Adams. It was confirmed that David Adams did reside at 4722 W. 191st St., Torrance.
16. On June 23, 1986, your affiant received a letter from Adams. The letter, dated June 19, 1986, stated, "Hi, Received your letter and I assure you that I am not a police officer, postal inspector or any other law enforcement officer. The material being sent to me will be sexually explicit. Looking forward to receiving the video tape. David Adams."  
(Copy of the letter is attached hereto as Exhibit 7.)
17. Your affiant then prepared a VHS video tape consisting of three 8mm movies that were transferred to video. The three movies, approximately 10 minutes each in length, contain explicit sexual material between pre-teen juvenile females and teenage females with each other and with adult males. This tape was marked B.D. for identification.
18. Your affiant then obtained permission from the Commanding Officer of Juvenile Division, Los Angeles Police Department, to record a conversation with Detective Dworin, acting in an undercover capacity, and David Adams. On June 23, 1986, your affiant spoke with and recorded the conversation with Adams.

19. On June 23, 1986, at 1330 hours, your affiant called David Adams at his business. This phone number was obtained from the information operator for Interactive Motion Control Inc. Adams identified himself and stated that he was looking forward to viewing the tape. He stated that he doesn't keep the tape at the business, but keeps it in a secure location.
20. Your affiant prepared the video tape for mailing and sent the tape via U.S. Mail. The package will be delivered to Adams' business located at 8671 Hayden Pl., Culver City. A surveillance will commence upon delivery of the package with the intention to follow Adams from his business to his residence to ensure that the child pornographic video tape is retained at his residence.
21. It is your affiant's belief that there is probable cause to believe that David H. E. Adams resides at 4722 W. 191st Street, Torrance, and that David Adams is a pedophile. Further, it is your affiant's belief that Adams will have materials which depict children engaged in sexually explicit conduct at this residence.
22. Based upon your affiant's experience, expertise and training, the following items are expected to be found at Adams' residence, located at 4722 W. 191st Street, Torrance, which includes, but are not limited to the following items of pedophilic paraphernalia: 1) the video tape purchased by Adams from your affiant; 2) any other video tapes, magazines, books, photographs, films and/or other visual depictions of minors in sexually explicit conduct as those terms that are defined in 18 USC 2256; 3) video players, movie projectors, slide projectors or other devices used to display this material; 4) still camera, video cameras, lighting equipment, photo reproducing and/or development paraphernalia used in photographing or duplicating children engaged in sexually ex-

plicit conduct; 5) correspondence from Gary Leonard and/or from other persons relating to the sexual activity of children; 6) books, documents and records reflecting the making, receipt, or acknowledgment of orders to purchase or offers to sell or trade depictions of minors, address books, mailing lists, supplier lists, advertising brochures or materials, and all documents or records pertaining to the preparation, purchase or acquisition of customer or correspondents' names or lists, used in connection with the purchase, sale, or trade of sexually explicit depictions of minors; 7) child erotica as defined as items not sexually explicit but which relate to children and are used by the pedophile to encourage the molestation of children or used by the pedophile to fantasize sexual involvement with children; 8) diaries, notebooks, notations or other writings relating to sexual involvement with juveniles.

23. Your affiant requests the court to make its determination of probable cause based solely on the above information. In order to fully advise the court, it is the Government's intention to effect a controlled delivery of the video tape which contains sexually explicit depictions of minors as requested by David Adams, and to execute the warrant after the video tape reaches David Adams' residence.

[Signed]

---

WILLIAM H. DWORIN  
United States Deputy Marshal

Subscribed and sworn to before me  
this \_\_\_ day of June 1986.

[Signed]

---

UNITED STATES MAGISTRATE

**Exhibit 1**

May 2, 1986

Hi

Your name was given to me by a trusted friend. I believe that we share a common interest.

I am interested in the physical development of children and I hope that you share this interest.

If so, I hope to hear from you.

Gary Leonard  
P.O. Box 55461  
Valencia, CA  
91355-0461

**Exhibit 2**

May 2, 1986

Hi

Your name was given to me by a trusted friend. I believe that we share a common interest.

I am interested in the physical development of children and I hope that you share this interest.

If so, I hope to hear from you.

Gary Leonard  
P.O. Box 55461  
Valencia, CA  
91355-0461

David Adams  
8671 Hayden Pl  
Culver City, CA 90230

Hi,

Please send what information you have available. (Video VHS?)

Please - mark PERSONAL & CONFIDENTIAL



Exhibit 3

May 7, 1986

Hi

Got your note this PM. Hope you didn't misunderstand but I don't sell any of my material. I would be willing to trade or share. I do have V.H.S. They are of 8mm loops that I transferred.

I also have movies, magazines and both personal & traded photos that I have been collecting over 10 years now. All my material are pre teen.

Please let me know your interest. Maybe we can get together as we live fairly close.

Gary

Exhibit 4

June 6, 1986

Hi

It's been over a month since I heard from you and due to a recent arrest for drunk driving, I find myself in need of some funds.

I think I told you the type of material that I have. I would be able to sell certain magazines of which I have duplicates and any of my videos since I can easily make copies.

If you are interested, please let me know exactly what you would like and what age group you would like to see.

My collection is extensive and varied. Magazines will sell for \$25 and video for \$60.

Hope to hear from you soon.

Gary Leonard

P.S. I'll be on vacation for next 2 weeks.

Exhibit 5

June 12, 1986

Hi

Received your letter of June 6th and I want to buy one of your video's. (VHS).

I would like to see pre-teen boy and girl with adult male or young girl with adult male.

I have enclosed \$30.00 and upon receiving the video will immediately send you the remaining \$30.00.

Send me a description of the other video's that you have in your collection as well as magazines.

Dave Adams

P.S. Just mark all correspondence PERSONAL

Exhibit 6

June 17, 1986

Hi

Received your letter and agree to your terms of half up front and half on receipt.

Before I send you a tape, I would like some assurance from you. Please sign a statement that you are not a police officer, postal inspector or other law enforcement agent and that you know that the contents of the tape is sexually explicit.

Once I receive the note, I'll mail you the tape. It will have 3 different films on it. Each film cost me \$50 so you are getting a good deal. If you want more films, you can send back the tape and I will put 3 more films on for \$50 or send you a new tape for \$60.

My magazine consists of many Lolitas, Lolita specials, color specials and Nymph Lovers. I'll sell my duplicates for \$15 each. They are all in good shape. These are

Lolita 29, 30, 32, 34 & 35

Lolita Special 3,4 & 6

Nymph Lovers 3 & 4

I will also be willing to loan, on a one to one basis with you if you wish. Please send me a list of what you have. I also have personal photos but these I could not release but be willing to show you once a trust is truly established. These photos alone would put me in jail.

Write soon  
Gary

Exhibit 7

June 19, 1986

Hi

Received your letter and I assure you that I am not a police officer, postal inspector or any other law enforcement officer. The material being sent to me will be sexually explicit.

Looking forward to receiving the video tape.

David Adams

## Appendix D: Warrant based on correspondence

Note: This Warrant and its attachments are true representations of actual documents.

Search Warrant No. 951

### STATE OF CALIFORNIA - COUNTY OF LOS ANGELES SEARCH WARRANT AND AFFIDAVIT

THE PEOPLE OF THE STATE OF CALIFORNIA TO ANY SHERIFF,  
POLICEMAN OR PEACE OFFICER IN THE COUNTY OF LOS ANGELES:

proof by affidavit, having been made before me by

William H. Dworin, 12122 that there is probable cause to believe

(name of affiant)

that the property described herein may be found at the locations set forth herein and that it is lawfully sizable pursuant to Penal Code Section 1524 as indicated below by "x"(s) in that it:

- was stolen or embezzled
- was used as the means of committing a felony
- is possessed by a person with the intent to use it as a means of committing a public offense or is possessed by another to whom he may have delivered it for the purpose of concealing it or preventing its discovery
- is evidence which tends to show that a felony has been committed or a particular person has committed a felony
- is evidence which tends to show that sexual exploitation of a child, in violation of Section 311.3, has occurred or is occurring;

#### YOU ARE THEREFORE COMMANDED TO SEARCH:

1. 1355 Hilda Avenue, Apartment 4, Glendale, County of Los Angeles, described as a two-story multiunit apartment building, yellow stucco with brown trim. The numbers 1355 are attached to the outside wall. Apartment 4 is identified by the numeral "4" attached to the door. The name on the mailbox for Apartment 4 is G. Dicks. 2. Gerald Dicks, male White, 6-0, 218, brown hair, hazel eyes, date of birth March 19, 1933.

#### FOR THE FOLLOWING PROPERTY:

1. Photographs depicting the juvenile E. and/or other juveniles, dressed, nude, or engaged in sexual activity. 2. Photographs, magazines, videotapes or other visual depictions depicting sexual activity between adults or adults and juveniles used for the purposes of lowering the inhibitions of juvenile victims. 3. Correspondence from Dick Tanous and/or other persons that describes sexual involvement with juveniles. 4. Movie cameras, video cameras, video recorders, cameras or other visual equipment used to take, depict or duplicate movies, videos, or photographs. 5. Telephone books, address books, notations or other writings tending to identify the juvenile E. and to identify the location in the desert where E. was molested. 6. The passport of Gerald Dicks to corroborate his statements as to his sexual involvement with juveniles in foreign countries. 7. Typewriter used to type the letter to Dick Tanous.

AND TO SEIZE IT IF FOUND and bring it forthwith before me, or this court, at the courthouse of this court.

This Search Warrant and Affidavit was sworn to and subscribed before me on April 3, 1986 at 1:47 p.m. Wherefore, I find probable cause for the issuance of this Search Warrant and do issue it.

[Signed]

\_\_\_\_\_  
(signature of magistrate)

Judge of the Superior/Municipal Court, \_\_\_\_\_ [Signed] \_\_\_\_\_ Judicial District

-----  
**NIGHTTIME SERVICE ENDORSEMENT\***

GOOD CAUSE HAVING BEEN SHOWN, THIS WARRANT CAN ALSO BE SERVED AT NIGHT.

\_\_\_\_\_  
(endorsement of magistrate for nighttime service)

-----  
**(AFFIDAVIT)**

WILLIAM H. DWORIN, 12122 , being sworn, says that on the basis  
(name of affiant)

of the information contained within this Search Warrant and Affidavit and the attached and incorporated Statement of Probable Cause, he/she has probable cause to believe and does believe that the property sought pursuant to this Search Warrant is lawfully seizable pursuant to Penal Code Section 1524 and is now located at the locations set forth in this Search Warrant. Wherefore, affiant prays that this Search Warrant be issued and that it may be served at any time of the day OR NIGHT (strike OR NIGHT if not applicable).

[Signed]

\_\_\_\_\_  
(signature of affiant)

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\*Unless endorsed for nighttime service, this warrant can be served only between 7:00 a.m. and 10:00 p.m.

Your affiant is William H. Dworin. I am a detective for the City of Los Angeles and have been so employed for the past 21 years. For the past 9 years, I have been assigned to the Sexually Exploited Child Unit of Juvenile Division. I have been assigned to said Juvenile Division for the past 13 years. I have participated in an excess of 1,500 investigations involving the sexual exploitation of minors and children. I have personally conducted in excess of 800 investigations resulting in felony charges of child molestation and exploitation. I have received extensive training and have read numerous publications dealing with the sexual exploitation of children. I have talked to in excess of 1,000 sexually exploited children and in excess of 1,200 admitted child molesters. I have read and examined in excess of 15,000 letters between pedophiles describing their admitted sexual conduct with children and the manner in which they exploited said children for sexual gratification. I have examined tens of thousands of photographs during these investigations which depict children engaged in sexual activities with themselves, with other children, with animals and with adults. I have examined and read publications distributed from foreign countries and in the United States which describe in detail sexual activities between adults and children. I am familiar with the manner in which pedophiles entice and encourage children to engage in sexual conduct and the manner in which they exchange children with each other and make contact with other adults who engage in such conduct. From my training experience, I am aware that pedophiles have a specific age preference for the juvenile victim and that when the victim surpasses this age, the pedophile, no longer having sexual interest in her/him, will seek out a younger juvenile to take the victim's place sexually. It has been my experience that pedophiles will not stop or remain with one juvenile victim but will constantly seek out new victims, using the same method of seduction that had been successful for him. It has been my personal experience and knowledge of pedophiles from other officers that a pedophile has never stopped

with one juvenile victim but has continued to molest juveniles whenever the opportunity arises. From interviewing and speaking with pedophiles, both in an official capacity and during undercover operations, I am aware that pedophiles will retain photographs, magazines, movies and correspondence. This retention will span many years and the material is used by the pedophiles to lower the child's inhibitions and to relieve the pedophile's experience. From the prior investigations that I had conducted and from talking to other detectives involved in pedophilic investigations worldwide, I am aware of pedophiles retaining their pedophilic and pornographic material in excess of twenty years, and that this material has been shown to juveniles to lower the victim's inhibitions. I am aware that, depending upon the age of the juvenile victims, that pedophiles will often furnish drugs and alcohol to lower their inhibitions. A pedophile will frequently seek out employment to volunteer his or her service to be close to children and to use the authority over the children and to victimize them. I have testified as an expert in both the Municipal and Superior Courts in the field of the sexually exploited child and have assisted in the federal prosecution for the importation and non-commercial distribution of child pornography.

On January 22, 1986 E., age 12, and his brother J., age 7, were taken into protective custody as victims of child endangering. It was determined that their mother, S., was out-of-town on a business trip and left her sons with a second adult to be cared for. The children were not cared for and were living in an endangered environment when taken into custody. When the officers checked the residence to determine the unsafe conditions, they located a letter addressed to E. and signed Jerry. The letter stated in part, "You are a young man that maybe would like the company of an older man, someone who can help guide you, or someone to talk to. . . . I am an older man, one who enjoys the company of younger people. . . . You and I could do things together, share our secrets, have some fun and maybe learn from one another with 'no strings.' . . . Shall we try for Saturday, maybe

go to Disneyland or up to the desert to some friends who have a small ranch. . . . You're welcome to come stay at my place over night if you'd like. I have a nice apartment in Glendale, a stereo, Cable TV, a really jazzy van, and a video camera which is kind of fun to play with. . . . My home number is area 818 241-4225. . . . I get kind of lonesome for a young man friend. Lets try and share some time together. Jerry." (Copy of letter incorporated as Attachment 1). The officers, believing that Jerry had a sexual interest in the juvenile, E., notified your affiant and requested further investigation. Your affiant interviewed E. on February 11, 1986. E. denied being sexually molested by Jerry. He stated that he spent the night at Jerry's house once or twice. Jerry took him to Disneyland. Jerry has two VCRs in his living room. He never discussed sexual activity with Jerry. Your affiant then interviewed S. She stated that she had known Jerry for the past two years. She had asked Jerry to talk to her son about sex because she didn't know how to approach the subject with him. She identified Jerry as Jerry Dicks living in Glendale. She did not furnish his address or telephone number.

Your affiant did a background investigation on Jerry Dicks. From a prior investigation, your affiant had obtained the customer mailing list of "Award Films" a company that distributes photographs and videos relating to child erotica. One video entitled "Robby" depicts two boys romping naked on the beach. They hunt, fish and play uninhibited. Your affiant noted that a Jerry Dicks, 1147 East Broadway Box 384, Glendale, was a customer of "Award Films." Your affiant was aware that this address was a private mail service and interviewed the manager of this service. The manager identified Box 384 as being opened on January 17, 1985 by Gerald Dicks. He furnished a Texas license as identification and supplied his residence address as 1355 Hilda Avenue, #2, Glendale with a residence phone of 818 241-4225 and a business phone as 818 896-6454. Your affiant then checked 1355 Hilda Avenue and found that Dicks' apartment was listed as



Apartment 4. Your affiant contacted the mail carrier for Dicks and learned that Dicks had moved from Apartment 2 to Apartment 4. Your affiant also noted that the residence phone number given on the box application was the same given in the letter to E. Because Ms. H. indicated that she would advise Jerry of the investigation, your affiant contacted him telephonically and explained the reason for E. being interviewed. Dicks indicated that the reason he contacted E. was at the request of his mother and that he was just acting as a substitute father to the boy. No discussion of Dicks' involvement with Award Films was mentioned.

Your affiant believed that Dicks did have a sexual interest in boys due to his involvement with Award Films and began an undercover investigation of his activities. On March 20, 1986 your affiant wrote to Dicks at his mail service address. Your affiant stated that he was interested in aiding young boys to explore their feelings and assist them in becoming young men. (Copy of the letter incorporated as Attachment 2.) Dicks responded on March 23, 1986 to your affiant's letter. He stated in part, "Yes, I am quite sure we share a common interest. I have long hoped to meeting someone who also appreciates and shares my point of view. I live in Glendale. I'm home after 6 p.m. every evening. My home phone is 818-241-4225. I live alone. Jerry Dicks" (copy of the letter incorporated as Attachment 3).

Your affiant responded to Dicks' letter stating that he coaches a softball team and the boys are 9-11 years of age. He has a collection of magazines, movies, photos and some videotapes and that there are two boys that he had photographed extensively (copy of the letter incorporated as Attachment 4). On March 31, 1986 Dicks responded to your affiant's letter by a typed letter which stated in part, "I'm a White male, 53, 6-0, 210 lbs. I have always preferred men and the younger the better. Dick, I have little to offer in our common feelings except feelings. I have had my share

of younger men, usually in the 17-25 group. I have only had one real experience with "chicken" and that was rather recently. He's a very diminutive 13-year-old and appears and is physically younger. I have been super cautious in my approach, and I'll be happy to discuss it with you at length but prefer to reserve it until we meet. I am a daily masturbator, love the videos, gay novels, films and magazines. To be quite frank about it, I am very oral. I love to suck cock and always have."  
(Copy of the letter incorporated as Attachment 5.)

On April 2, 1986 your affiant obtained permission to record a telephone conversation between him and Jerry Dicks. At 1945 hours your affiant called Dicks at his home telephone, 818 241-4225 and recorded the conversation. During the conversation Dicks identified a 13-year-old boy with whom he had some sexual involvement. He identified the boy as E. and described two instances of his involvement with E. The first occurred at his apartment. He described E. as being like a 9-year-old and has no pubic hair. He stated that E. climbed into bed with him one morning. He got to touch E. and got a very tiny little taste (oral copulation) of it. E. claimed that it tickled and he didn't really care too much about it.

He described the second instance at a friend's ranch in Inyo-Kern. He and E. spent a weekend there and E. shared the fold-out bed. E. took his shorts off before getting into bed and Dicks fondled him for a while. He also described putting his finger into E.'s rectum and then turned him over, cuddled him and rubbed against his buttocks. Dicks stated that E. knew of his collection of gay magazines and videos and he had wanted E. to view them but at this time E. has not shown an interest in them.

Dicks also described his sexual involvement with juveniles in other parts of the world. Dicks stated that he wanted to send your affiant a photograph taken of E. in the desert but would like it back for his photo album. He stated that there was no sexual activity in the photo but it shows what

E. looked like. Based upon your affiant's experience, expertise and all of the information contained above, your affiant is of the conclusion that the property listed in the warrant will be found at the locations to be searched for the following reasons:

1. that the person listed is a pedophile,
2. that such persons do not destroy photographs and any other reproductions depicting sexual conduct,
3. that such persons retain these materials for the purposes of personal gratification, to gain the acceptance, confidence, and trust of other pedophiles, to exchange such materials from other pedophiles, to receive monetary gains for the furnishing of such material, to ensure protection from exposure to police authority from other persons,
4. that correspondence from other persons is kept with the same full allegiance,
5. that such persons gain certain pride from the exhibition of such material,
6. that such materials are kept secure in residence, vehicles, storage facilities and bank deposit boxes to protect themselves against seizure by police authorities; and,
7. that all of the other materials requested for seizure will identify other children being sexually exploited and other adults who are engaging in such exploitation.

Your affiant therefore says that there is probable and reasonable cause to believe that items requested to be seized are items which tend to show that a felony has been committed. To wit Section 288 of the Penal Code of the State of California. Your affiant has reasonable cause to believe that grounds for the issuance of a search warrant exists as set forth in Section 1524 of the Penal Code based upon the facts and the attachments.

Dear E:

Hi. My name is Jerry. I am a friend of your Mothers.

You are a young man that maybe would like the company of an older man, someone who can help guide you, or someone to talk to without the fear or reluctance of talking openly with other family members.

I am an older man, one who enjoys the company of younger people. I live alone and have no one to share much of my time with, and I have no one to do things with and for.

You and I could do things together, share our secrets, have some fun, and maybe learn from one another with "no strings".

How about you and I getting together and try to get acquainted a little. If you feel comfortable about, then maybe we could get in to some serious kinds of conversations.

Shall we try for Saturday, maybe go to Disneyland, or up to the desert to some friends who have a small ranch. If that is too much, lets have lunch someplace and rap. You're welcome to come stay at my place over night if you'd like. I have a nice apartment in Glendale, a stereo, Cable TV, a really jazzy van, and a video camera which is kind of fun to play with.

If any of this appeals to you, please give me a call. My home number is area 818, 241-4225. I don't have to work all next week. But, on the 2nd of January I'm going to be going on a trip to China, Indonesia and the Philippines. I'll be gone about a month, then when I come back, we could talk about my trip. I travel a lot and have flown over 4 million miles in my lifetime. I've been to more than 11 countries just this past year.

I get kind of lonesome for a young man friend. Let's try and share some time together.

Thanks for listening to my invitation. I hope to hear from you soon.

Best Regards,

Jerry

**Attachment 2**

Mar 20, 1986

Hi

A trusted friend passed your name on to me. It is possible that we share a common interest and I would like to explore this more.

I am very interested in aiding young boys to explore their feelings and assist them in becoming young men. I would like to share some of my experiences with you if my information about you is correct.

Dick Tanous  
7324 Reseda Blvd.  
Apt 173  
Reseda, CA 91335

**Attachment 3**

23 March 1986

Dear Dick:

Your letter of March 20th is acknowledged.

Yes, I am quite sure we share a common interest. I too would like to explore more about your experiences. I have long hoped to meet someone who also appreciates and shares my point of view. I am anxious to meet and talk with you further, and soon.

Dick, I am aware of the identity of your trusted friend. I am certain that you are aware that some months ago he engaged an associate who circulated a sample of your inquiry. At that time I dared to hope I'd hear from you, but had long since abandoned the prospect. Your letter is welcomed, as is the idea of collaborating. Please be assured that our communication is held, by me, in strictest of confidence.

I live in Glendale and my office is in the Valley. I'm home after 6 PM every evening. My home phone is (818) 241-4225. I live alone. Why don't you call me. I think we have a lot to talk about.

Regards,

Jerry Dicks

Mar 27 1986

Dear Jerry

Thanks for your quick reply and your trust in giving out your phone number. Because this subject is so sensitive, I wish to wait before speaking with you and just correspond at this time. I hope that you don't mind.

I am currently coaching a boys soft ball team. The boys are 9-11 years of age, the age that I enjoy most in working with. My interest in boys have gone back to when I was a boy and was involved with an older man. This was a most rewarding time for me and I hope to educate others as I have been educated.

I have an interesting collection of magazines, movies photos and some video tapes that I think you will find very interesting. I am also a photographer and have a complete darkroom set up. There are two boys on the team who I have photographed extensively. These too, I am sure you will enjoy viewing. The boys are just great and love to pose for the camera.

I won't go into too much detail at this time. Would love to hear of your interests and collection, if any. Take care and write soon.

Dick

P.S. Please keep my address secure as I wouldn't want the wrong people contacting me. I have done the same for yours.

## Attachment 5

Dear Dick:

Thanks for your reply. Yes, I'd be happy to correspond until you feel comfortable about meeting me face to face - perhaps I should say, man-to-man.

I have a really tight schedule this week, what with income tax time, and planning another really exhausting trip. You see, I am an international marketing agent for a company distributing plastic blasting media. I have 30 countries in my territory and am setting up agents in all those places. I have flown over 68,000 miles since last July. I will be leaving June 5th for a 90 day tour of the middle east, plus an air show in Hannover, West Germany first, then wind it up in Pakistan, India, perhaps Kuala Lumpur, Singapore, and finally Hong Kong. In my professional career I have amassed over four million air miles, something in excess of 22,000 hours in the air.

What all that explanation means is that I don't have much time just now to be real specific and complete. So, I'll try and give you a thumbnail sketch.

I'm a white male, 53 years, 6'0", 210 lbs, blond hair, grey-green eyes. Although I am quite sure I was born gay, I have been married and have four grown children, plus 4 grandchildren with another on the way. My children and I are all quite close, and they know I am gay and are totally supportive of my choice to live the way I do. I only came out completely in 1978. I have ALWAYS preferred men, and the younger the better. My opportunities have been limited, and I do not hit the bars or bathes or any of the traditional gay ways. I have always been much of a loner, and rather monogamous. Although I have had several live-ins over the years, there was only one Lover in my life. I was totally dedicated to him and truly loved him. Let me just say that he did me dirty - not once, but twice. That part was my fault -meaning the twice...

Dick, I have little to offer in our "common" feelings, except feelings. I am a mass of unfulfilled desires, and don't really know much about how to address the younger set. I have had my share of younger men, usually in the 17-25 group. I have only had one real experience with "chicken" and that was rather recently. He's a very diminutive 13 year old, and appears and is physically younger. We have barely scratched the surface together, but he appears a tiny bit willing. I have been super cautious in my approach, and I'll be happy to discuss it with you at length, but prefer to reserve it until we meet.

I am a daily masturbator, love the video's, gay novels, films, and magazines. To be quite frank about it, I am very oral. I love to suck cock, and always have. I became aware of little boys when I was 8 years old at the Pasadena YMCA. I learned about sucking cock in the Rialto Theater in South Pasadena soon thereafter, and didn't get around to females until 17. Perhaps you may know how it was being gay in the 40's and 50's.

Anyway, there are, I am sure, many others around who have much to offer, but no one can exceed my interest and enthusiasm about helping young men to discover about themselves and their maleness.

I'm open to your suggestions, write soon, call when you're comfortable.

Jerry

# Appendix E: Warrant based on a crime report and a supplemental warrant

Note: This Warrant and Supplemental Warrant are true representations of actual documents.

## STATE OF CALIFORNIA - COUNTY OF LOS ANGELES SEARCH WARRANT AND AFFIDAVIT (AFFIDAVIT)

William H. Dworin, 12122, being sworn, says that on the basis of the information  
(Name of Affiant)

contained within this Search Warrant and Affidavit and the attached and incorporated Statement of Probable Cause, he/she has probable cause to believe and does believe that the property described below is lawfully seizable pursuant to Penal Code Section 1524, as indicated below, and is now located at the locations set forth below. Wherefore, affiant requests that this Search Warrant be issued.

[Signed], NIGHT SEARCH REQUESTED: YES [ ] NO [ ]  
(Signature of Affiant)

## (SEARCH WARRANT)

THE PEOPLE OF THE STATE OF CALIFORNIA TO ANY SHERIFF, POLICEMAN OR PEACE OFFICER IN THE COUNTY OF LOS ANGELES: proof by affidavit having been made before me by William H. Dworin, 12122, that there is probable cause to believe that the  
(Name of Affiant)

property described herein may be found at the locations set forth herein and that it is lawfully seizable pursuant to Penal Code Section 1524 as indicated below by "x"(s) in that it:

- was stolen or embezzled
- was used as the means of committing a felony
- is possessed by a person with the intent to use it as means of committing a public offense or is possessed by another to whom he or she may have delivered it for the purpose of
- X  concealing it or preventing its discovery
- tends to show that a felony has been committed or that a particular person has committed a felony
- tends to show that sexual exploitation of a child, in violation of P.C. Section 311.3 has occurred or is occurring;

### YOU ARE THEREFORE COMMANDED TO SEARCH:

1. 8 North Sycamore Avenue, #4, Hollywood, County of Los Angeles described as a two story multi-unit apartment building, beige stucco with the numeral 8 painted on the wall. Apartment number 4 is identified by the Number 4 attached to the door frame. The mailbox for Apartment 4 lists the names Borts and Reuteler.
2. Borts, Gerald Steven, described as a male white, 5-10, 175, brown hair, brown eyes with a date of birth December 9, 1956.
3. 1986 Toyota Pick-up blue, California license 2V468.



FOR THE FOLLOWING PROPERTY:

1. Photographs, negatives and/or other visual depictions of the victim D. dressed, nude and/or in sexual activity. D. is described as a male white, 5-1, 103, blonde hair. 2. Photographs, negatives and/or other visual depictions of juveniles dressed, nude and/or in sexually explicit acts. 3. Videotapes depicting child and/or adult pornography. 4. Camera and video equipment used to photograph victim and to display videotapes. 5. Telephone books, address books, notations, diaries and other writings tending to identify other victims of sexual abuse. 6. Cancelled checks, checkbooks, billings for storage facilities or other writings tending to identify the storage facility where Borts' camper is stored. 7. Utility bills, telephone bills, cancelled mail or other items tending to identify the person or persons in control of the premise.

AND TO SEIZE IT IF FOUND and bring it forthwith before me, or this court, at the courthouse of this court. This Search Warrant and incorporated Affidavit was sworn to and subscribed before me this 14th day of May, 19 81, at 3:00 P.M. Wherefore I find probable cause for the issuance of this Search Warrant and do issue it.

[Signed]

\_\_\_\_\_, NIGHT SEARCH APPROVED: YES [ ] NO [ ]  
(Signature of Magistrate)

[Signed]

Judge of the Superior/Municipal Court, \_\_\_\_\_  
Los Angeles Judicial District

STATE OF CALIFORNIA - COUNTY OF LOS ANGELES  
**SEARCH WARRANT AND AFFIDAVIT  
(AFFIDAVIT)**

William H. Dworin, 12122, being sworn, says that on the basis of the information  
(Name of Affiant)

contained within this Search Warrant and Affidavit and the attached and incorporated Statement of Probable Cause, he/she has probable cause to believe and does believe that the property described is lawfully seizable pursuant to Penal Code Section 1524, as indicated below, and is now located at the locations set forth below. Wherefore, affiant requests that this Search Warrant be issued.

[Signed]

\_\_\_\_\_, NIGHT SEARCH REQUESTED: YES [ ] NO [X]  
(Signature of Affiant)

**(SEARCH WARRANT)**

THE PEOPLE OF THE STATE OF CALIFORNIA TO ANY SHERIFF, POLICEMAN OR PEACE OFFICER IN THE COUNTY OF LOS ANGELES: proof by affidavit having been made before me by William H. Dworin that there is probable cause to believe that the property  
(Name of Affiant)

described herein may be found at the locations set forth herein and that it is lawfully seizable pursuant to Penal Code Section 1524 as indicated below by "x"(s) in that it:

- \_\_\_\_\_ was stolen or embezzled
- \_\_\_\_\_ was used as the means of committing a felony
- \_\_\_\_\_ is possessed by a person with the intent to use it as means of committing a public offense or is possessed by another to whom he or she may have delivered it for the purpose of
- X \_\_\_\_\_ concealing it or preventing its discovery
- \_\_\_\_\_ tends to show that a felony has been committed or that a particular person has committed a felony
- \_\_\_\_\_ tends to show that sexual exploitation of a child, in violation of P.C. Section 311.3 has occurred or is occurring;

**YOU ARE THEREFORE COMMANDED TO SEARCH:**

Storage area 115 located at "Store 'N Lock," 2856 Los Felix Place, City and County of Los Angeles, described as a public storage facility with the address attached to the office front. Storage area 115 is located in building "O" on the second floor and is identified by the numerals 115 painted on the metal door.

FOR THE FOLLOWING PROPERTY:

1. Photographs, negatives and/or other visual depictions of the victim D. dressed, nude, and/or in sexual activity. D. is described as a male white, 5-1, 103, blonde hair. 2. Photographs, negatives and/or other visual depictions of juveniles dressed, nude and/or in sexually explicit acts. 3. Videotapes depicting child and/or adult pornography. 4. Camera and video equipment used to photograph victim and to display videotapes. 5. Telephone books, address books, notations, diaries and other writings tending to identify other victims of sexual abuse. 6. Cancelled checks, checkbooks, billings for storage facility where Borts' camper is stored. 7. Utility bills, telephone bills, cancelled mail or other items tending to identify the person or persons in control of the premise.

AND TO SEIZE IT IF FOUND and bring it forthwith before me, or this court, at the courthouse of this court. This Search Warrant and incorporated Affidavit was sworn to and subscribed before me this 22nd day of May, 19 81, at 10:45 p.m. Wherefore, I find probable cause for the issuance of this Search Warrant and do issue it.

[Signed]

\_\_\_\_\_, NIGHT SEARCH APPROVED: YES [ ] NO [X]

(Signature of Magistrate)

[Signed]

Judge of the Superior/Municipal Court, \_\_\_\_\_  
Los Angeles Judicial District

# Appendix F: Warrant based on probable cause— staleness not an issue

Note: This Warrant and Affidavit and attachment are true representations of actual documents.

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Search Warrant No. 20319

STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES

## SEARCH WARRANT

PEOPLE OF THE STATE OF CALIFORNIA to any sheriff, policemen or peace officer in the County of Los Angeles:

PROOF, by affidavit, having been made before me by

WILLIAM H. DWORIN, 12122, that there is probable cause to believe that the property described  
(name of affiant)

herein may be found at the locations set forth herein and that it is seizable pursuant to Penal Code Section 1524 as indicated below by "x"(s) in that it:

- was stolen or embezzled
- was used as the means of committing a felony
- is possessed by a person with the intent to use it as a means of committing a public offense or is possessed by another to whom he may have delivered it for the purpose of concealing it or preventing its discovery
- is evidence which tends to show that a felony has been committed or a particular person has committed a felony;

you are therefore **COMMANDED** to SEARCH 1. [Street address], Los Angeles, County of Los Angeles, described as a two story woodframe house covered with brown asphalt shingles. The numerals 260 are attached to the door frame. 2. A., male Caucasian, black hair, brown eyes, 5'6", 150 pounds, date of birth - March 20, 1939.

for the following property: 1. Photographs, negatives, slides depicting juveniles including, but not limited to R., male Latin, 5'3", 120 pounds, black hair, brown eyes, age 12-16 years, dressed nude and/or engaged in sexual activity. 2. Magazines and/or movies depicting nudity and/or sexual activity used to lower the inhibition of juveniles. 3. Cameras and camera equipment including, but not limited to cameras, enlargers, developing equipment, projectors. 4. Items of identification including but not limited to, utility bills, cancelled mail tending to identify the person or persons in control of the premise. 5. Address books, phone books, notations, records tending to identify the juveniles.

and to SEIZE it if found and bring it forthwith before me, or this court, at the courthouse of this court.

GIVEN under my hand and dated

this 25th day of March, 1983

at 3:04 p.m.

[Signed]

\_\_\_\_\_  
Signature of Magistrate

Judge of the Municipal Court Los Angeles  
Judicial District

-----  
**NIGHTTIME SERVICE ENDORSEMENT\***

GOOD CAUSE HAVING BEEN SHOWN BY AFFIDAVIT, THIS WARRANT CAN BE SERVED AT ANY  
TIME OF THE DAY OR NIGHT.

[Signed]

\_\_\_\_\_  
Endorsement of Magistrate  
for Nighttime Service

\*Unless endorsed for nighttime service, this warrant can be served only between 7:00 a.m. and 10:00 p.m.

STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES

**AFFIDAVIT FOR SEARCH WARRANT**

William H. Dworin, 12122 , being sworn, says that on the basis of the information contained  
(name of affiant)

within this affidavit, he has probable cause to believe and does believe that the property described below  
is seizable pursuant to Penal Code Section 1524 in that it: (CHECK APPROPRIATE BOX OR BOXES)

was stolen or embezzled

was used as the means of committing a felony

is possessed by a person with the intent to use it as a means of committing a public offense or  
is possessed by another to whom he may have delivered it for the purpose of concealing it or  
preventing its discovery

is evidence which tends to show that a felony has been committed or a particular person has  
committed a felony;

and that he has probable cause to believe and does believe that the described property is now located  
at and will be found at the locations set forth below and thus requests the issuance of a WARRANT

**TO SEARCH:**

1. [Street address], Los Angeles, County of Los Angeles, described as a two-  
story woodframe house covered with brown asphalt shingles. The numerals 260 are  
attached to the door frame. 2. A., male Caucasian, black hair, brown eyes, 5'6",  
150 pounds, date of birth - March 20, 1939.

**for the following property:**

1. Photographs, negatives, slides depicting juveniles including, but not limited  
to R., male Latin, 5'3", 120 pounds, black hair, brown eyes, age 12-16 years,  
dressed nude and/or engaged in sexual activity. 2. Magazines and/or movies  
depicting nudity and/or sexual activity used to lower the inhibition of juve-  
niles. 3. Cameras and camera equipment including, but not limited to cameras,  
enlargers, developing equipment, projectors. 4. Items of identification includ-  
ing but not limited to, utility bills, cancelled mail tending to identify the  
person or persons in control of the premise. 5. Address books, notations,  
records, phone books tending to identify the juveniles.

Your affiant says that the facts in support of the issuance of the search warrant are contained in the attached STATEMENT OF PROBABLE CAUSE which is incorporated as if fully set forth herein. Wherefore, your affiant prays that a search warrant be issued for the seizure of said property or any part thereof, at any time of the day OR NIGHT\*, good cause therefore having been shown.

[Signed]

---

Signature of Affiant

Subscribed and sworn to before me

this 25th day of March, 19 83.

[Signed]

---

Signature of Magistrate

Judge of the Municipal Court Los Angeles  
Judicial District

Prepared with the assistance of, or reviewed by:

[Signed]

---

Deputy District Attorney

\*Strike **OR NIGHT** if not applicable.

## Attachment A

Your affiant is William H. Dworin. I am a detective for the City of Los Angeles and have been so employed for the past 18 years. For the past six years, I have been assigned to the Sexually Exploited Child Unit of Juvenile Division. I have been assigned to said Juvenile Division for the past 10 years. I have participated in an excess of 750 investigations involving the sexual exploitation of minors and children. I have personally conducted in excess of 350 investigations resulting in felony charges of child molestation and exploitation. I have received extensive training and have read numerous publications dealing with the sexual exploitation of children. I have talked to in excess of 500 sexually exploited children and in excess of 800 admitted child molesters. I have read and examined in excess of 10,000 letters between pedophiles describing their admitted sexual conduct with children and the manner in which they exploited said children for sexual gratification. I have examined in excess of 30,000 photographs during these investigations which depict children engaged in sexual activities with themselves, with other children, with animals and with adults. I have examined and read publications distributed from foreign countries and in the United States which describe in detail sexual activities between adults and children. I am familiar with the manner in which pedophiles entice and encourage children to engage in sexual conduct and the manner in which they exchange children with each other and make contact with other adults who engage in such conduct. From my training and experience, I am aware that pedophiles have a specific age preference for the juvenile victim and that when the victim surpasses this age, the pedophile, no longer having sexual interest in her/him, will seek out a younger juvenile to take the victim's place sexually. It has been my experience that pedophiles will not stop or remain with one juvenile victim but will constantly seek out new victims, using the same method of seduction that had been successful for him. It has been my personal experience and



knowledge of pedophiles from other officers that a pedophile has never stopped with one juvenile victim but has continued to molest juveniles whenever the opportunity arises. From interviewing and speaking with pedophiles, both in an official capacity and during undercover operations, I am aware that pedophiles will retain photographs, magazines, movies and correspondence. This retention will span many years and the material is used by the pedophiles to lower the child's inhibitions and to relive the pedophile's experience. From the prior investigations that I had conducted and from talking to other detectives involved in pedophilic investigations worldwide, I am aware of pedophiles retaining their pedophilic and pornographic material in excess of twenty years, and that this material has been shown to juveniles to lower the victim's inhibitions. I am aware that, depending upon the age of the juvenile victims, that pedophile will often furnish drugs and alcohol to lower their inhibitions. A pedophile will frequently seek out employment or volunteer his or her service to be close to children and to use the authority over the children and to victimize them. I have testified as an expert in both the Municipal and Superior Courts in the field of the sexually exploited child and have assisted the United States Attorney's Office in formulating procedures in the federal prosecution for the importation and non-commercial distribution of child pornography.

On March 25, 1983, Mr. and Mrs. H., [Street address], Rosemead, went to Rampart Police station and reported that A., H.'s brother, had been molesting their son, R. Jr. when R. was 12-16 years of age. Your affiant was contacted by Rampart detectives and advised of the complaint. Your affiant contacted Mr. H. and learned that his brother, A. had never been married and has always had an interest in boys. On March 24, 1983, H.'s son, 19 year old R. Jr., told his father that R. Jr.'s uncle, A. had sexual relations with him between the age of twelve to sixteen. Mr. H. is aware that A. is a Los Angeles City school teacher and a Boy Scout leader. In addi-

tion, he was a Big Brother and a Parks Director. A. is frequently with young boys, taking them on trips and having them in his home.

On March 25, 1983 your affiant interviewed R. Jr. R. stated that he is 19 years old. When R. was twelve he would frequently visit his uncle, A. at his residence, [Street address] in Los Angeles. A. had items such as trains and clay that was of interest to R. Jr. While there A. would encourage R. Jr. to be photographed and as this photography continued, R. Jr. was convinced to be photographed nude. A. then began to molest R. Jr., the majority of the molestation being oral copulation. The victim stated that A. did try to sodomize him on some occasions. R. Jr. stated that A. is a photographer and had a darkroom set up in the attic. Most of the photographs were done in black and white and R. Jr. observed photographs of himself, nude and being orally copulated by A. R. Jr. stated that he also saw photographs of other male juveniles, taken inside A.'s house and these photographs depicted juveniles nude and engaged in sexual activity. R. Jr. stated that A. had movies depicting sexual activity and that A. would show R. Jr. these movies to get him excited. R. Jr. stated that A. kept many of the photographs under his bed or in other parts of his bedroom and in the attic with the darkroom equipment.

Based upon your affiant's experience, expertise and all of the information contained above, your affiant is of the conclusion that the property listed in the warrant will be found at the location to be searched for the following reasons:

1. that the person listed is a pedophile,
2. that such persons do not destroy photographs and any other reproductions depicting sexual conduct.
3. that such persons retain these materials for the purposes of personal gratification, to gain the acceptance, confidence, and trust of other

- pedophiles, to exchange such materials from other pedophiles, to receive monetary gains for the furnishing of such material, to ensure protection from exposure to police authority from other persons,
4. that correspondence from other persons is kept with the same full allegiance,
  5. that such persons gain a certain pride from the exhibition of such material,
  6. that such materials are kept secure in residence, vehicles, storage facilities, and bank deposit boxes to protect themselves against seizure by police authorities, and,
  7. that all of the other materials requested for seizure will identify other children being sexually exploited and other adults who are engaging in such exploitation.

Your affiant therefore says that there is probable and reasonable cause to believe that items requested to be seized are items which tend to show that a felony has been committed. To wit Section 288 of the Penal Code of the State of California. Your affiant has reasonable cause to believe that grounds for the issuance of a search warrant exists as set forth in Section 1524 of the Penal Code based upon the facts and the attachments.

# Appendix G: Warrant based on film lab reporting sexual exploitation

Note: This Warrant and attachment are true representations of actual documents.

SW No. 26853

## STATE OF CALIFORNIA - COUNTY OF LOS ANGELES SEARCH WARRANT AND AFFIDAVIT (AFFIDAVIT)

William H. Dworin, 12122 , being sworn, says that on the basis of the information contained  
(Name of Affiant)

within this Search Warrant and Affidavit and the attached and incorporated Statement of Probable Cause, he/she has probable cause to believe and does believe that the property described below is lawfully seizable pursuant to Penal Code Section 1524, as indicated below, and is now located at the locations set forth below. Wherefore, affiant requests that this Search Warrant be issued.

\_\_\_\_\_, NIGHT SEARCH REQUESTED: YES [ ] NO [ ]

### (SEARCH WARRANT)

THE PEOPLE OF THE STATE OF CALIFORNIA TO ANY SHERIFF, POLICEMAN OR PEACE OFFICER IN THE COUNTY OF LOS ANGELES: proof by affidavit having been made before me by

William H. Dworin, 12122 , that there is probable cause to believe that the property  
(Name of Affiant)

described herein may be found at the locations set forth herein and that it is lawfully seizable pursuant to Penal Code Section 1524 as indicated below by "x"(s) in that it:

- was stolen or embezzled
- was used as the means of committing a felony
- is possessed by a person with the intent to use it as means of committing a public offense or is possessed by another to whom he or she may have delivered it for the purpose of concealing it or preventing its discovery.
- tends to show that a felony has been committed or that a particular person has committed a felony
- tends to show that sexual exploitation of a child, in violation of P.C. Section 311.3, has occurred or is occurring;

YOU ARE THEREFORE COMMANDED TO SEARCH:

See attached for narrative

FOR THE FOLLOWING PROPERTY:

See attached for narrative

AND TO SEIZE IT IF FOUND and bring it forthwith before me, or this court, at the courthouse of this court. This Search Warrant and incorporated Affidavit was sworn to and subscribed before me this 20th day of November, 1986, at 2:10 P.M. Wherefore, I find probable cause the issuance of this Search Warrant and do issue it.

[Signed] \_\_\_\_\_, NIGHT SEARCH APPROVED: YES [ ] NO [ ]

(Signature of Magistrate)

Judge of the Superior/Municipal Court, [Signed] [Los Angeles] \_\_\_\_\_ Judicial District

LOCATION TO BE SEARCHED:

1. 6313 Jacqueline Place, Los Angeles, County of Los Angeles described as a two story, single family residence, beige stucco with brown wood front and brown trim with an attached garage. The numerals 6313 are attached to the front door frame.
2. HOHN, Ronald Eric, male white, brown hair, green eyes, 6-3, 180, date of birth August 19, 1936.
3. 1982 Datsun, California license 1E1Y261.
4. 1980 Datsun, California license RONZX.

ITEMS TO BE SEIZED:

1. Photographs, negatives, slides, undeveloped film, and/or videotapes depicting juveniles dressed, nude and/or involved in sexually explicit activity.
2. Camera equipment including but not limited to cameras, lights, video cameras and monitors and other items used to photograph, record and/or display this material.
3. Items tending to lower the inhibitions of a juvenile including but not limited to sexually explicit magazines, movies, and/or videotapes.
4. Telephone books, address books, diaries, notations or other writings tending to identify the juvenile depicted in the photographs and other juveniles who were sexually exploited.
5. Correspondence, cancelled mail; utility bills, or other items tending to identify the person in control of the residence.

**Attachment A**

**AFFIDAVIT OF WILLIAM H. DWORIN**

I, William H. Dworin, do hereby depose and say:

1. I am a detective for the City of Los Angeles and have been so employed for the past 22 years. For the past 10 years, I have been assigned to the Sexually Exploited Child Unit of the Juvenile Division. I have been assigned said Juvenile Division for the past 12 years. I have participated in an excess of 1,500 investigations involving the sexual exploitation of minors and children. I have personally conducted in excess of 800 investigations resulting in felony charges of child molestation and exploitation. I have received extensive training and have read numerous publications dealing with the sexual exploitation of children. I have talked to in excess of 1,000 sexually exploited children and in excess of 1,200 admitted child molesters. I have read and examined in excess of 15,000 letters between pedophiles describing their admitted sexual conduct with children and the manner in which they exploited said children for sexual gratification. I have examined tens of thousands of photographs during these investigations which depict children engaged in sexual activities with themselves, with other children, with animals and with adults. I have examined and read publications distributed from foreign countries and in the United States which describe in detail sexual activities between adults and children. I am familiar with the manner in which pedophiles entice and encourage children to engage in sexual conduct and the manner in which they exchange children with each other and make contact with other adults who engage in such conduct. From my training and experience, I am aware that pedophiles have a specific age preference for the juvenile victim and that when the victim surpasses this age, the pedophile, no longer having sexual interest in her/him, will seek out a younger juvenile to take the victim's place sexually. It has been my experience that pedophiles will not stop or remain with

one juvenile victim but will constantly seek out new victims, using the same method of seduction that had been successful for him. It has been my personal experience and knowledge of pedophiles from other officers that a pedophile has never stopped with one juvenile victim but has continued to molest juveniles whenever the opportunity arises. From interviewing and speaking with pedophiles, both in an official capacity and during undercover operations, I am aware that pedophiles will retain photographs, magazines, movies and correspondence. This retention will span many years, and the material is used by the pedophiles to lower the child's inhibitions and to relive the pedophile's experience. From the prior investigations that I have conducted and from talking to other detectives involved in pedophilic investigations worldwide, I am aware of pedophiles retaining their pedophilic and pornographic material in excess of twenty years, and that this material has been shown to juveniles to lower the victims' inhibitions. I am aware that, depending upon the age of the juvenile victims, pedophiles will often furnish drugs and alcohol to lower their inhibitions. A pedophile will frequently seek out employment or volunteer his or her service to be close to children and to use the authority over the children and to victimize them. I have testified as an expert in both the Municipal and Superior Courts in California and in Federal Courts in the field of sexually exploited child, child pornography and pedophilia and have assisted the United States Attorney's Office in formulating procedures in the federal prosecution of importation and non-commercial distribution of child pornography. Your affiant received a set of photographs from Detective Lief Nicolaisen of the Glendale Police Department on November 19, 1986. These photographs depict a male juvenile approximately 15 years old dressed, nude and in sexually explicit poses including the juvenile having an erect penis. Other photographs depict the same juvenile in a Winchell's Donut Shop, by himself, and with other adults. One adult is a male White and tattoos can be seen on his chest and on both forearms. The photographs were obtained from Phototron Corp. in Glendale that processes film from

various K-Mart stores. The name on the order was R. Hohn and a phone number of 717-6261. Mr. Boff, the manager of the photo lab turned the photographs over to Detective Nicolaisen because of the age of the juvenile and the nature of the photographs.

Your affiant then placed a call to 818 717-6261 and a male answered the phone stating, "Ron Hohn." Your affiant indicated that he had dialed wrong and terminated the conversation. Your affiant then checked with the Department of Motor Vehicles and identified a Ron Hohn as Ronald Eric Hohn with an address of 6313 Jacqueline Place, Los Angeles. A record check of Mr. Hohn showed that he had been arrested in 1968 for burglary. He was described as being tattooed from neck to ankle and from shoulder to wrist. His MO was to befriend neighborhood kids in trouble and to use them to pick-up items that he desired. Your affiant went to the K-Mart store located at 19600 Plummer Street, Northridge and spoke to Mr. Andrew Reyes a store employee working at the camera department. Mr. Reyes did not recognize Hohn's name but did recognize Hohn's photograph due to the multiple tattoos on his body. Mr. Reyes stated that Hohn has frequently brought film to K-Mart to get processed.

On November 20, 1986 your affiant contacted the postal carrier that delivered mail to 6313 Jacqueline Place. He confirmed that Ronald Hohn resided at 6313 Jacqueline Place and that he was the only person receiving mail there. Your affiant then went to the residence and from the street observed the telephone pole, tree and background as depicted in the obtained photographs.

Other photographs that were obtained depicts the interior of a residence. On the wall were photographs of males. By the photographs was a television set that was on. The screen depicted a male from the waist up who was undressed. Your affiant is of the opinion that Ronald Hohn photographed the male juvenile in the sexually explicit poses and that pornographic videotapes were shown to lower the juveniles' inhibitions.

Based upon your affiant's experience, expertise, and all of the information



contained above, your affiant is of the conclusion that the property listed in the warrant will be found at the locations to be searched for the following reasons:

1. that the person listed is a pedophile,
2. that such persons do not destroy photographs and any other reproduction depicting sexual conduct.
3. that such persons retain these materials for the purposes of personal gratification, to gain the acceptance, confidence, and trust of other pedophiles, to exchange such materials from other pedophiles, to receive monetary gains for the furnishing of such material, to ensure protection from exposure to police authority from other persons,
4. that correspondence from other persons is kept with the same full allegiance,
5. that such persons gain a certain pride from the exhibition of such material,
6. such materials are kept secure in residence, vehicles, storage facilities and bank deposit boxes to protect themselves against seizure by police authorities; and
7. that all of the other materials requested for seizure will identify other children being sexually exploited and other adults who are engaging in such exploitation.

Your affiant therefore says that there is probable and reasonable cause to believe that items requested to be seized are items which tend to show that a violation of Section 311.4(c) of the Penal Code of the State of California has occurred or is occurring. Your affiant has reasonable cause to believe that grounds for the issuance of a search warrant exists as set forth in Section 1524 of the Penal Code based upon the facts and the attachments.

**Interviewing  
Child Abuse Victims**

# Chapter 4: Interviewing Child Abuse Victims

## Patience

### The investigator as interviewer

A child abuse interview is a complex interplay of questioning, comforting, and counseling of an often confused and traumatized person. The interviewer becomes a translator who communicates a child's thoughts and experiences to an adult world.<sup>1</sup> Interviews of victims and suspects are a critical component of any child abuse investigation. Often, the investigator's success in this area determines if a child abuse case can be prosecuted. The unique characteristics of these cases coupled with the fact that there is no single right way to interview children can cause investigators, prosecutors, and courts a great deal of frustration.

The formula for successful interviewing techniques begins with **patience** and understanding. The purpose of this chapter is to guide investigators through the interview, with the therapeutic needs of the child as a major consideration before, during, and after the interview process.

While investigators generally receive training and gain experience as interrogators, they rarely have acquired the specialized skills necessary to conduct a successful interview of a young child. By not recognizing, understanding, and addressing the differences in technique, this lack of training and experience can result in a child being further victimized by the criminal justice system and in a miscarriage of justice. The investigator's conduct and the child's statements are subject to legal scrutiny; if the investigator incorrectly gathers evidence that is deemed inadmissible later in a criminal proceeding, the perpetrator may be freed to offend again.

The investigator should be comfortable talking with young children, and he or she should be credible and flexible when interviewing them. Concern for the emotional needs of the child should outweigh processing of the case. To be effective, the investigator must maintain his or her objectivity in collecting facts in an effort to uncover the truth.

Distinctive characteristics of child abuse cases include:

1. The young age of most victims and the corresponding undeveloped verbal skills and level of competency.
2. The general lack of substantive physical and corroborative evidence.
3. Rigorous denial by the victim, perpetrator, or family members (especially in cases of incest).
4. Victim or witness tampering and intimidation, often leading to recanted or conflicting statements or testimony.
5. Rights and protections afforded to defendants which make testimony by victims in criminal proceedings difficult.
6. Family pressures and issues adversely affecting children and resulting in an inaccurate statement of abuse.

## About interviewing children

To conduct a successful interview of a child victim, the investigator needs to acquire a thorough knowledge of how children think and how their thoughts translate into reactions or verbal statements.<sup>2</sup> Children respond better to gentle, soothing **vocal tones** than to loud, authoritative voices. In general, children have **short attention spans** and cannot remain still or interested in a discussion for extended periods of time. They are capable of absorbing only short, simple questions asked one at a time, and they need an appropriate interval in which to respond. Also, because children typically want to please and help, they may make up responses to questions if they do not know the answers.

A child's orientation to the world is a visual one. Between the ages of 2 and 7, children reason on the basis of what they see.<sup>3</sup> Therefore, **facial expressions** play an important role during the interview. A happy face provides positive reinforcement, while a frowning or angry face implies something is wrong.

A child's chronological age may differ from his or her **developmental age**. A basic chart of age and corresponding developmental levels is provided in Appendix B of Chapter 1. Networking with mental health professionals can produce the best information about and insight into children's developmental ages.

The investigator should assess the child's level of functioning and understanding and adjust his or her approach accordingly. This assessment can begin during the preparatory stages of a case, but should be evaluated further at the outset of the interview.

**Time and space concepts** are difficult for children to grasp. A child usually cannot tell time until approximately 7 years of age. When questioning children under the age of 7, relate an incident to regular events of the day, such as breakfast, lunch, or dinner times.

Children also remember **events** relative to what is important or interesting to them. Relating an event to seasons of the year or to special holidays such as Christmas, Halloween, or birthdays will assist their ability to remember. Even negative events, such as trips to the hospital or times when the child was hurt or ill can help to trigger a memory of another incident.

The chronological **order of events** is difficult for children to relate. The confusion they may exhibit should not be misconstrued as lying; they simply have trouble placing events into a chronological sequence.

**Vocabulary** is a core issue when interviewing children. A child may not understand what the investigator is saying because the child does not know the meaning of a word. To determine if a word has been understood, ask the child to describe what he or she thinks the word means. If the child inappropriately responds to a question, the question should be rephrased, not just repeated; otherwise, the child may think he or she has given a wrong answer.

A further barrier to communicating with children involves word choice and sentence structure. Children frequently confuse pronouns, using "he" for "she" and "she" for "he." Because this can lead to problems for the investigator, names already provided by the child should be used when phrasing questions. Children also have trouble with tenses; the easiest tense is the present, while the most difficult is the past perfect. Children do not develop a clear understanding of tenses until they are 8 or 9 years old.

A child's **response patterns**<sup>4</sup> to questioning about an incident of abuse is affected by a number of contributing factors. One factor is the relationship

**Vocal tones**

**Short attention spans**

**Facial expressions**

**Developmental age**

**Time and space concepts**

**Events**

**Order of events**

**Vocabulary**

**Response patterns**

### **Span of time**

### **Length of an interview**

### **Multiple interviews**

### **Background information**

### **Teachers**

between the victim and the offender. Incestuous interaction usually is progressive in nature. The offender, even if not a household member, generally has contact on a frequent basis with the children he or she abuses. The offender often spends time seducing a child through nonviolent means; he or she may lavish attention and affection on the target child, seeking to develop a strong bond.

Frequency, duration, and severity of the abuse are significant factors in a child's initial response to questioning. The **span of time** during which the abuse occurred is important. Generally, the longer the abuse has been occurring, the more difficult disclosure becomes for the child. Duration, secrecy, coercion, and violence all increase the child's feelings of helplessness and contribute to his or her fear of disclosure.

Age at onset of abuse and age at disclosure also contribute to a child's voluntary disclosure and openness. In many cases, a delayed, conflicting, or unconvincing disclosure is followed by a complete retraction. Because people tend to minimize their own involvement in guilt-ridden, stressful, or embarrassing situations, the investigator should be aware that the child's statement can be influenced by the response of others to his or her initial disclosure. The child's perception of the investigator's response can also affect how he or she responds during the interview.

## **Interviewing the child victim**

Because it is difficult for a young child to sit still, actively listen, and respond to questioning by an adult, an interview should last no more than 1 1/2 hours. The **length of an interview** is best gauged by the investigator's constant assessment of the child's physical and emotional condition throughout the interview process.

**Multiple interviews** by law enforcement or protective services personnel are not recommended. A trained therapist should take over after one or two nonproductive attempts by the investigator. It is, therefore, vital that the investigator's efforts be well planned and executed, employing techniques acceptable to the mental health profession without attempting to replace or duplicate those services.

## **Preparing for the interview**

Preparation is essential for a successful interview. An investigator who conducts an interview without adequate preparation will be frustrated by his or her lack of success. When immediate intervention is not required, it is helpful to first interview the reporting party, the person(s) to whom disclosure was first made, family members, and friends of the victim to obtain **background information**. However, before approaching anyone, the investigator should reflect on who is suspected of abusing the child. If the suspect is a family member, there may not be a nonabusing parent to rely on for accurate information. It is also vital to keep the child's vested interests in mind.

**Teachers** can be an excellent resource to help document changes in a child's behavior. The child's actions or specific comments made directly to the teacher may lend support to the child's allegation of abuse. Teachers also are a source from which to obtain general background information, including names of the victim's friends. The child may have disclosed details of the abuse to friends, classmates, or siblings. (See page 158 "Interviewing family, friends, and witnesses.")

## Agency professionals

## Parents' reactions

## Handicaps

Investigators should attempt to find out as much as possible about the child, including the allegations and any other pertinent information, before talking directly with him or her. Consistent with this phase of preparation is cooperation with other **agency professionals**. Protective services, courts, and mental health personnel should be viewed as team members with similar goals as the criminal investigator.

Preparing for the child's interview also includes assessing the **parents' reactions** to the abuse. Parental reactions may range from denial to threats of revenge against the accused. The investigator should cultivate the acceptance and trust of the parents; they may find the subject as difficult to discuss as the child victim. When first approaching the parents, the investigator should explain:

1. Why a police investigator is there.
2. What an investigator does professionally.
3. What crime may have been committed.
4. What to expect.

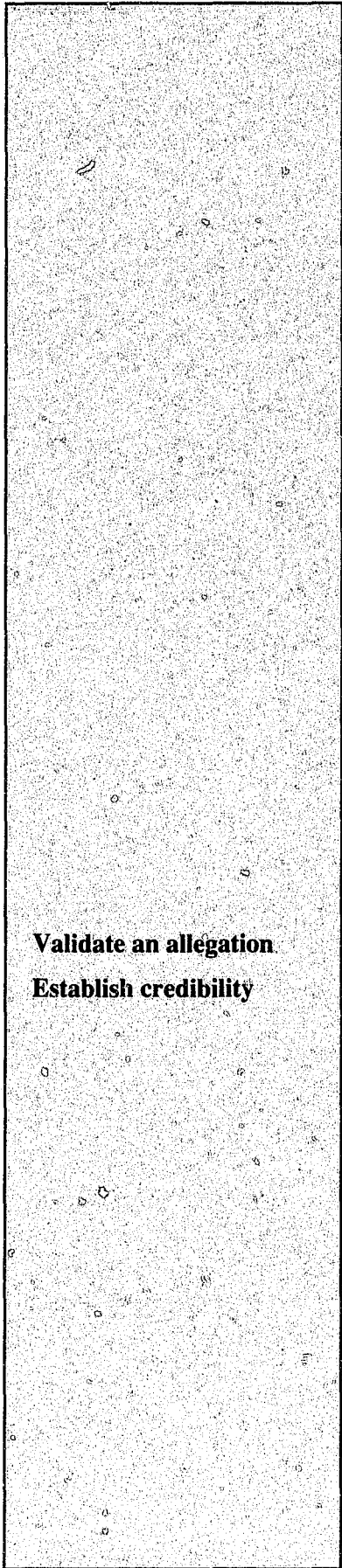
During the process of obtaining information about the incident and talking with parents, it is particularly important to find out about any **handicaps** the child may have, including emotional problems, extreme shyness, or delays in development. Any serious handicap may present a more difficult communication situation and produce an unsuccessful prosecution of the case. Traditionally, cases of children younger than age 5 and handicapped children have been more difficult to prosecute than cases of older children.

The investigator should inform the child's parents or caretakers not to "rehearse" the child before the interview and to allow the investigator to introduce himself or herself and explain the purpose of the visit. The caretakers may explain to the child that the investigator is someone who works with children and helps them.

## Multidisciplinary teams

Preinterview preparation also includes information gathering from agencies other than law enforcement that have a legitimate interest in and involvement with abused children and their families. Multidisciplinary teams (MDT's) can work together to intervene and conduct a preliminary investigation to provide coordinated and joint responses to complaints of abuse. These agencies can be valuable sources of information and assistance, particularly when they share information regarding prior reports, open cases, and ongoing investigations. For example, some children are mentally or emotionally disadvantaged (often due to physical abuse or emotional neglect). If these children are in a public school system, they often have been psychologically tested and an individualized education plan has been developed for them. This information, coupled with the experiences and observations of the special education teacher (such as recent changes in the child's behavior, sexual acting out, medication, or regular nap time) is invaluable to the investigator. Ideally, these MDT's have developed an interagency agreement that allows them to share "confidential" information.

Most MDT's develop protocols that define the participants' roles so that resources are maximized and problem areas such as multiple interviews are eliminated. A Primary MDT usually consists of law enforcement and protective services investigators. In addition to these two agencies, a Full MDT often consists of representatives from the medical and mental health communities, school departments, prosecutor's office, probation and juvenile court services, victim and witness advocates and protective services, and



**Validate an allegation**  
**Establish credibility**

other appropriate human service agencies. The Full MDT conducts regular meetings to discuss issues concerning juveniles that include ongoing child abuse investigations.

### **Law enforcement**

There are compelling reasons for law enforcement to be involved in MDT's or Child Protection Teams.<sup>5</sup>

First, child abuse is a crime.

Second, law enforcement agencies have skills and resources that are highly applicable to child abuse investigations. In many communities, law enforcement is the only agency available 24 hours a day to respond to calls for help. Also, law enforcement is the only agency empowered in most jurisdictions to take children into protective custody without a court order. Law enforcement agencies are solely empowered to obtain search warrants to look for evidence.

Law enforcement officers are experienced in recording detailed information uncovered during investigations, and they have the resources to examine crime scenes and collect and preserve physical evidence for later use in court. Evidence that can be useful in criminal court also would be useful in civil court to determine custody of an abused child.

Finally, of any public agency, law enforcement has the broadest access to the community. The officer on the street may come across evidence daily of unreported abuse and should be encouraged by his or her agency to investigate.

### **Documenting the interview**

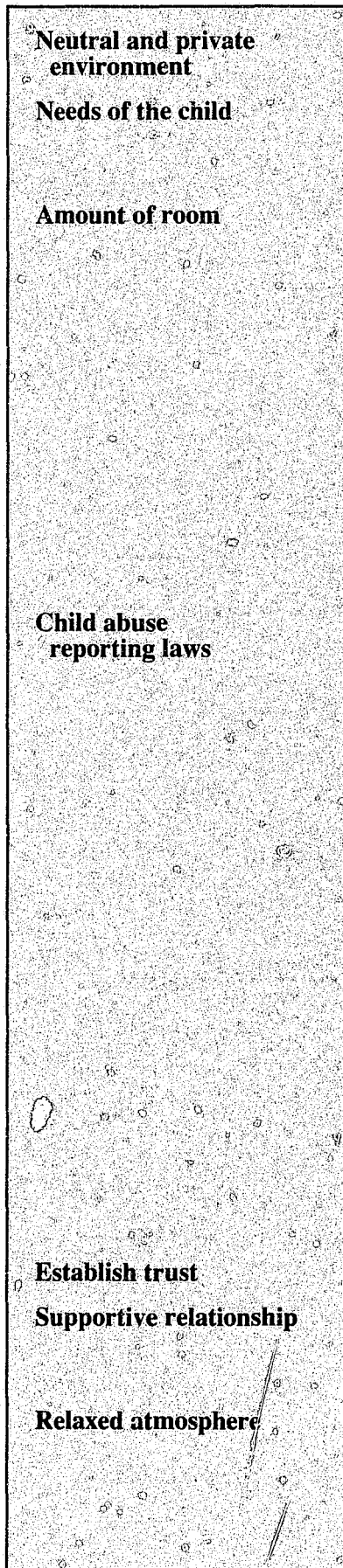
The importance of accurately documenting an interview cannot be overstated. Although interview notes may be discoverable by the defense during depositions, they are, nevertheless, essential to the establishment of a strong case. The child's exact statements, descriptions of the act, and use of the terms employed by the perpetrator help **validate an allegation** of abuse and **establish credibility**. If the investigator cannot take notes during the interview, he or she should prepare a report as soon as possible thereafter.

One controversial method of documenting an interview is with audio or video equipment. Most prosecutors appear to agree that the pitfalls and drawbacks of electronic recording may outweigh the advantages. See Chapter 6, Legal Issues and Considerations, for a detailed discussion of this topic. If the interview is to be recorded, some prerequisites include:<sup>6</sup>

1. Controlling when, where, who, and how many participants.
2. Employing skillful and trained personnel who have experience with criminal trials.
3. Developing and using a protocol.

### **The interview setting**

While children will adapt to a variety of physical surroundings, it is advisable to find a location within the community where interviews can be conducted in a nonthreatening manner. Police stations generally are not appropriate environments in which to interview children. However, increasingly, law enforcement practitioners are finding space within their agencies and are remodeling rooms for the sole purpose of interviewing children.



Short of this, use a “team concept” in locating an acceptable facility; social service, educational, religious, and recreational agencies can help. Ideally, the interview should take place in a comfortable, **neutral, and private environment** geared towards the **needs of the child** and accessible to qualified investigators (a public mental health facility, for example). School settings and the child’s residence generally are not suitable. The child’s home is generally inappropriate because the abuse may have occurred there, making the subject more uncomfortable for the child to discuss.

The **amount of room** needed is not great. Approximately 100 to 150 square feet is sufficient, unless videotaping is anticipated. The room should be pleasantly decorated and have a natural, nondistracting light source. Avoid rooms exposed to outside traffic noise and located in congested areas. An interview room designed with children’s needs in mind will be furnished comfortably. Thick carpeting, beanbag chairs, and child-sized tables and chairs are preferred over traditional adult-sized furniture. Some interview rooms have even been equipped with giant stuffed animals on which children can recline, sit, or play during the interview. When adult furniture is used, overstuffed chairs and couches are more appealing to children than a standard chair; traditional furniture is appropriate for teenagers. When ideal types of furniture are unavailable, the floor is a reasonable alternative.

The child can be interviewed during normal school hours. Whether or not to interview a child at school will depend on several variables; the most important of which is the school officials’ willingness to allow an investigator to talk with the child. Some State **child abuse reporting laws** require immediate contact with parents when protective services or law enforcement personnel request a school-based interview.

### Interview participants

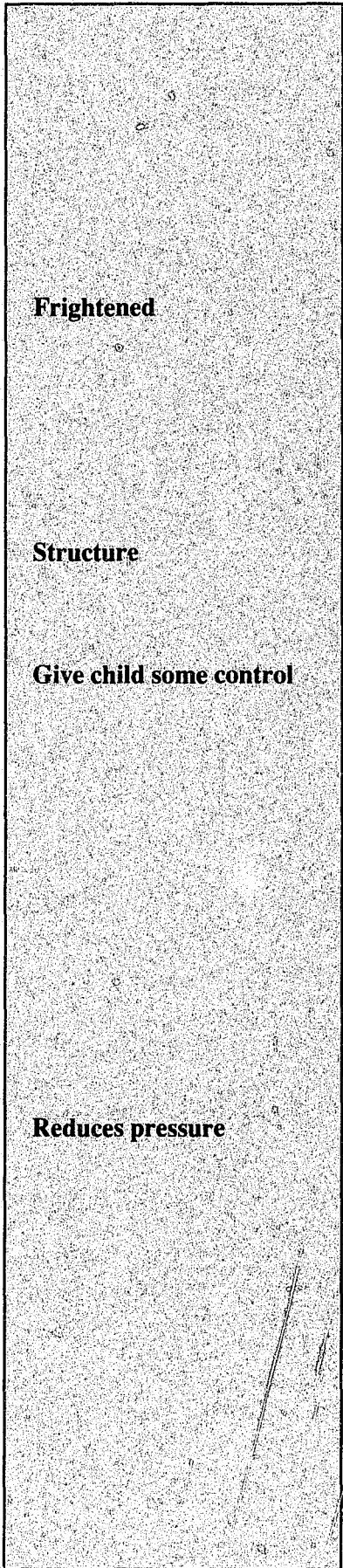
Preferably, a single interviewer conducts the interview and gathers the necessary information for all involved agencies. If this is not possible, one person should be designated at the outset as the lead interviewer. Generally, it is not a good idea to have family members present; their feelings of guilt and protectiveness or the child’s desire to please or protect the parent may complicate the situation. Also, a parent who did not participate in the illegal act either may have condoned it or had knowledge that it was taking place and failed to intervene. If the child is initially uncommunicative, it may become necessary to have a “support person” (someone who has established a supportive and trusting relationship with the child) present during the rapport- and trust-building phase of the interview.

### Building a relationship with the child

The investigator’s initial contact with the child is vital to the outcome of the interview. The investigator should be honest about his or her identity and begin the interview with positive and nonthreatening comments. To meet the goals of the interview and to reduce the child’s anxiety, it is essential to **establish trust** and encourage a **supportive relationship** with the child. The investigator should not talk down to or beyond the child’s level of comprehension and should stress that the child is not to blame for the abuse and has not done anything wrong.

It is helpful to begin the interview with a discussion of neutral events in an effort to create a **relaxed atmosphere** to reduce the child’s fear or nervousness and to set the stage for the actual interview. The investigator should formulate initial “ice breakers” based on the age of the child and the investigator’s preinterview preparation and knowledge of the child’s background. The topic of discussion could center around activities, games, car-





toons, friends, or anything likely to initiate a conversation. This helps build rapport and allows the investigator to assess the child's language and verbal skills and his or her developmental level.

Another approach might be: "I am a police officer whose job is to talk to children about problems to see if I can help." The investigator may ask the child "Do you know why you are here?" and "Do you know what is going to happen today?" Other initial questions might include "Did someone tell you what to do or say?" and "Do you know what police officers do?" It is important for the investigator to discover the child's feelings about him or her and the interview at the outset so that any misinformation or negative emotions can be discussed and resolved.

If the child appears **frightened** during the initial stages of the interview, later attempts to discuss the abuse may fail. Because the investigator is a stranger, the child may not discuss something as sensitive as sexual abuse with him or her. Because children are usually reluctant to admit sexual abuse to anyone, a gradual approach is more likely to succeed.

The time necessary to create an atmosphere conducive to discussing an abusive incident will vary with the age and developmental skills of each child. Some children may be ready immediately to talk about the abuse.

With some children it may be helpful to establish **structure** in the interview at its outset. Informing the child what will take place may help lessen his or her anxiety.

Another way to put the child at ease is to give him or her permission not to tell the investigator certain things. This gives the child **control** over what is said, thereby helping to reduce his or her anxiety. An example of this approach follows:<sup>7</sup>

If I ask you about something that did happen and you know the answer, but you don't want to tell me right now, that's okay. You don't have to say it didn't happen or you don't know, if that isn't true. It is okay to say you don't want to tell me about it right now. It is better to say, 'I don't want to tell you right now,' than to say, 'yes' when the answer is really 'no.' You have a lot of choices about how to answer my questions. The best choice is to say the true answer if you know it. But it's okay to say you don't know, too. For example, if I ask you what Mommy's favorite color is and you don't know, it's okay to say 'I don't know.' If I ask you a question about something that didn't happen, like: 'Did someone step on your foot today?' you should say 'no.' You never want to say something happened if it didn't.

Giving the child permission to withhold some information **reduces pressure** on the child that may contribute to inaccurate or confused statements. Oftentimes, when tension is relieved initially, the child will feel more comfortable and trusting about the process, and the likelihood of a successful interview is greatly enhanced.

### **Transition**

Once an initial assessment of the child's developmental level has occurred and rapport and trust have been established, a transition can be made to gathering the critical information. Because this phase of the interview can be awkward for the investigator as well as the child, it can be helpful to use an interview aid. One popular aid involves the use of a plain piece of paper and crayons.

## Drawings

## Frequency

## Degree of trauma

**Ask simple, brief, and nonleading questions**

The investigator asks the child to write his or her name and then to draw a picture of himself or herself. Allow the child to complete the drawing before asking questions. The “drawing of yourself” can be used during a subsequent anatomical inventory to elicit the child’s words for specific body parts. The child might then draw a family picture or perhaps even a picture of “what happened.” In some cases, the offender is drawn in a manner that allows nonleading and nonthreatening questions to be asked that can lead to a discussion about that person and the abuse. For example:

1. Why is this person frowning while everyone else is smiling?
2. Why is this person so far apart from everyone else?
3. Why is this person lying on top of you?

These pictures make excellent pieces of evidence, and they can serve also as a nontraumatic vehicle for initiating a progressively probing line of questioning. The investigator should refrain from attempting an indepth analysis or interpretation of the drawing(s),<sup>8</sup> exceeding his or her level of training and competency can seriously jeopardize the credibility of the investigator and the case.

## Talking about the abuse

An interview with a child will be influenced by at least three issues: the **frequency** of the sexual abuse, the length of time since the last episode, and the overall **degree of trauma** the child is experiencing. (The interviewer should have a counselor or social worker available to respond to any immediate needs of the child during this process.) A great deal of information might come from a child’s drawings or play rather than from any direct statements.

Investigators need to elicit the abuser’s terminology and abusive acts from the child to understand how the child was abused. One method used to gain this information and stimulate discussion is the “anatomical inventory.” The investigator asks the child to use his or her own words to identify various body parts. Anatomical dolls or drawings (discussed further in the investigative aids section on page 154) can be used for this purpose. Regardless of the technique, the investigator should present the child with a clothed doll or a drawing of a clothed child and begin labeling nonthreatening areas, such as arms, legs, and head before moving to the genital area. Once the investigator knows the child’s terminology, he or she should use it throughout the interview.

If the child indicates that he or she may have been abused, the ensuing conversation may go in any number of directions. One of the most difficult aspects of the interview is making sure all issues are addressed. It may be easier for the child first to describe the abuser, where the act(s) occurred, and the timeframe prior to addressing exactly what occurred. There is no starting point, direction, or sequence for these conversations.

The primary purpose of the interview is to discuss the abuse—to find out what happened, how it happened, when it happened, and who was responsible. The investigator should attempt first to discover if something happened that hurt the child or made him or her uncomfortable before moving on to who, where, and what happened. The investigator should exercise caution when asking “why” questions, because they often appear to imply blame; for example, “Why didn’t you try to get away?” or “Why didn’t you tell someone sooner?”

Questions should be **simple, brief, and nonleading**. The goal of the interview is to get the child to talk with little prompting from the investigator.

### Open-ended questions

### Duration of sexual activity

### Should not interrupt

### Reflective listening

One successful method elicits cursory information first and then builds toward eliciting more sensitive information.

The investigator should ask **open-ended questions** that are not too broad. For example, "Can you tell me what happened when you were home alone with Daddy?" Avoid yes-or-no questions and complex qualifying statements such as, "Okay, now I'm going to have to ask you some hard questions, but just try to relax and answer them as best you can." The more natural and less intrusive the discussion, the better. A simple direct question such as, "Has anyone ever touched you in a place on your body which didn't feel okay?" is a good beginning. However, this type of question may not trigger a discussion of abuse because the child may have a different perception of how sexual abuse feels.

Avoid asking questions that are related only to abuse. By discussing only negative situations, the child's comfort level may deteriorate; more importantly, the child may feel pressured to agree with the investigator if after a series of questions, he or she has consistently responded "No."

A good approach to determining the **duration of sexual activity** is to ask the child to describe the first time and the last time the abuse happened. The duration of the sexual activity may have been over several weeks or even years, or the abuse may have happened so many times that the child will not be able to separate one incident from another.

The investigator **should not interrupt** the child's free recall of an abusive incident. Children easily become sidetracked and it can be difficult to get the child back on track. If necessary, offer encouragement by saying, "And then what happened?" Make mental notes of the child's statements so they can be clarified later during the specific question phase of the interview. Do not pressure the child. If the child experiences difficulty in verbal expression or is stuck at an emotional point, focus on that emotion and clarify it.

If the child has difficulty discussing the abuse, attempt to overcome the child's reluctance by gently emphasizing the importance of discussing the incident. Allow the child to share fears about disclosure and reaffirm that what happened was not his or her fault. One of a child's primary fears is of not being believed by an adult; another is fear of reprisal. Also, children do not understand the investigative process and are afraid of the consequences of their disclosure. The investigator needs to continually reassure the child.

Another approach to encourage discussion is **reflective listening**. This technique requires the investigator to observe the child's feelings and verbally "reflect them back." "I can see this is making you upset" demonstrates concern for the child's welfare and feelings, as does, "I can see this is very hard for you to talk about. Can you tell me if you are worried or scared about anything?" The child's feelings and emotions must be recognized and discussed to be resolved successfully.

If the child appears confused, ask questions that are narrower in focus. Begin with a less likely situation and move through all possibilities. For example: "Did he touch you while you were at school on the playground; at your best friend's house; or at home?" Always clarify a child's answers, never assume anything. The child may be agreeing to each question in an effort to please. Or, his or her meaning may differ from the investigator's perception.

If the child is reluctant or unable to answer, approach him or her in an open and honest manner in an attempt to alleviate any fears or concerns. Sometimes, it is best to stop the interview, maintain a good relationship, and resume the interview at another time.

### **Assess the child's responses**

### **Anatomical dolls, drawings, puppets, play telephones, and doll houses**

### **Appearance of the dolls**

### **Clothing**

If the child appears to have been threatened or coerced, encourage the child to discuss these fears. Explain that police officers are trained to discuss and abate threats made by a perpetrator, such as "If you tell anyone, the police will put you in jail." Discuss these threats, promises, rewards, or secrets with the child; ask how they make the child feel about himself or herself or about the perpetrator and how it feels to have discussed these issues.

Like navigating a ship in uncharted waters and constantly taking new bearings, the investigator should continually **assess the child's responses** to the interview process as it proceeds. If the child's anxiety appears to be increasing, move into familiar territory, perhaps mapping out a new route or approaching the problem differently. By exercising patience when discussing these sensitive issues, the investigator can demonstrate concern without unnecessarily pressuring the child and, thereby, overcome barriers that may impede accurate and full disclosure. Each child is unique, and no two interviews are ever conducted in exactly the same manner. Successful investigators are creative and able to think on their feet.

### **Phrasing questions**

The way a question is phrased is very important. Consider the examples: "Did you take off your underwear?" versus "Can you tell me who took off your underwear?" The former question implies active participation and may cause the child to feel guilt or blame for what occurred.

Questions should be short, simple, and direct. For example:

1. Has anyone touched you in a nice way? Can you tell me about it?
2. Has anyone touched you in a bad way? Can you tell me about it?
3. Has anyone done something to make you feel strange?
4. Has anyone done something to make you feel uncomfortable?
5. Has anyone done something to make you feel funny?

### **Investigative aids**

There are many investigative tools available to help ease a child's trauma and help facilitate a discussion of abuse; these include **anatomical dolls, drawings, puppets, play telephones, and doll houses**. It is recommended that these aids be employed only as necessary by a qualified investigator. Mental health professionals and child therapists can provide other MDT members with training, information, and tools required to collect evidence in this manner.

If anatomical dolls are used (see Appendix D for information on obtaining dolls), the general **appearance of the dolls** should be as friendly as possible while retaining some sense of realism in facial features and detailed body parts. Dolls should have a complete set of fingers and toes. The adult dolls should incorporate simulated body hair in the appropriate places along with slightly enlarged breasts on the adult female dolls and slightly enlarged genitalia on the adult male dolls. The dolls should have body openings, including mouth, anus, and vagina. Male and female dolls should have nipples, and wig hair is preferred over painted-on hair or yarn. The overall size of the dolls should be such that a child can easily handle them, usually between 15 and 20 inches in height. The **clothing** on each doll should be designed for easy removal and dressing and should be detailed and realistic enough to represent the differences between the adult and child dolls.

**Special and different  
Number of dolls**

**React differently**

**Anatomical drawing**

Before these dolls are used, they should be introduced to the child as **special and different**. The **number of dolls** needed for an interview will vary. Dolls are usually available in sets of four, representing a mother, father, brother, and sister, and in different skin colors. A good method for selecting which dolls to use is to lay several dolls in front of the child and ask him or her to choose the one that most resembles himself or herself. By using a doll that looks somewhat like the child, the interviewer can make statements such as: "This little girl (or boy) is very upset (worried, angry, or confused). Maybe she (or he) has a problem." The doll or puppet also can be used to ask questions. For example, using a puppet, the interviewer might ask: "Did you hear what happened to Jane?"<sup>9</sup> The skin color of the child dolls should be that of the child being interviewed. The skin colors of the other dolls should be varied to allow for situations where the skin color of the abuser is unknown. The child then should be asked to select the doll that most looks like the abuser. The value of this approach is that it is less leading, and the investigator is less likely to be accused of staging a situation for the child.

The investigator should conduct an anatomical inventory. Once the child has named visible body parts (such as the eyes, nose, and hair), he or she should be allowed to undress the doll and continue to label the body parts.

A child who has not been sexually abused may **react differently** to the dolls than a child who has been sexually abused. For a child who has not been sexually abused, the dolls will inspire curiosity and sometimes ridicule. Additional reactions will range from pinching and poking at the dolls' genitalia or breasts to pretending the dolls urinate or defecate. The child may even ask why the investigator has the dolls. The child's interest in the dolls may subside quickly, and he or she will go back to other toys or activities.

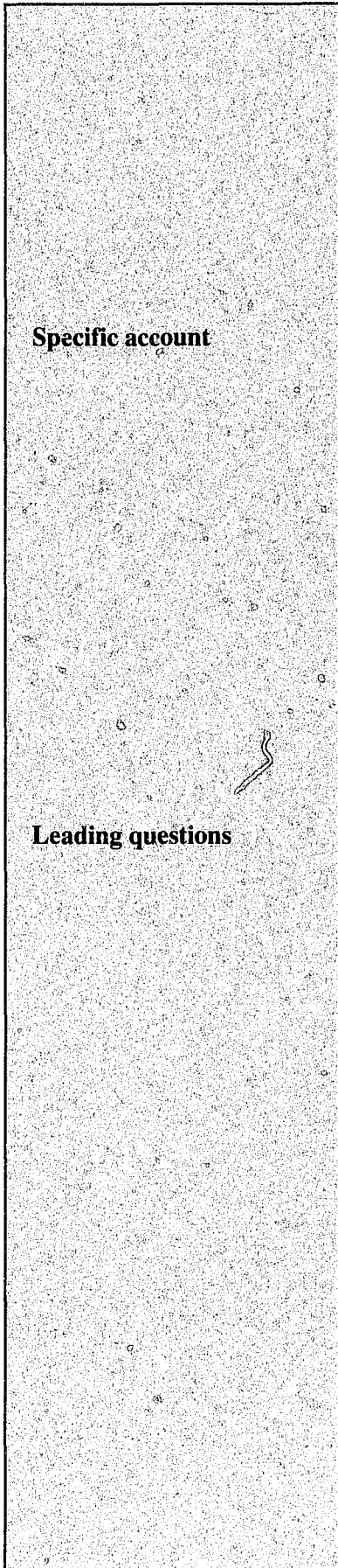
The child who has been sexually abused may react negatively toward the dolls. The sight of the dolls might be frightening and upset the child, and he or she may refuse to go near them, saying they are bad, or denying ever having seen the intimate parts of a person. On the other hand, some sexually abused children respond by immediately acting out sexual activities with the dolls or making statements about the sexual abuse.<sup>10</sup>

The investigator should look for any obvious sexual or fearful themes in the child's interaction with the dolls. Patterns to look for in doll play include:

1. Undressing the dolls repeatedly.
2. Peering between the dolls' legs.
3. Making sexual comments.
4. Placing the dolls in bed in sexual positions.
5. Making the dolls touch one another's genitalia.
6. Touching the dolls in sexual ways.
7. Attempting to make the dolls engage in sexual intercourse or other sexual activity.<sup>11</sup>

Critics of the use of anatomical dolls charge there has been no research to verify the reliability and validity of their use. Further criticism comes from some dolls not being anatomically correct, with genitalia that are disproportionately large causing the child to focus immediately on that region.

Another interview aid is the **anatomical drawing** (see Appendix D for information on obtaining drawings). The drawings vary in ages of individuals represented, race, and sex and illustrate anatomically correct front and back views. The child selects the drawing that most resembles himself or herself, as well as one that most accurately depicts the abuser. The investigator and the child use the drawings for guidance as they go through the



anatomical inventory and discuss the abuse. The child can be asked to circle the part or parts of his or her body that were touched or abused. The child should also circle the part or parts of the abuser's body that were used. (Some abusers may touch themselves only or may use foreign objects when touching the child.) The final product should help clarify the acts committed and provide the detailed information required. The final drawing can serve as hard evidence that may be introduced at subsequent family court or criminal proceedings.

### Specific-question phase

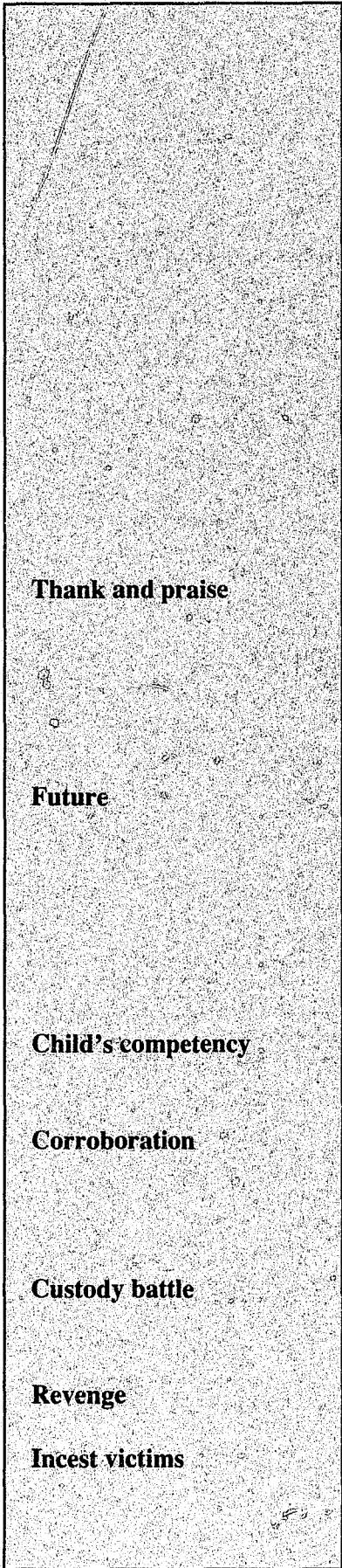
Once the child begins to discuss information regarding the abusive situation, the investigator should attempt to elicit a **specific account** of what happened. Issues to be addressed include:

1. The offender's(s') identity(ies).
2. Other victims and potential witnesses.
3. A detailed description of the act(s) committed.
4. The length and frequency of abuse.
5. The location(s) and approximate date(s) and time(s) of the abuse.
6. Special names for the abusive acts (such as bath time, nap time).
7. Who the child may have told.
8. The existence and location of possible physical evidence (such as photos, clothing, and bedding).

(For a list of important information, see Appendix C.)

During the preliminary stages of the interview, avoid **leading questions** and allow the child to freely recall the abusive acts without interruption. During the specific-question phase, the investigator should narrow the focus and follow up on the statements, actions, and evidence supplied by the child. Once a child has "opened the door," followup questions are not only acceptable, but essential. For example, in a sexual abuse situation where the child described watching naked people "wrestling" on TV before her father molested her, the investigator should ask the child to recall that incident and ask:

1. Were the people in the movie all grownups?
2. Did any kids wrestle too?
3. What happened to the kids when they were wrestling? (To determine if acts committed upon children in the movie were similar to those performed on the victim.)
4. Did Daddy say anything to you about what the people were doing in the movie?
5. Do you know the names of anyone in the movie?
6. Do you know where the movie is now?
7. Did you watch this movie one time or more than one time?
8. Has anyone else watched this movie?
9. Has anyone ever made a movie of you with no clothes on?



**Thank and praise**

**Future**

**Child's competency**

**Corroboration**

**Custody battle**

**Revenge**

**Incest victims**

In such a case, if the movie can be located and seized as evidence, this will add credibility to the child's statement and further incriminate the suspect.

In a physical abuse case where a boy says he was hit by his father because he was bad, questions should include:

1. What did Daddy say when he hit you?
2. What did he hit you with?
3. Where does he keep the [belt, paddle]?
4. What does it look like?
5. Has he hit you with it before?
6. Does he hit you a lot or a little?
7. Where does he hit you?
8. What do you think about him hitting you?
9. How do you feel about it?

### **Ending the interview**

The investigator should **thank and praise** the child regardless of the amount of information obtained. The investigator may need to maintain a good rapport with the child for many months. Emphasize to the child again that he or she is not to blame. Encourage the child to ask questions. Be prepared to answer "What will happen next?" Do not violate the trust that has been established. Do not lie. Explain to the child what the next steps are and do not make unauthorized promises or promises that cannot be kept. While the investigator can provide the child with some idea of what will happen in the near **future**, long-term issues should not be discussed unless the child raises them.

### **Competency of child witnesses**

The major difference between a therapeutic interview and one conducted by a criminal justice practitioner is that information obtained in the latter is designed to be used in court (although the results of the therapeutic interview may also be reported in court by an expert witness). Therefore, an important aspect of an investigator's job is to assess the **child's competency** as a witness. (See Chapter 6 for a detailed discussion of the legal aspects of competency.)

The child's credibility will be challenged primarily in the area of **corroboration**. In most child sexual abuse cases there is no physical evidence to support the child's allegations. The defense counsel and the defendant will argue that the child is lying.

Children may lie when instructed to do so by an authoritative adult. For example, a child caught up in a **custody battle** may be told to allege sexual abuse by a parent so that the other parent will be granted full custody of the child. Grandparents and older siblings also have been involved in coaching. Occasionally, a teenager may make allegations against a parent or stepparent out of a misguided attempt at **revenge**. **Incest victims** have been known to say they lied about the sexual abuse after disclosure, due to pressure from family members and lack of a support system. However, most sexual abuse authorities agree that children, especially younger ones, normally do not lie about sexual abuse incidents.

## Small children

### Consistency

### Truth and lies

### Key people

### Key questions

**Small children** are not capable of making up complicated lies. If the child uses terms or describes activities not normal for a child of that age, the investigator can conclude the child has either done the things being described or has observed such things.

The investigator should look for **consistency**. Is the story consistent with what the child told others? Is it consistent over time? Finally, are the details of the story consistent? The child should not have to be prompted to disclose information.

The child's ability to distinguish between **truth and lies** will be a major issue if the case goes to court. The investigator is encouraged to invest some time in developing a game or line of questioning to assess that ability level in the child (see Chapter 6 for sample questions).

## Interviewing family, friends, and witnesses

A thorough and complete investigation includes interviews of family, friends, and witnesses. Suspects may try to coach, coerce, or threaten these individuals in an effort to cover up the crime. It is, therefore, important to conduct these interviews before the suspect is alerted or has access to these individuals. This requirement further demonstrates the value of the increased resource base afforded by an MDT when handling these complex and far-reaching investigations. **Key people** to locate and interview include:

1. Person(s) to whom the victim made disclosure.
2. The reporting party.
3. Parents (if their involvement is suspected, see the section on interrogating the suspect on page 159).
4. Siblings.
5. Persons who reside or have resided in the home.
6. Persons who have frequent contact with the child (such as caretakers, relatives, friends, and teachers).

While interviews will vary based upon the circumstances, **key questions** should include:

1. How was the disclosure made? Under what circumstances?  
What were the exact words?
2. Have you, at any point or for a given period of time, noticed any physical, emotional, or behavioral changes in the child?
3. When was the period and what was the duration of time the suspect had access to the child?
4. What is the child's attitude and behavior when in the presence of the suspect?
5. What is the child's level of awareness about sexual matters?
6. Does the possibility of other victims exist?
7. Have you observed anything that made you suspicious of the suspect's conduct?
8. Do you know of any reason why the child might make a false allegation?
9. Do you know if the suspect keeps a diary, address book, child pornography, videos, photographs, engages in unusual sexual activities, or belongs to any organizations such as the North American Man/Boy Love Association (NAMBLA)?



**Negative feelings**

**Lines of communication**

**Timing**

**Preinterrogation preparation**

**Interrogation strategy**

10. Does the suspect have alcohol or drug problems?
11. Does the suspect have a problem associating or communicating with other adults?
12. Does the suspect engage in activities that increase his or her level of contact with children (coach or scout leader)?

In cases of physical abuse, additional questions include:

1. Who disciplines the child?
2. Has the suspect ever been violent with you or anyone else?
3. Have you observed injuries to the child or other children accessible to the suspect that made you suspicious?
4. Has the child ever seen a doctor or been to the emergency room?
5. Is there a particular implement, such as a belt or paddle, used to discipline the child?

## **Interrogating the suspect**

The sexual exploitation chapter of this manual (Chapter 3) describes a number of offender types. The interrogation process described hereafter is effective with most suspected offenders. While it may be difficult not to have **negative feelings** about a suspect in a child abuse case, if every effort is made to make the suspect feel comfortable, more cooperation will be gained during the interview.

Typically, the suspect will strongly deny the allegations. To keep the **lines of communication** open, the investigator should avoid making any value judgments or negative statements.

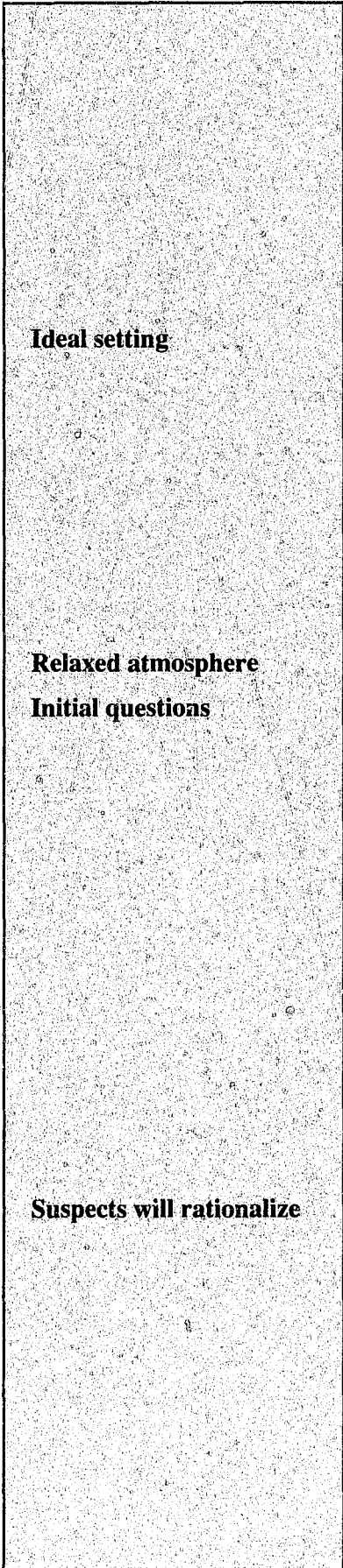
**Timing** is very important. Investigators have reported greater success with the interrogation the closer it occurs to the identification of the suspected abuser.

## **Preparation**

Preparation is an essential first step in the interrogation process. The amount and quality of **preinterrogation preparation** to identify the suspect and the type of offender he or she is and the relationship to the victim have a corresponding effect on the success of the interrogation. Thorough background information about the suspect is essential to develop a comprehensive profile and history. Again, MDT's are an invaluable source of assistance and information. If the interrogator is not the same investigator who conducted the child's interview, or if multiple victims were interviewed by a number of investigators, the suspect's interrogator must examine all evidence, including any reports, statements, photos, videos, search warrants, letters, diaries, corroborating physical evidence, or forensic reports.

## **Developing an interrogation strategy**

The investigator should study the evidence and then map out an **interrogation strategy**. By identifying offender type, the investigator can attack his or her weaknesses. Consider using segments of the victim's interview, a forensic report, or other incriminating material at strategic points in the interrogation. The development of a strategy is essential for a well-organized and successful interrogation of the suspect.



**Ideal setting**

**Relaxed atmosphere**

**Initial questions**

**Suspects will rationalize**

## Documenting the interrogation

Documenting the interrogation through written, audio, or videotaped statements is an important consideration. Refer to the discussion on documentation on page 149 in the child interview section.

## The interrogation setting

Where the interrogation takes place is dependent upon a number of circumstances. Is the interrogation voluntary or involuntary? Was the suspect encountered during a search of his or her house? In all scenarios the interrogation should be conducted where there will be no interruptions or distractions. In the **ideal setting**, the investigator has established as much control as possible. If the interrogation must be conducted at the suspect's home, first attempt to obtain the suspect's consent to a voluntary search. If the suspect consents or if there is a warrant, the investigator should try to gain his or her assistance during the search.

## Talking to the suspect

First, advise the suspect of his or her constitutional rights. It is then important to begin to build rapport. Encourage conversation in an effort to assess the individual's intellectual competency. The investigator might begin by giving his or her professional background and experience and then requesting the suspect do the same. Try to foster a **relaxed atmosphere**. **Initial questions** might focus on work experience, family, hobbies, education, or interests.

Beginning the discussion by asking the suspected offender to describe his or her relationship with the child victim can serve a useful purpose later in the interrogation and at a subsequent trial. If the suspect admits to a close relationship with the child, it will be difficult later to lay blame on the child. Once a discussion is underway, the investigator should inform the suspect of the allegations and pay close attention to the reaction.

## Suspect reactions

The stigma, guilt, and shame associated with child abuse promotes a great deal of denial during the interrogation. Suspects generally look for any outlet to refute, deny, or minimize the alleged incident, often by trying to shift blame to the victim or a former spouse.

When suspects experience difficulty explaining their involvement with the child victim, there may be an attempt to minimize the incident. Frequent excuses include "It was an accident" or "The child misunderstood." Some **suspects will rationalize** the situation by stating that they only were trying to teach the child about sex before he or she learned it on the street.

Whatever the reaction or explanation, encourage the suspect to talk about his or her feelings or actions. Do not make comments or appear disgusted or disbelieving, no matter how implausible or appalling the story. Encouraging the suspect to talk about the allegation provides the investigator with valuable and often incriminating information. Often, the longer the suspect talks, the greater the likelihood of self-incrimination and the more difficult defense will be when later confronted by the investigator.

Once the suspect's statement is taken, the investigator needs to identify those portions that can be used to advantage. The investigator must make a tactical decision about how and when to use the information to maximize weaknesses in the suspect's statement.



## Polygraph

### Confronting the suspect

Confronting the suspect is best initiated by slowly “turning up the heat.” An incriminating piece of information or evidence should be presented to the suspect, who is then asked to provide an explanation. For example, the investigator might describe activities recounted or statements provided by the child that are age-inappropriate. If the suspect claims the child lied, the investigator should ask, “Why would the child lie?” followed by, “Who else could have done this if not you?” The investigator should refute the suspect’s statements with any physical evidence, injuries, third-party statements, or the child’s statement. The goal of confronting the suspect is to expose areas of his or her story that do not corroborate the facts, evidence, or the professional experience of the investigator.

In interrogations of physical abuse, encourage the suspect to describe how the incident could have been an accident and to discuss any excuses for how the injury occurred. Often this allows the investigator to reconstruct those injuries with the suspect and point out any inconsistencies. To help put the suspect at ease, the investigator should appear sympathetic and understanding.

Next, point out the suspect’s symptoms of guilt; for example, failure to make eye contact, nervousness, fidgeting, perspiring, or dry mouth. If the suspect persists in denial, ask him or her to take a **polygraph** test. Because the individual will often claim that he or she can pass a polygraph with no difficulty, a polygraph machine and technician should be available to administer the test immediately. This forces the suspect either to change his or her mind or to take the test, allowing the investigator to interrogate the suspect about why he or she is unwilling to take the test or, alternatively, to interrogate about the results of the polygraph test.

### Giving the suspect an out

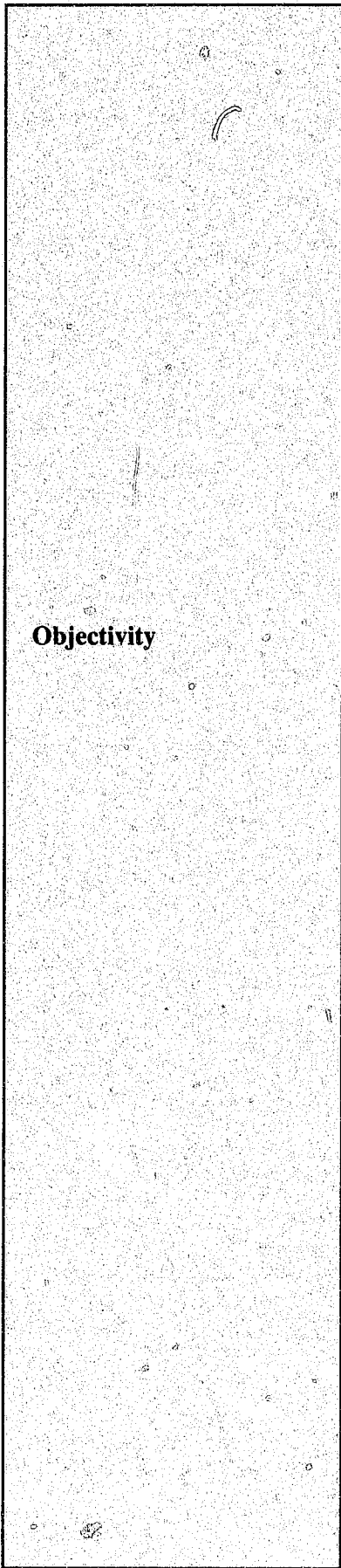
As previously stated, the suspect will often condemn or blame the victim. Allowing the suspect initially to do this may cause him or her to “legitimize the act” and thereby admit it more freely.

Giving suspects an “out” or letting them create or invent a story that attempts to explain the abuse also is effective. A lie can be used to the investigator’s advantage later. The suspect may claim that he or she blacked out because of drugs or alcohol or that he or she loves kids and would never do anything to hurt them. The investigator often can elicit further self-incriminating statements by first appearing to agree with these stories.

### Disclosure

If suspects admit involvement, allow them to freely recall what occurred without interruption. Invariably, the individual will minimize the incident or extent of the abuse. Ask specific questions to resolve all issues to be addressed and to possibly elicit other incidents of abuse by the suspect. The investigator should:

1. Assume an understanding and nonjudging posture to encourage dialog.
2. Try to elicit special names or terminology used during the physical or sexual abuse.
3. Encourage the suspect to provide an anatomical inventory to clarify which areas of the child’s body were affected or used.
4. Determine the location of any physical evidence, so a search warrant or a consent search can be obtained.



## Objectivity

### Ending the interrogation

Once the necessary information is obtained, bring the interrogation to a close without condemning the suspect; his or her cooperation may be needed later in the investigation. Do not make any promises or deals to elicit information. Be honest about what will happen next and discuss conditions of the suspect's release or arrest.

### Concluding the investigation

Once statements are obtained, the investigator's job is not finished. The credibility and validity of the evidence, and the competency of both the victim and the suspect must be assessed. Information collected from the interviews and interrogations must be corroborated with other available facts and evidence. The investigation needs to be as thorough as possible to preclude the possibility that part or all of the statements obtained will be excluded from evidence.

Investigators should remain cognizant of the power and associated responsibilities of their position and role. An investigator can deprive a family of its child(ren) and label suspects as child molesters based upon information revealed during an interview.

As stated at the outset of this chapter, it is crucial for the investigator to maintain **objectivity**. In a small percentage of child abuse investigations, it has been determined that the information obtained was not valid. This can occur for a number of reasons:

1. The child is encouraged by an adult to lie. This occurs most often with older children and in custody or divorce situations.
2. The investigator improperly conducts the interview. Suggestive techniques, pressure, or a lack of training and understanding of children are often responsible for this occurrence.
3. Parents who suspect abuse sometimes try to conduct their own "investigation," which often includes multiple "interviews" with their child. By repeatedly suggesting to the child something the parents think may have happened, the child can be pressured into agreeing with the parents' suspected version of events. When this happens, the child has a difficult time later retracting the story.

Investigators should treat all investigations equally but be aware that erroneous or false information can be given during an interview. In the best of circumstances, a child's statement is supported by corroborative physical evidence; statements of witnesses, family, and friends; or a confession by the offender. In all instances, it is necessary to examine the validity of the child's statement by assessing:

1. The child's emotional state during the interview.
2. The consistency of the child's statement. Does the information provided change or not make sense?
3. The quantity and detail of specific information.
4. The existence of a typical progression of seduction.
5. The picture created by other facts and evidence versus the child's statement.
6. The child's actions and vocabulary.
7. The current family or domestic situation. (These may provide motivation for falsely reporting abuse.)

## Document findings

8. The child's feelings toward the accused (the outcome he or she would like to see occur).
9. Misunderstandings by the child (perceiving sounds made by the suspect during a sexual act as pain).
10. Spontaneous corrections without prompting by the investigator.
11. Unexpected complications (for example, the paperboy interrupted the act).

Interviews are never perfect in all aspects. A sense of the situation based upon the investigator's knowledge, training, and experience is the best guide to sorting out the facts. Problems are encountered when the investigator's objectivity is clouded by a desire to come to the child's rescue.

Finally, the investigator should **document all findings** in a properly written report. The importance of a well-documented report cannot be overemphasized. A comprehensive report includes the elements of the crime and the results of the investigator's investigation.

## Conclusion

During the 1970's studies began to appear that revealed an alarming incidence of physical and sexual child abuse, cutting across all socioeconomic and geographical boundaries in American society. One of the most disturbing revelations was that—far from being a new phenomenon—physical and sexual child abuse has always been a pervasive practice, shrouded in ignorance and denial.

In the 1980's the public expressed shock and outrage at the "system's" seeming inability to effectively intervene in cases of child abuse and neglect. Media reports portrayed accounts of children killed, mutilated, or raped by their caretakers. There were countless reports of children being returned to abusive home environments because of "impotent" or "incompetent" responses by those very agencies charged with rescuing and protecting them.

The 1990's have begun with a disturbing shift in the media's coverage of child abuse investigations. Their reports tend to focus on mistakes made by investigators that have led to false arrests and denial of parental custody rights. During the coverage of several recent nationally publicized cases, it was suggested that the scope of the problem of child abuse has been exaggerated by hysterical and overzealous professionals. Children have been labeled "liars"; social workers and therapists, "hysterical"; law enforcement investigators, "incompetent"; and divorcing parents, "vindictive and manipulative."<sup>12</sup>

*We are the safety net for physically and sexually abused children. We must continue to strongly advocate their protection. We must intercede to help guarantee their right to a safe and nurturing environment—one that fosters emotional as well as physical growth and development.*

It is not enough to be well intentioned or to have our "hearts in the right place." We have a legal, moral, and ethical obligation to conduct thorough, professional investigations. We must diligently use our existing resources to overcome heavy caseloads and high turnover rates of caseworkers to continue educating policymakers and the public about child abuse. In addition, we must devise child protection teams to help expand and pool our individual information resources.



**Interpreter**

The purpose of this chapter is to present ideas and techniques to educate and assist child abuse investigators—within their own particular situation—in handling their role in one of the most difficult and complex problems facing society today. As stated at the outset of this chapter, one of the critical components in child abuse cases is how we handle the interview—our initial contact with the child victim. As investigators we must learn—through sensitive and compassionate methods—how to extract the thoughts, feelings, and experiences from children suspected of being abused. We must then strive to objectively assess their situation and, if necessary, become their **interpreters** in an adult world in which the abused child's best interests are not always protected.

# Chapter 4: Appendixes

## Interviewing Child Abuse Victims

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- A. Notes
- B. Criminal child abuse investigator's checklist
- C. Important information to obtain during the child's interview
- D. Resources
- E. Report on Scott County Investigations

## Appendix A: Notes

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1. McFarlane, K. 1986. *Sexual Abuse of Young Children*. New York: Guilford Press, p. 68.

A general source of further information on this subject may be found in Spaulding, W. 1987. *Interviewing Child Victims of Sexual Exploitation: Important Information to Obtain*. The National Center for Missing and Exploited Children, p. 18.

2. Lever, S., Ratcliff, J., and Walker, J. Adaptation of "20 Points to Remember When Talking With Children." Los Angeles District Attorney's Child Abuse Prosecution Seminar, April 27, 1985.
3. Harnest, J. 1983. *Teach-A-Bodies: An Effective Resource for Sex Education, Investigation, Therapy and Courtroom Testimony*. Fort Worth, Texas: Teach-A-Bodies, Inc., p. 2.
4. Summit, R. 1983. "The Child Sexual Abuse Accommodation Syndrome." *Child Abuse & Neglect*, 7:177-193.
5. Kean, R., and Rodgers, E. 1988. *The New Child Protection Team Handbook: The Law Enforcement Officer as a Member of the Child Protection Team*. New York and London: Garland Publishing Co., p. 200.
6. Toth, P. "Current Issues Affecting Child Abuse Prosecution." Alexandria, Virginia: American Prosecutors Research Institute, National Center for the Prosecution of Child Abuse, p. 13.
7. McFarlane, K. 1984. *Sexual Abuse of Young Children*. New York: Guilford Press, pp. 90-92.
8. Burgess, A. 1986. *Youth at Risk: Drawings as Assessment Tools*. The National Center for Missing and Exploited Children, p. 26.
9. Faller, K. 1984. *Multidisciplinary Team Training*. Ann Arbor, Michigan: University of Michigan, p. 10.
10. Faller, K., p. 14.
11. Faller, K, p. 12.
12. Hindeman, J. 1987. *Step By Step: Sixteen Steps Toward Legally Sound Sexual Abuse Investigations*. Ontario, Oregon: AlexAndria Associates, p. 1.



## Appendix B: Criminal child abuse investigator's checklist\*

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### 1. Review and note available information

- How and by whom reported
- CPS report/caseworker and action taken to date
- Police reports
- Medical exam or autopsy/findings/name of doctor
- Witness statements
- Prior reports concerning this child
- Prior reports/complaints/convictions concerning this suspect

### 2. Contact child victim

- Note vital statistics such as DOB, height, and weight
- Note home address and school/grade attended
- Note any disabilities
- Note observations of physical appearance
- Note demeanor and emotions displayed
- Take photos of injuries
- Make referrals to counseling and other support services

#### Victim interview

*(when possible)*

- Explain your role
- Elicit background information, put child at ease, and assess developmental/intellectual level
- Determine whether medical exam has occurred
- Determine child's expectations, fears, and his or her desired consequences
- Provide information and tell the child how to contact you

#### Obtain a detailed description of the abuse

- Name of offender and relationship to victim (such as a family member, a friend, or a stranger)
- Physical description of offender
- Timeframe of abuse
- Did abuse happen more than once
- How often the abuse occurred
- Child's age when abuse occurred
- First incident of abuse
- Most recent incident of abuse
- Time of day and duration of abuse
- Association with other events
- Recollection of individual incidents
- Location(s) of abuse (State, county, city, building, room, or other specific location)
- Any corroborative details such as specific descriptions of clothing, furniture, or other household items, of other people nearby, of TV shows on at time of abusive incident, of child's feelings at time of abuse

\*Provided by the American Prosecutors Research Institute

- Enticements, bribes, gifts, promises, explanations, threats, or intimidation by the offender
- Elements of secrecy
- Offender's words during abuse
- Whether victim has a diary or a journal
- Whether victim has correspondence from the offender
- Whether victim gave correspondence or other items to the offender
- Whether another witness was present
- Whereabouts of other family members
- Whether child saw or knows about other victims
- Victim's attitude and emotions toward offender then and now (e.g., close, loving, hostile, fearful)
- First person the victim told about the abuse and that person's reaction
- If applicable, why the victim delayed in disclosing the abuse
- Others victim may have told and their reactions
- Drugs given to the victim or taken by the offender
- Alcohol given to the victim or taken by the offender
- Prior physical or sexual abuse of the victim
  - By this offender
  - By anyone else

Include following items for sexual abuse

- Clarify child's anatomical vocabulary
- Note child's exact words in describing the abuse
- Nature of the abuse (e.g., physical, sexual, or emotional)
- Oral, vaginal, or anal contact
- Fondling/penetration
- Forced to perform sex acts on the offender
- Use of pornography (films, magazines, or pictures)
- Use of foreign objects, sexual devices, contraceptives, or lubricants
- Were photos taken of victim
- Did victim see photos of other children
- Were the victim's and/or the offender's clothes on or off
- Was there pain, bleeding, or discharge
- What words did the offender use and what was his or her behavior during and after the sex acts
- Did the child see or feel an ejaculation. If yes, where—in the child's mouth, vagina, or rectum; elsewhere on child's body; on bedding, carpet, or clothing
- Description of any unusual physical characteristics of the offender, such as scars, tattoos, or birthmarks
- Description of offender's genitalia, (e.g., color of pubic hair, erect or flaccid penis, circumcised, or any other unusual characteristic)
- Did the child wipe himself or herself; if it was done by the offender, what did he or she use and where is it

Include the following items for physical abuse

- Were weapons used (if so, describe them and where and how they were used)
- Child's explanation of specific injuries
- Reason (if known) for the offender's use of force, such as punishment or anger
- Is offender violent toward others
- Has child had prior medical problems or treatment and if so, when and for what problem

### 3. Medical examination of the victim

- Find out if the exam has been performed and if so:
  - When
  - By whom conducted
  - Who sought medical attention for the child
- If an exam has not been performed, arrange one as soon as possible
- Obtain a consent to acquire medical reports and arrange for legible copies
- Interview doctors and other involved medical personnel and determine how to contact them in the future
- Document the victim's statements
- Note any special procedures used
  - Colposcopy  photos
  - Toluidine blue dye  photos
  - Proctoscopy or anoscopy
  - CAT scan
  - X-rays/skeletal survey
  - Screen for blood disorders/clotting studies
  - Consultation with/referral to other experts
  - Other
- Collect any physical evidence gathered by doctor
  - Specimens and samples
  - Photos
  - Child's clothing worn during assault
  - Arrange for necessary crime lab analysis
  - Presence of sperm, acid phosphatase, or P30
  - Blood/serology analysis
  - Hair comparison
  - Fiber comparison
  - Other

#### Medical evidence and observations consistent with sexual abuse

- Evidence of violence on body
  - Bleeding, bruises, abrasions
  - Bite marks
  - Broken bones
  - Other
- Positive results for presence of semen
  - Fluorescence with Wood's Lamp
  - Motile/nonmotile sperm
  - Positive acid phosphatase or P30
- Pregnancy
- Presence of sexually transmitted disease
  - Gonorrhea
  - Syphilis
  - Chlamydia trachomatis
  - AIDS
  - Herpes
  - Trichomonas vaginalis
  - Venereal warts
  - Nonspecific vaginitis
  - Pubic lice
  - Any vaginal or penile discharge
  - Other

- Itching, irritation, or trauma to genital or anal area
- Foreign debris in genital or anal area
- Vaginal area injury and findings
- Enlarged vaginal opening in prepubertal child (4–10 mm or more)
- Posterior fourchette lacerations
- Other lacerations or scarring, and location
  - Redness, focal edema, or abnormalities (abnormalities such as synechiae or a change in vascularity)
  - Absent or thinned hymenal ring
- Laxity of pubococcygeus muscle (gaping vaginal opening)
- Anal area injury and findings
- Reflex relaxation of anal sphincter
- Positive wink reflex
- Complete or partial loss of sphincter control
- Lacerations, scarring, or erythema
- Fan-shaped scarring
- Loss of normal skin folds around anus
- Thickening of skin and mucous membranes
- Skin tags
- Gaping anus (more than 15 mm) with enlargement of surrounding perianal skin

Medical evidence and observations consistent with physical abuse

- Doctor's opinion regarding cause of child's death or injury as nonaccidental
- Delay or failure to seek medical treatment by child's parent(s) or caretaker(s)
- Inconsistent history regarding severity, type, and location of injury
- History inconsistent with child's developmental level and probability of injuring himself or herself
- Contradictory explanations of injury by family members
- Child's fear or unwillingness to explain cause of injury
- Inconsistency by the child during the history-taking as to details and possible offenders
- Current physical injury accompanied by signs of multiple prior injuries or neglect (malnutrition or lack of regular medical care)
- Apparent parenting disorders, such as alcoholism, drug abuse, or psychotic behavior
- Behavior of parent or caretaker appears suspect (e.g., irritation, evasiveness, vagueness, or reluctance to give information)
- Doctor's opinion that child's injuries are consistent with battered child syndrome

Injuries suspicious of physical abuse

*Soft tissue injuries*

Bruises, abrasions, welts, and lacerations

- In locations other than bony prominences, such as buttocks, lower back, genitalia, inner thighs, cheeks, ear lobes, mouth, and neck
- Multiple bruises (especially if deep) at different stages of healing covering a large area of body
- Adult bite marks
- Wraparound, tethering, or binding injuries
- Neck, ankle, or wrist circumferential injuries; rope burns
- Injuries caused by choking or gagging
- Trunk encirclement bruising
- Patterns, imprints, or lacerations which suggest an inflicted injury
  - Grab, pinch, squeeze, or slap marks
  - Strap or belt marks
  - Looped cord marks
  - Imprints or lacerations from punctures, tattooing, whips, sticks, belt buckles, rings, spoons, hairbrush, coat hangers, and knives

### *Internal or abdominal injuries*

- History or severity of injury indicating child was pummeled, thrown, or swung against a wall or other object; kicked; or hit with a concentrated force or a blunt object
- Lack of history indicating auto accident or fall from high place
- Internal or organ damage
  - Ruptured or perforated liver
  - Injuries to spleen
  - Injuries to intestines
  - Injuries to kidneys
  - Injuries to bladder
  - Pancreatic injury
  - Other internal organs
- External symptoms
  - Nausea or vomiting
  - Constipation
  - Shock
  - Blood in urine
  - Swelling, pain, or tenderness

### *Head injuries*

- Multiple bruises or lumps on scalp
- Hemorrhaging beneath scalp or hair missing due to hair pulling
- Subdural hematomas (never spontaneous)
- Suspect injury was caused by violent shaking if:
  - Bone chips at cervical vertebrae
  - Compression fractures to ribs
  - Damage to neck muscles and ligaments resulting in child's inability to turn head to side or up and down
  - Spinal cord damage
  - No skull fracture or external bruising or swelling
  - Whiplash or shaken baby syndrome diagnosis
- Suspect caused by abusive blunt force trauma if:
  - Skull fracture
  - Scalp swelling and apparent bruising
  - Parent or caretaker denies recent trauma, fall, or other injury sufficient to account for injury or claims accidental force, such as fall from couch, bed or crib, which is sufficient to cause such an injury
  - Subarachnoid or other intracranial hemorrhages with insufficient "accidental" explanation
  - Skull fractures without history of significant "accidental" force
  - Injuries to eyes without sufficient accidental or other explanation
  - Retinal hemorrhaging, especially if other evidence of nonaccidental head trauma is present
  - Black eyes
  - Detached retinas
  - Petechiae (small spots of blood from broken capillaries) or other bleeding in eye
  - Cataracts
  - Sudden loss in visual acuity
  - Pupils fixed, dilated, or unresponsive to light
  - Eyes not tracking or following motion
- Ear injuries without appropriate explanation
  - Sudden hearing loss
  - "Cauliflower" ear
  - Bruising to ear or surrounding area

- Petechiae in ear
- Blood in ear canal
- Injuries to nose without appropriate explanation
  - Deviated septum
  - Fresh or clotted blood in nostrils
  - Bridge of nose bent or swollen
- Injuries to mouth without appropriate explanation
  - Chipped, missing, or loose teeth caused by blow to mouth
  - Bruising in corners and lacerations of frenulum, of upper and lower lip, and of tongue (indicative of exterior gag)
  - Petechiae inside nostrils, around nose, or near corners of mouth could indicate manual suffocation if child has stopped breathing

#### *Skeletal injuries*

- Multiple fractures at different stages of healing
- Repeated fractures to same bone
- Spiral fractures (usually femur, tibia, forearm, or humerus)
- Rib fractures, especially in children of less than 3 years
- Bone chips in bones connecting at elbow or knee, caused by jerking and shaking (avulsion of the metaphyseal tips)
- Growth plate separations caused by shaking—"bucket handle" and "corner" fractures
- Injury to bone (bleeding and thickening calcification) which is repeatedly hit but not broken (subperiosteal proliferation is apparent on X-ray)
- Fractures to bones not usually accidentally broken, such as scapula or sternum

#### *Inflicted burns*

- Child burned on unusual part of body, such as the palms, soles, or genitalia
- Parent or caretaker delays seeking medical help
- Multiple burns of different ages and different burn patterns
- Symmetrical, patterned burn with sharp margins—no indication of child trying to get away (child held down or hot object deliberately applied)
- Hot water burns
- Immersion/dipping burn (oval shape, usually buttocks and genital areas)
  - Doughnut-shaped burn surrounding buttocks (indicates child forcibly held down)
  - Glove or stocking burn (immersion of hand or foot)
  - Even immersion lines, lack of splash burns (child prevented from thrashing around, trying to get out)
- Contact burns
  - Cigarette, cigar, match tip, pilot light flame burns (usually deep, circular burns)
  - Imprint of object responsible for burn with sharp margins (usually deep and uniform burn):
    - Stove burner (star, circular, coil shapes)
    - Heating grate, radiator
    - Iron
    - Curling iron
    - Heated knife or hanger
    - Other

#### 4. Contact other witnesses

- Find all people with relevant information about victim or offender and obtain statements (from individuals such as complainant, victim's parents/caretakers, family members, friends, medical personnel, coworkers, teachers, CPS personnel, neighbors, therapists)

- Note identifying information for each witness, such as DOB, address, phone, employment, relationship to victim and/or offender, and marital status
- Check for prior criminal record of witness
- Note witness' demeanor and attitude toward victim and/or offender and reaction to allegations
- Determine degree of familiarity with victim and/or offender
- Determine whether they witnessed any unusual or inappropriate behavior/contact between offender and victim or other children
- Determine whether they know of or suspect any other children who were victimized or at risk
- Determine whether they know of additional potential witnesses
- Determine whether they can verify/refute any facts supplied by victim or offender
- Awareness of any motives of victim or others to falsely accuse offender
- Observation of any physical/medical symptoms in victim (see preceding list)
- Observation or knowledge of any unusual behavior/behavioral changes in victim before or after disclosure; some possibilities:

Behavioral extremes:

- Constant withdrawal, depression, suicide gestures/attempts or self-destructive behavior
- Overly compliant or passive
- Overly eager to please
- Afraid to talk or answer questions in parent's/suspect's presence
- Avoiding suspect or refusal to be with suspect
- Fearful of place such as daycare, school, babysitter's, or suspect's room
- Fear of all males, all females, or all adults
- Wary of physical contact
- Unusual self-consciousness, such as an unwillingness to change clothes for PE class or to participate in recreational activities
- Constant fatigue, listlessness or falling asleep in class
- Excessively self-controlled—never cries or exhibits curiosity
- Frequent unexplained crying
- Apprehensive when other children cry
- Poor peer relationships or deterioration in existing friendships
- Inability to concentrate
- Unusual craving for physical affection
- Unexplained or extreme aggressiveness, hostility, or physical violence
- Turning against a parent, relative, or a friend
- Delinquency, including theft or assaultive behavior
- Alcohol or drug use/abuse
- Running away
- Frequent absences/truancy from school
- Early arrival, late departure, and very few absences from school
- Sudden increase or loss in appetite
- Change in school performance or study habits
- Compulsion about cleanliness (wanting to wash or feeling dirty all the time)
- Headaches
- Stomach aches
- Rashes
- Stuttering

Regressive behavior:

- Return to accidents/bedwetting
- Baby talk, acting like a baby

- Excessive clinging
- Thumb sucking
- Carrying blanket
- Wanting to nurse
- Otherwise acting younger than age

Sleep disturbances:

- Bad dreams
- Refusal/reluctance to sleep
- Excessive sleeping
- Sleep walking
- Sudden fear of darkness
- Other sleep pattern changes

Unusual sexual behavior or knowledge:

- Acting out sexually with toys, other children
- Excessive masturbation
- French kissing
- Sexually provocative talk
- Seductive behavior toward adults
- Preoccupation with sexual organs of self or others
- Sexually explicit drawings
- Sexual knowledge beyond norm for age

Other behaviors:

- Dressed inappropriately for weather (e.g., always in long sleeves)
- Enuresis/encopresis
- Pseudo-mature behavior
- Extreme hunger
- Sudden weight loss or gain
- Personality disorders

5. Interview witnesses to whom victim made statements

- Cover all applicable areas in 4.
- Determine exact circumstances of child's disclosure to them
- When and where statements made
- Who else present
- Words used by child
- Details provided by child
- Incident precipitating disclosure (e.g., spontaneous disclosure or child was responding to questions)
- Child's demeanor/emotional state
- Child's attitude toward offender
- Child's expressed concerns/fears
- Witness' reaction to child

6. Interview complainant (first reporter, if other than child)

- Cover all applicable areas in 4 and 5
- Determine what caused the child to report
- Child's disclosure, or
- Suspicions based on other factors without disclosure from child
- Assess potential motives of complainant



7. Interview victim's parent(s)/caretaker(s)

- Cover all applicable areas in 4, 5, and 6
- Determine child's medical and mental health history
- Obtain names of doctor(s)/therapists(s)
- Obtain consent to receive relevant medical records
- Prior abuse of victim (when, where, who, action taken, and results)
- Prior accusations of abuse by victim (when, where, who, action taken, and results)
- Child's general personality/functioning (e.g., school performance, hobbies, and friends)
- Child's normal schedule/routine
- Verification of timing/events related by child
- Suspect's access to victim (past and present)
- Ongoing difficulties in family (e.g., divorce, custody or visitation disputes, or arguments) and victim's awareness of/reaction to them
- Determine whether supportive of victim

For physical abuse

- When injury/sickness of victim first noticed
- What they know or suspect about cause
- Where the child was and who the child was with for substantial time before and all time up to injury/sickness becoming apparent
- Prior illnesses or injuries of child
- Prior medical treatment of child and name of provider(s)
- Suspect's responsibility, if any, for discipline of child; normal methods used
- Action taken when injury/sickness was noticed

For sexual abuse

- Determine child's awareness of exposure to sexual matters
  - TV, movies, videos, and magazines
  - Observation of adults
  - Talking to others (sex education in school, friends, or personal safety curriculum)

8. Interview other family members of victim

- Cover all applicable areas in 4, 5, 6, and 7
- Determine whether they saw or heard any direct or indirect evidence of abuse
- Determine if they were ever victims

9. Interview suspect's spouse, significant other(s) in the family/household

- Cover all applicable areas in 4, 5, 6, 7, and 8
- Determine statements made by suspect
- Suspect's reaction to allegation or explanation for it
- Unusual behavior of suspect before or after allegation
- Suspect's opportunity to abuse child (time with child, alone, or otherwise)
- Relationship known or observed between the victim and suspect
- Whether suspect owns/owned/possessed items or clothes described by the victim
- Other children in contact with suspect
- Prior arrests, accusations, or convictions of suspect
- Suspect's violence toward others
- Suspect's past and present employment
- Suspect's past and present residence(s)
- Prior marriages of suspect
- All children/step-children of suspect
- Suspect's physical and mental health

- Prior illnesses, infections, or treatments
- Alcohol or drug abuse
- Names of doctors or therapists seen
- Description of witness' relationship with suspect
- Description of witness' background (e.g., marital, employment)
- Whether suspect (or witness) keeps items such as diary, journal, calendar, computer records, or address book
- Whether suspect has another residence, post office box, or storage area, etc.
- Unusual hobbies or interests of suspect

For sexual abuse

- Sleeping arrangements in home
- Children's bathing responsibilities in home
- Distinctive anatomical features (if any) of suspect, such as scars, tattoos, or birthmarks
- Suspect's use (if any) of pornography, sexual aids or implements, or birth control
- Presence of sexually transmitted disease in suspect or witness
- Strange/unusual/distinctive sexual practices or preference of suspect

For physical abuse

- Suspect's responsibility for child's discipline
- Usual methods and frequency
- Amount of force used
- Use of weapons or implements
- Loss of control
- Any expressions of frustration, disappointment, or anger with child by suspect
- Suspect's access to weapons or implements consistent with child's injuries

10. Interview suspect

- Advise of *Miranda* rights
- Stress interest in hearing and determining only the truth
- Obtain background and biographical information
- DOB
- Vital statistics, such as height and weight
- Past and present residences
- Past and present employment
- Marital status and prior marriages
- Number of, names, locations, and ages of all children
- Mailing address(es), P.O. box(es)
- Neighborhood and community organizations or affiliations
- Hobbies and interests
- Magazine subscriptions, especially if sexually oriented
- Suspect's schedule and routine (e.g., work and leisure time or vacation time)
- Note suspect's demeanor and any changes during interview (e.g., angry, uncomfortable, vague, evasive, amused, or unconcerned)
- Any indication of psychosis, mental health problems, alcohol or drug dependence, and physical or medical problems
- Suspect's familiarity with victim and victim's routine
- Acknowledgment/awareness of victim's age or disabilities
- Acknowledgment of time alone with victim
- Suspect's description of nature and quality of his or her relationship with victim
- Suspect's description of victim
  - "Problem child"
  - "Special" child

- Good/bad
- Obedient/disobedient
- Smart/dumb
- Honest/dishonest ("pathological liar")
- "Bruises easy"
- "Clumsy"
- "Always/never in trouble"
- Unrealistic expectations of child
- Complaints about minor, irrelevant, or unrelated problems with child
- Other
- Suspect's description of ways of dealing with problems with child
- Suspect's description of relationship with spouse, complainant, or other important witnesses
- Corroboration of any details supplied by victim
- Suspect's explanation, in detail, of reasons for allegation of abuse
- Victim's motive to lie
- Motive of others to lie
- Details of "unintended" or "accidental" touching or injury
- Detailed explanation of how child initiated event
- Detailed explanation of injuries observed on child
- Explanation for why delayed or did not seek medical attention for injured child
- Extent and details of any abusive conduct suspect admits
- Request names and location of anyone who can corroborate information given by suspect
- Request access to any items which could corroborate suspect's claims, such as a calendar or work records
- Ask suspect to verify he or she has told truth and whether he or she has anything else to say

#### 11. Search for/seize physical evidence from victim

- Photos of injuries/general appearance
- Clothing worn at time of assault, especially if torn or bloody, etc.
- Bedding, etc. which may contain evidence
- Items received from suspect
- Items such as calendars, diaries, or journals
- Other

#### From scene

- Photos/diagrams
- Take measurements of areas/items involved, especially in physical abuse cases with claim of accident or self-infliction of injury by child
- Note surface child supposedly landed on in "fall" case, (e.g., wood, concrete, or carpet and measure distance from child's supposed position to point of impact)
- In burn cases:
  - Seize/photograph items consistent with pattern of contact burn
  - Check water temperature at hot water heater and faucets in hot water burn cases
  - Measure height of tub/sink and note what tub/sink (or other site of burn) is made of
  - Test to determine surface temperature of items used to burn child and check for body residue on them
- In criminal neglect cases:
  - Note/document/photograph general appearance of home before "cleaned up" by suspect(s)
  - Determine whether utilities on/working
  - Determine availability/condition of food appropriate for child
  - Determine condition of appliances (e.g., stove or refrigerator) and whether working
  - Determine condition/safety of electrical and plumbing features
  - Determine condition/cleanliness of sleeping areas and items such as child's clothing

Any applicable relevant evidence originating from suspect, suspect's residence, or office

- Use search warrant if necessary; always request consent
- Photos to show suspect's appearance and/or unusual/distinctive physical features
- Fingerprints
- Hair, blood, saliva, semen, fingernail scrapings, dental impressions as applicable to facts
- Handwriting or voice tapes
- Clothing and potential evidentiary value
- Occupancy papers
- Phone records
- Bank or credit card records
- Work records
- Drugs or alcohol
- Pictures, negatives, videos, or home movies of victim or other children
- Camera and/or developing equipment
- Weapons/implements used to threaten or injure child
- Items left at suspect's or with suspect by child
  - Pornographic items (e.g., films, pictures, magazines, or videos)
  - Sexual aids or devices
  - Computer records, journals, calendars, diaries, or address books
  - Any unique/distinctive items described by victim, such as furnishings, pictures, clothing, or lubricants

12. Utilize additional investigative techniques as appropriate

- Obtain 911 tape
- Wire tap orders/pen-registers
- Undercover officer surveillance
- Video surveillance
- Polygraph or PSE of suspect
- Special crime lab testing/analysis
- Consultation with outside experts
- Other

## **Appendix C: Important information to obtain during the child's interview**

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1. Detailed description of the offender, vehicles, and his or her house (if applicable).
2. Determination of the number of specific acts committed by the offender.
3. Determine how the offender induced the child to perform or submit to such acts.
4. Determine if pornography or erotica was used and/or present. If so, what kind and where is it kept.
5. Determine if drugs were used and if so, what kind and where they were kept.
6. Determine if the child was photographed and if so, what kind of camera was used and where is it kept.
7. Ask if the child saw photos of other children and if so, obtain their descriptions.
8. Determine if other children were involved in or present during any of the acts and if so, attempt to identify them.
9. Determine if the child knows the offender or any other adults who may have participated in the acts.
10. Determine if the child has been victimized by more than one person and if so, attempt to identify them.
11. Ask the child if he or she divulged his or her name, address, or phone number and if so, how it was recorded by the offender.
12. Determine if the child saw other children give such information and if so, how it was recorded.
13. Ask if the offender has a diary or computer.
14. Ask if the child played with any toys or books at the offender's home and if so, obtain detailed descriptions of the items.
15. Determine if the child left any personal belongings in the offender's possession.
16. Ask if the offender gave the child any gifts.

## Appendix D: Resources

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### **Anatomically Correct Dolls**

Act Dolls  
P.O. Box 276  
Hot Springs, SD 57747  
605-745-5429

Analeka Industries, Inc.  
P.O. Box 141  
West Linn, OR 97068  
503-655-3596

Janon's, Inc.  
317 East Front Street  
Grand Ledge, MI 48837  
517-627-7758

Lois Jarvie  
1410 West Indiana Avenue  
South Bend, IN 46613  
219-289-5893

Teach-A-Bodies  
2544 Boyd Street  
Fort Worth, TX 76109  
817-923-2380

Uniquity  
215 4th Street  
P.O. Box 6  
Galt, GA 95632  
209-745-1111

### **Anatomical Drawings**

Forensic Mental Health Associates, Inc.  
(Attn: H. Jean Birnbaum)  
3 Ireland Road  
Newton Center, MA 02159  
617-862-7291

# Appendix E: Report on Scott County Investigations

## Introduction

On October 15, 1984, R. Kathleen Morris, the Scott County Attorney, dismissed charges against twenty-one citizens accused of child sexual abuse in Scott County.

In dismissing those cases, the County Attorney referred to a court-ordered release of documents in a case concerning "an active criminal investigation of great magnitude." The County Attorney went on to say that "prejudice would likely result to this ongoing investigation by release of this information at this time." This "investigation of great magnitude" referred to allegations of homicide made three months earlier by some child victims in the sexual abuse cases.

The County Attorney also noted the need to protect and safeguard the children from further victimization. She indicated this could best be done by these cases proceeding in family court rather than a criminal setting. Finally, she noted that it had become increasingly clear that many children would not be able to testify in the criminal proceedings without great emotional distress or trauma. She concluded that it would not be in the best interest of the victims and the further interest of justice to continue with these criminal proceedings.

During the week of October 15, 1984, the Minnesota Bureau of Criminal Apprehension (BCA) and the Federal Bureau of Investigation (FBI) began investigating the alleged homicides, pornography, and child abuse in Scott County. On October 17, 1984, Hubert H. Humphrey III, Minnesota Attorney General, sent a letter to the Scott County Attorney urging that she provide a more detailed public explanation of why the criminal charges had been dropped against the twenty-one defendants. On October 19, 1984, the Scott County Attorney requested that the Minnesota Attorney General assume responsibility for the pending family court matters and any criminal charges that might arise out of the FBI/BCA criminal investigation of the alleged sexual abuse, pornography, and homicide cases.

During the course of that investigation, over a dozen state and federal investigative agents focused on what happened in Scott County. Many of these agents had substantial experience in investigating child sexual abuse and pornography. The main case agents and others from the BCA had successfully overseen the Children's Theater sexual abuse investigation.

The FBI effort was overseen by the supervising agent in the FBI St. Paul office. Among the FBI personnel working on this case was the agent responsible for training other agents and law enforcement personnel in the Midwest region in child sexual abuse investigations. The jurisdictional focus of the FBI effort was on allegations of homicide and pornography.

Metropolitan area county attorneys, including Dakota County Attorney Robert Carolan, Hennepin County Attorney Thomas Johnson, and Ramsey County Attorney Tom Foley, also provided assistance by assigning staff attorneys to handle the child neglect and dependency cases arising out of the sexual abuse allegations. In addition, eight attorneys and four criminal investigators from the State Attorney General's Office participated in this effort.

At the conclusion of their investigation, the FBI/BCA agents submitted their investigative findings to Attorney General Humphrey. Those findings are as follows:

1. There is no credible evidence to support allegations of murder that arose during the sexual abuse investigation.
2. There is insufficient evidence to justify the filing of any new sexual abuse charges.

Those findings were unanimously supported by each investigator working on these cases.

It should be emphasized that some children in Scott County were sexually abused. One individual has already been convicted because of a guilty plea. Other offenders received immunity and are undergoing treatment. In one instance the abuse occurred outside the period of the statute of limitations. In another instance a woman admitted sexually abusing her son, but the Scott County Attorney decided not to file charges. In that case there were no indications of any connection with a sex ring or other adults. With respect to all other allegations of abuse, however, it is impossible to determine whether such abuse actually occurred, and if it did, who may have done these acts. The reasons for this impossibility are set forth in this report.

Before detailing these concerns, a statement must be made regarding the nature of the charges. Sexual abuse of children is horrible and shocking behavior that our society, until recent years, has too often hidden or ig-

nored. Recently, however, hundreds of child sexual abuse cases have been aggressively and sensitively pursued each year by Minnesota prosecutors. This has been possible because, in properly handled cases, children can be credible trial witnesses. For the most part, the delicate balance between the interests of children and the rights of accused individuals has been properly struck.

In the Scott County cases, however, something clearly went awry. This is not to suggest that the objectives of Scott County authorities were improper. There is no evidence that the Scott County authorities were motivated by anything other than concern for the protection of children. That concern is shared by the Attorney General and by everyone involved in the investigation. That legitimate concern, however, must be balanced against the rights of accused individuals. That balance can be best maintained when such cases are investigated and handled in a way that results in the development of credible evidence. The best way to protect children is to conduct investigations responsibly, in a way that will lead to discovery of what really happened and lead to convictions, if justified by the evidence. It is in this regard that the Scott County cases foundered.

This report summarizes the basis for the findings of the investigation. There is no intent to provide a chronological review of all the evidence in these cases. Nor does it comment on guilt or innocence of any specific individuals.

Included in this report is a section entitled "Recommendations for Action." These recommendations were developed as a result of the Attorney General's state-wide survey of the handling of child abuse and from our experience with the Scott County cases. These recommendations provide the opportunity to develop a positive conclusion from the Scott County cases.

To protect the children involved from further public exposure, neither names nor initials of any children are mentioned in this report. Similarly, none of the former defendants, except James Rud, who is the only individual convicted of a crime in these cases, is identified.

## Homicide Investigation

On November 14, 1984, the Attorney General, the Federal Bureau of Investigation (FBI), and the State Bureau of Criminal Apprehension (BCA) announced that based on all available information there was no substantiated evidence supporting allegations of murders in the Scott County sexual abuse probe. Before reaching that conclusion, FBI and BCA agents had spoken with the Scott County Attorney, staff from her office, investigators and staff from the Scott County Sheriff's Department, and the Jordan and Shakopee Police Departments. Therapists

and school personnel who had worked with the children making the allegations also were interviewed. In addition, investigators consulted with psychologists not involved in the case, including one from the FBI behavioral sciences unit at Quantico, Virginia. This individual was also familiar with similar investigations around the country. Inquiries were made of the following sources: The National Crime Information Center (NCIC), FBI, FBI records, Minnesota Criminal Justice Information Systems (CJIS), Minnesota Motor Vehicle and Driver Services (DVS), Minneapolis Credit Bureau, and the Scott County Jail. Long distance telephone calls and subscriber checks and inquiries were obtained. The U.S. Postal Inspector and the U.S. Customs Service were contacted to determine if any of the accused appeared in their files in reference to child pornography. Background investigations were commenced on suspected perpetrators. The final step in the process was interviews with the children themselves.

Those interviews with the children resulted in three individuals recanting their earlier allegations of killings. Four other children who had been identified by Scott County authorities as having given statements regarding homicides stated they had never actually witnessed any killings. The only child to continue talking about murders gave investigators three entirely different versions of what she claimed happened, all within the course of one interview session. In sum, by November 14, 1984, there was no credible evidence to believe homicides had occurred.

The first interview with a twelve-year-old boy, who had provided the most graphic details of homicides, took place on November 2, 1984. During the interview the child described in detail seven children being stabbed, mutilated, and/or shot during the spring and summer of 1983. This contrasted with his statements in July 1984 to Scott County investigators. At that time he had described three homicides. He also indicated at that time that at least fourteen adults and eleven children observed one child being mutilated and killed.

When interviewed in November 1984, he indicated that five bodies had been disposed of in the Minnesota river. He described how a caravan of cars had gone to the Lawrence Campgrounds and that the group involved in the homicide walked across a walkway bridge. This description of the caravan of cars traveling through the streets of a small Minnesota town on a summer's eve caused investigators to question the feasibility of the allegations in that no witnesses had ever reported seeing such a caravan of cars. The youth went on to describe the disposal of one of the bodies. He stated that the group involved in the homicides carried a body to the park, while armed with flashlights. He stated that it was so dark outside that one child stumbled off the bridge and was retrieved from the water. He said the bodies of the alleged homicide victims were disposed of in the river.



On November 3, 1984, BCA agents accompanied this boy, his guardian ad litem, and his therapist to the area where the child said bodies were dumped. He stated that some of the bodies were placed in an inflatable boat, paddled out, and dumped in the middle of the river.

Shortly before a November 6, 1984, interview with this boy, state/federal agents spoke with a park ranger, who had kept a diary noting the depth of the river and certain occurrences there in 1983. The park ranger indicated that in March 1983 the river had flooded over its banks and had swept away the walkway bridge, which was not replaced until late summer of that year. He stated that during much of the spring and early summer of 1983 the trails or paths located next to the river had been impassable because the river had flooded those areas. This was the same period during which, according to the boy, bodies were carried along the paths and over the bridge. The physical impossibility of such events during that period raised severe doubts as to the boy's credibility.

On November 6, 1984, the agents met with this boy in the presence of his therapist. Again he spoke of bodies being disposed of at the campground site. Agents asked the boy if he still recalled bodies being placed in inflatable boats that then were rowed to the middle of the river where the bodies were dumped. This was asked because the agents were informed by law enforcement personnel familiar with the river that currents would have pulled any inflatable boat downstream, making it unlikely that a boat could be rowed to the middle and back. The child began to change his story about where the boat took the bodies. The agents told him that the walkway bridge was not in place when he said a body was carried across it. At that point he broke down and cried. He admitted that he had lied and stated that there were no murders. He stated that he was still telling the truth about the sexual abuse but he invented the murder stories because he did not want to go home.

The agents also interviewed another child who had made allegations of homicide. When interviewed in July 1984 by Scott County investigators, this individual told of three or four killings. He told of victims being shot and stabbed and of one being drowned in a neighbor's pool. He described one of the victims as a drummer in a rock and roll band, who was playing at a party when he (the drummer) was killed. When told that the purpose of the agents' interview was to discuss the alleged homicides, this child immediately stated that he had lied about the cutting and the torture and death of any victims. He stated that the idea of the homicides came into his head when Scott County investigators questioned him about a black or mulatto boy who may have been cut or tortured. He said he got the idea of ritualistic torturing from a television program he had seen. He stated that he lied about the murders because he wanted to please the investigators.

On November 6, 1984, state/federal agents met with a nine-year-old girl who had made allegations of murder in July 1984. In July she had stated that her father shot and killed an eight-year-old black boy in the kitchen of their home. She did not describe any other children being present nor any mutilations or sexual abuse accompanying the killings. The residence where she stated killings took place was not the site of any of the alleged sex parties or ritual killings described by any other witness.

When she met with state and federal agents in November 1984, she immediately recanted all allegations of homicide. She stated that she made up the story about someone being killed because her "very good friend" told her to say these things. This friend was the child who first mentioned killings in July 1984.

The child who first mentioned killings is a twelve-year-old female, who met with Scott County investigators after talking to her therapist about homicides. This child had been sexually abused by James Rud over an extended period of time. By July 1984, this child had been interviewed no less than twenty-three times about the sexual abuse allegations. She had accused eleven adults of sexually abusing herself or other children.

When questioned in July 1984 about homicides, she told Scott County investigators that she had seen a person stick the broken stem of a wine glass into the vagina of a baby girl, then stab the baby in the chest, and bury it. She stated the child's mother was told that day that the baby was dead.

She also told of a woman in her thirties who had been sexual with her and then killed by the same person. A third victim she described was a young mulatto boy killed after having sex with her.

When this witness met with state/federal investigators in November 1984, she vividly described very different homicides. She again told of a baby being killed—this time with its head partly cut off. She stated that the child's mother had dropped the baby off at her friend's house, where her friend's father was going to babysit. She stated that her friend's father killed the child because he could not tolerate the baby.

She spoke of a three-year-old black boy being stabbed. This child was killed, she stated, because he got into the shed of her friend's father and started a fire. She stated that this aggravated her friend's father, so he killed the child with a pocket knife and buried the child in his backyard.

The next victim she described was a four-year-old boy who, she stated, started a fire in the street and then was stabbed in the heart by her friend's father because he stated that the child deserved punishment.

The fourth alleged victim was an eleven-year-old boy for whom the girl said she was babysitting, even though she was only ten at the time. She stated that this child had taken some pills from a cabinet and got intoxicated from them. She stated that her friend's father revived him and then killed him with a knife.

She told investigators that all those killings took place on the very same day. She also made no mention of her July 1984 statement about the woman in her thirties who was killed.

During the interview the girl was at ease and extremely talkative. In each case she talked about the victims being cut and stabbed. When asked by the agents if there was any shooting involved, she said "no." One agent then pointed out to her that earlier police reports showed individuals being shot. She then described the four homicides again and this time changed her story, stating that all the individuals were shot rather than stabbed. Her therapist then asked a question, and the child said that the individuals were stabbed rather than shot. Because of the demeanor of this child and the shifts in her story within a relatively short period of time, it became clear to investigators that these stories were simply not believable.

The state/federal investigators questioned three other children who were described in police reports as discussing alleged homicides. The children stated that they had not observed homicides but rather talked of people being hurt. Therapists informed these investigators of a fourth child who said that he had never used the word "murdered" but used the word "hurt." State and federal investigators attempted to interview this child. The child indicated that he would only be willing to talk to the agents through puppets. He indicated that he would nod the head of one of the puppets yes or no. At some point in the interview, the agents asked him if he had seen any kids that were killed. This child shook the puppet's head "no." When questioned by his therapist whether he had spoken last summer with a Scott County detective about homicides, the child indicated, through the puppets, that he did not remember that conversation.

When state/federal agents first began investigating the alleged homicides, they planned a search of the Minnesota River. Investigators consulted with pathologists to determine what, if any, evidence of a body would still exist after being in a river for an extended period of time. They spoke to the Army Corps of Engineers to determine if any evidence, assuming it existed, could be discovered through such a search. They spoke with law enforcement representatives from other Minnesota counties who have had experience with river search operations. They were informed that the possibility of finding such evidence was extremely slim. However, it was felt that every reasonable investigative effort should be made. Plans were made to begin the river search in early November 1984. Bad weather forced a postponement of that search. It was at this time that investigators discovered that the walkway bridge had been washed away months earlier and children began recanting allegations of murder. As it

became clear that there was no credible evidence of murders, the river search was canceled. Without any credible evidence, both the FBI and BCA felt it would be inappropriate to risk injury or potential loss of life in a river search.

Besides planning a search of the river, investigators had prepared search warrants based on the original statements of the children. However, as the stories collapsed and the physical impossibilities of the original allegations piled up, it was concluded that there was no probable cause to justify the filing of any search warrants.

## Sexual Abuse Investigations

After concluding that there were no homicides, state and federal authorities turned their focus to the allegations of sexual abuse and pornography. They began to reconstruct the investigation made by Scott County authorities, continued to interview child victims and therapists, and do background investigations and interviews of the former defendants. Their investigation included contacts with law enforcement authorities in New York, Alaska, Utah, Kansas, Iowa, Washington, D.C., Georgia, Missouri, California, and Texas.

Although many children had mentioned that photographs were taken during some of the alleged sex parties, the original investigation by Scott County authorities failed to produce a single photograph containing child pornography. By the time of the FBI/BCA entry into these cases in October 1984, the only evidence of pornography and sexual abuse of children by the accused adults rested principally on the statements of the children. However, as a result of the original investigative process, many child witnesses were simply unable to provide credible testimony. In some instances, therapists advised state/federal investigators that certain key child witnesses would be unable to testify credibly in any further court proceedings.

The current absence of credible testimony and the lack of significant corroboration led to the inevitable conclusion that no new criminal charges are warranted. The credibility problems resulted from repeated questioning, a lack of reports, and cross-germination of allegations. The opportunity to obtain corroborating evidence, on the other hand, was largely lost forever by the filing of the original criminal charges in Scott County before the completion of thorough investigations. These concerns are set forth more fully below.

## Repeated Questioning and Lack of Reports

The central problem confronting state and federal investigators when conducting their investigation was that many of the children were questioned about sexual abuse several times. A therapist's report in February 1984 notes one child who already had been interviewed by nine

individuals about the alleged abuse. The mother of another child indicated that her daughter was interviewed at least thirty and possibly as many as fifty times by law enforcement or Scott County authorities. Many other children also were repeatedly interviewed.

Repeated interviewing and discussions about abuse undermine the credibility of witnesses. It can cause confusion in both adults and children. With children it raises the additional concern of suggestibility. According to experts, children may interpret repeated interviews as demands for more or different information than they have already given. In one Scott County case, a trial court judge refused to allow into evidence the testimony of a nine-year-old boy who made some incriminating statements against his parents after being "interrogated" by his foster parents about the abuse. The judge noted that this child had steadfastly denied any criminal sexual conduct by his parents until he was placed with new foster parents, who questioned him extensively.

The repetitive pattern of questioning often occurred in circumstances that threatened the integrity of the children's responses. In many cases children were removed from their homes and isolated from all family contact for prolonged periods, even though the children denied being sexually abused. In some instances, the children did not "admit" that their parents had abused them until several months of separation, marked by continuous questioning about abuse. In the most extreme cases, these children were also told that reunification with their families would be facilitated by "admissions" of sexual abuse by their parents and other adults.

The problem of over-interrogation was compounded by a lack of reports. For example, Scott County investigators' notes show that one nine-year-old girl was interviewed by law enforcement authorities approximately twenty times and yet there were only four written reports concerning those interviews. In addition, her meetings with the County Attorney are undocumented. That pattern was not at all unusual. Investigators' notes show that another child was interviewed by law enforcement officers over twenty times and yet there are reports from less than half of those interviews. In addition, on at least a half dozen occasions she met with the County Attorney, again with no reports on these meetings.

The County Attorney played a major role in interviewing and meeting with the children during the course of the investigation and in preparation for trial. In some instances, when children were picked up and taken from their parents' homes to be placed in foster care, they would first be brought directly to the County Attorney's office. In addition, the County Attorney or her staff would meet with and receive information from children about alleged abuse that would serve as a basis for a criminal complaint before law enforcement personnel actually spoke to the children about the new allegations. Again, the files contain little reference to those meetings.

The absence of reports with investigative personnel and the County Attorney makes it difficult to determine whether an individual has been consistent in making allegations. It makes it difficult or impossible to determine when and under what conditions claims of sexual abuse were made. It is standard procedure for law enforcement personnel to make out reports, particularly in instances where a witness says something of importance to the case, such as an accusatory statement. The lack of reports undermines the credibility of witnesses at trial by subjecting them to claims of recent fabrication.

State/federal investigators were faced with the lack of reports both in regard to allegations of sexual abuse and to statements about homicides. Although the children who made the homicide allegations spoke with investigators about murders in July 1984, at the direction of the County Attorney, reports concerning those interviews were not prepared until October 1984, shortly before the criminal charges were dismissed.

The pattern of repeated questioning and the lack of reports permeated all levels of the original investigation. Besides being interviewed by law enforcement and the County Attorney, the children often discussed sexual abuse with therapists, in some cases on a weekly basis. In some instances even foster parents and the drivers who took them to interviews questioned them about abuse.

As children continued to be interviewed, the list of accused citizens grew. In many cases, it was only after weeks or months of questioning that children would "admit" their parents abused them.

In working with child sexual abuse, it is not unusual for children initially to deny being abused. In subsequent interviews they may finally admit what happened. However, the Scott County cases raise the issue of how long and how often one can continue to question children about abuse before running the risk of false accusation.

The children who told the homicide stories had been questioned repeatedly, over an extended period of time, about sexual abuse. Some had initially denied being sexually abused by their parents until questioned over a period of months. In some instances, over a period of time, the allegations of sexual abuse turned to stories of mutilations and eventually homicide.

The Scott County experience has demonstrated that sometimes prolonged interrogation of children may result in confusion between fact and fantasy. This conclusion was specifically drawn by the therapist of one alleged victim. The therapist believes that the repeated interrogation of this child has rendered him psychologically incapable of distinguishing among what actually happened, what he has previously described, and what has been told by others.

## Cross-Germination of Allegations

Besides the problems of repeated interviewing and lack of reports, another concern that undermined the credibility of witnesses in these cases is "cross-germination." In some instances witnesses were informed what other witnesses had stated. Sometimes, two children would be interviewed together. Some examples are set forth below.

- In one case a twenty-one-year-old female described being interviewed by the Scott County Attorney when her eleven-year-old sister was also in the same office. She stated that her eleven-year-old sister first described the abuse that she (the eleven-year-old girl) had allegedly endured. After hearing that story, the twenty-one-year-old female claims she then was asked what information she had concerning the same individual in question.

- An eighteen-year-old male who admitted to abusing children was questioned about abuse by adults. He claims that he was provided with allegations of abuse made by another child concerning adults whom he knew. He stated that he then was asked to report on what abuse he observed concerning those adults.

- The parents of a twelve-year-old child indicated that their daughter was questioned by law enforcement, then told what another child had said, and then questioned again.

- In some instances young children were brought together and interviewed to discuss the allegations of abuse. In one instance this occurred during a therapy session in which a child was told that his sibling had made allegations against a parent. He then was asked to describe what had happened to him. On another occasion, during the one case that went to trial, child witnesses were provided with the same motel accommodations, ate meals together, and were otherwise permitted to have contact with each other.

The statement by James Rud also demonstrates the problem with cross-germination. In August 1984, Rud gave a statement implicating eighteen adults in sexually abusing children. He later recanted that accusatory statement. Rud claimed to have obtained and reviewed copies of police reports regarding other defendants before he gave a statement implicating these individuals in the sexual abuse of children. It is interesting to note that in Rud's 113-page statement the only individuals identified by him were those whose names were in the police reports, and all but one already had been charged with a crime. The one not charged was a close acquaintance of many of the defendants.

Finally, it should be noted that there is nothing per se improper about joint interviews of children. Some child sexual abuse investigators indicate that on rare occasions one may conduct a joint interview to limit the number of times a child will be questioned. However, in these cases the problem of cross-germination exacerbated the severe

credibility problems already created by excessive interviewing of the children and the absence of reports to document the allegations made by the children.

## The Absence of Corroborating Evidence

Corroborating evidence is evidence that confirms the verbal allegations of a crime victim. While corroboration is rarely an absolute legal requirement in a criminal case, it is always of the utmost importance. Absent corroboration, a criminal case boils down to a debate between the accuser and the accused. It is difficult for prosecutors to prevail in such cases.

Corroborating evidence is particularly critical to both the accuser and the accused in child sexual abuse cases. In the interests of the accuser, corroboration is of immeasurable value to the credibility of a victim who may be impeached due to youth, or limited memory, or limited ability to communicate. In the interest of the accused, the search for corroboration protects individuals against unjust prosecution.

Corroboration for an allegation of child sexual abuse comes in many forms. It may be as physical instruments or evidence of abuse, or concurring accounts by other witnesses, or even incriminating statements by the suspect or another adult. In any event, all these possibilities normally should be well explored before filing criminal charges. Afterwards, evidence of either guilt or innocence is far more difficult to gather.

A major problem with the Scott County cases is that a thorough search for corroboration generally was not completed before the arrests. As a result, the cases rested almost exclusively upon the credibility of the children, credibility that was severely compromised. Consequently, almost every opportunity to gather credible corroboration was lost forever, long before the FBI/BCA investigation began.

Representatives of the Scott County Attorney said their office felt obliged to arrest suspects and remove children from homes with great dispatch whenever a new adult was identified as an abuser. In many instances, this resulted in persons being charged with abusing children at a time when these children had either denied the abuse or had not even been interviewed.

For example, neighbors of two former defendants described a meeting with the defendants following their arrest to discuss and review the complaint. During the meeting the neighbors learned for the first time that their own child was an alleged abuse victim of those very defendants. At that time, neither the children of the accused nor the neighbors' child had been questioned by authorities.

In several other instances, parents were arrested and charged with abusing their own children even though those children denied the abuse through several weeks of interrogation and separation from their parents.

Also, the suspects themselves, their spouses, or friends were seldom, if ever, interviewed before being charged. Thorough background investigations were not done before filing the criminal accusations.

Finally, the haste with which charges were brought often precluded a search for corroborating physical evidence. Surveillance techniques were not utilized. Search warrants were rarely obtained. In a number of instances there were allegations of individuals being involved in photographing victims. No warrant to search for those photographs was obtained at the time those individuals were arrested.

In the very few instances where searches were utilized, they were not always thorough. In the case of James Rud, on October 5, 1983, nine days after Rud's arrest, a Jordan police investigator arrived at the Rud trailer where he observed a stack of approximately twelve videocassette tapes and a large box containing what he believed to be pornographic materials. Rud's parents were present at the time and ordered the officer to leave. The investigator failed to seize the videocassette tapes or other materials. When he returned the next morning, the videocassette tapes and alleged pornography were gone.

The Scott County Attorney sought to compensate for an absence of corroborating evidence by inducing some defendants to testify against others. She indicated that the standard plea offer in these cases was for the defendants to plead guilty, undergo psychological evaluation, and treatment. Most often, she indicated, treatment meant an in-house program at St. Peter State Hospital. The defendants would receive a stay of imposition, meaning if they completed their probation without incident, they would end up with a misdemeanor rather than felony record.

Former defendants also indicate that they were promised agreements that would provide them with no jail time, treatment, and probation in exchange for their testimony. In one instance, a few days before the County Attorney dropped all criminal charges in these cases, two defendants allegedly were offered the dismissal of all charges if they would provide information about the alleged homicides. The defendants also allegedly were told that if they did not provide the information the prosecution of the sexual abuse charges would go forward. Their attorneys state that they recommended that their clients accept the offer if they had any information to give. The defendants refused the offer, indicating they simply had no knowledge of any homicides.

In sum, with the single exception described below, none of the efforts to obtain incriminating evidence of sexual abuse from the defendants or from other potential adult witnesses produced any fruit.

The only defendant who accepted the County Attorney's offer of leniency in exchange for testimony was James Rud. James Rud is a confessed child abuser. He described in detail sexually abusing numerous children

through cajoling, forced persuasion, and violence. He faced charges of 108 counts of sexual abuse. If convicted on all counts, he faced the possibility of over forty years in prison. The agreement offered by the County Attorney initially called for no jail time, but treatment at St. Peter State Hospital instead. The trial court rejected that agreement and replaced it with one in which Rud would plead guilty to ten counts of abuse and sentenced on one. Sentences on the other nine counts would be delayed until after Rud completed his initial sentence and testified truthfully at trials of other defendants. Ninety-eight counts were dropped.

Rud gave a 113-page statement in which he implicated eighteen of the twenty-four defendants. He testified at the trial of two defendants accused of abuse. He was, however, unable to identify one of the accused. The jury was soon instructed to disregard his testimony because of legal issues regarding the propriety of the plea agreement.

In early November 1984, Rud met with state/federal agents on at least two occasions. He was given polygraph examinations, one of which was inconclusive and a second one that he failed. He also had met with attorneys representing the Attorney General's Office, who were handling the family court cases, in preparation for their hearings. These attorneys noted that Rud's testimony was "troubling" because in many instances he could give no reasonable account of why he was at a particular party where he claimed to have observed adults sexually abusing children.

On November 20, 1984, Rud again met with state/federal agents who informed him that he failed the second polygraph test. He then recanted his earlier statement about other adults being involved in child sexual abuse. He denied ever attending any sex parties or that there was a "sex ring." He gave investigators the names of sixteen children, ranging in ages from five to twelve, male and female, whom he had sexually abused in 1981-1983. He indicated that he knew several of the former Scott County defendants but had no knowledge of their sexually abusing any children.

Rud claims that he felt pressured to fabricate the involvement of other adults in order to please the County Attorney and assure himself of a lighter sentence. Rud's public admission that he lied resulted in his losing the benefit of the plea arrangement originally offered by the Scott County Attorney. On January 18, 1985, Rud was sentenced to forty years in prison. The sentencing court noted that Rud's statements rendered him ineffectual as a witness in any further proceedings.

Corroborating testimony for the sexual abuse trials also was sought from older juveniles, who themselves admitted sexual involvement with child victims. The County Attorney gave these older juveniles immunity from prosecution as adults in exchange for testimony regarding other alleged abusers.

Most notable among these was an eighteen-year-old male who in January 1984 admitted sexually abusing his nine-year-old sister and twelve-year-old brother. At that time, he also described observing his brother having intercourse with his sister and another juvenile girl in the Jordan area. Finally, he admitted having sexual contact with his step-mother's sister but denied knowledge of any other adult sexual activity. In a June 1984 statement, he claimed that his brother and sister learned this sexual behavior from other children in the neighborhood and denied any knowledge of abuse by adults. He changed that story in July 1984 when he gave a statement implicating his step-mother and seven other adults in sexual abuse of children. In November 1984, however, this individual recanted the portion of his statement implicating other adults claiming he had done so only because Scott County authorities kept pressuring him. He did not recant his admissions about the sexual abuse he perpetrated on his siblings.

Similarly, another older juvenile implicated his own mother and other adults in sexual abuse in exchange for criminal immunity. When interviewed by FBI and BCA agents, however, he recanted those allegations, alleging that he made them up out of fear of personal prosecution. At the time of his retraction, he took a polygraph test administered by state/federal personnel. He passed that polygraph.

In conclusion, the search for corroborating evidence by the Scott County authorities came far too late to produce anything either useful or reliable. It would appear that this absence of corroboration was an extremely important factor in the dismissal of cases against twenty-one defendants by the Scott County Attorney.

### **Lack of New Evidence**

The final factor in the decision to issue no new charges is the lack of new evidence. In spite of the intensive effort of state and federal investigators, no evidence was uncovered that would corroborate the initial allegations of the children. There was, however, one individual who came forward claiming to have "new" incriminating evidence regarding some of the Scott County defendants. The person is a juvenile who claimed to have been at a gathering where two of the defendant couples were sexually abusing children.

State investigators conducted two interviews with this witness. During the second interview they asked this witness to identify the photographs of the individuals alleged to have sexually abused children. Though the witness was able to identify two of the children, the witness could not pick out the photograph of a woman he claimed had given him oral sex on at least ten occasions. Upon further questioning, he indicated that he had not actually witnessed acts of abuse by adults that he earlier claimed to have seen.

Investigators attempted to corroborate other parts of this story. They made use of a hidden body wire in an attempt to obtain incriminating statements from individuals the witness claimed knew about abuse. They spoke to individuals previously not questioned by Scott County authorities whom the witness claimed also were present when child sexual abuse occurred. These other interviews resulted in information directly contrary to the allegations of this new witness. As a result, the investigators concluded that statements from this individual were simply not reliable. As such, they could not be used to support the filing of any new criminal charges.

### **Conclusion**

The Federal Bureau of Investigation and the Minnesota Bureau of Criminal Apprehension concluded that there was no credible evidence of murders in Scott County connected to the activities of any child sexual abuse ring. In addition, no reliable evidence of the existence of pornographic materials was discovered. Finally, their recommendation is that there is presently a lack of credible evidence that would provide a basis for pursuing any criminal charges in these cases.

There is no doubt that some of the children in Scott County were victims of sexual abuse. Yet, therapists treating them indicate that many of the children are presently unable to testify in further proceedings. Those able to testify face severe challenges to credibility due to repeated questioning, lack of reports, and a cross-germination of information. Moreover, there is a lack of corroborating evidence to support these allegations. Under these circumstances, it would not be in the best interest of justice to continue these matters in a criminal forum.

The tragedy of Scott County goes beyond the inability to prosecute successfully individuals who may have committed child sexual abuse. Equally tragic is the possibility that some individuals were unjustly accused and forced to endure long separations from their families.

Although criminal charges will not be forthcoming, this does not mean the children have been forgotten. In each of these cases there has been a thorough review of what actions should be taken to protect the children. The Hennepin, Ramsey, and Dakota County Attorney Offices provided the services of many of their most experienced family court attorneys to handle these cases. We are constrained by data privacy laws from speaking about specific actions in family court cases. Yet, the public should be aware that, where appropriate, the family court can and has required treatment, therapy, protective services, and ongoing monitoring of the family situation, even if criminal charges are never filed. Even if accused adults had not abused their children, the problems caused by long separations must be dealt with by the family as a whole. Family court can facilitate a healthy reunification

of a family, regardless of whether sexual abuse has or has not been proven in a criminal courtroom. The role of family court is to promote the well-being of the family, in a safe and supportive environment. That goal is being met in these cases.

In addition, the Scott County cases have caused us to review thoroughly how child sexual abuse cases should be handled. During the course of this investigation, we conducted a survey of the handling of child abuse throughout the state. Using the Scott County experience together with the survey, we have developed twenty-one recommendations for improving the quality of child protection in Minnesota. Clearly investigators, prosecutors, human service workers, and therapists must all examine how they presently handle these cases because of the Scott County experience. We should all benefit by understanding what went wrong in Scott County.

Both our survey and the Scott County experience should help to spur on efforts to provide more intensive training in the handling of child sexual abuse. What is preferred is a coordinated, multi-disciplinary effort in investigating and processing these cases. In our survey of the handling of child abuse throughout the state, it is noted repeatedly that the system generally works well. In part, this is due to what many counties describe as a successful, coordinated effort in dealing with child abuse. In responding to that survey, one county sheriff succinctly addressed this issue:

My observation is that counties that have a successful and professional child protection effort are those that understand and respect each other's abilities. This is the crux of the multi-disciplinary approach to child protection. It is a team effort that cannot be controlled by one team member. . . .

In closing, I would like to add that child protection is best dealt with by local authorities. In the wake of a few bad examples of how investigations were conducted, I hope we don't lose sight of the fact that many of us have been doing a good job in this area.

It is hoped that our efforts to combat the horrors of child sexual abuse will not suffer because of what happened in Scott County. Yet, at the same time, we have been vividly reminded that in a just and democratic society, those in positions of public power must bring reason and good judgment to their discretion in the exercise of that power.

## Recommendations for Action

During the course of the investigation of the Scott County cases, the Attorney General's Office was also in the process of surveying child protection practices in Minnesota. Survey forms were sent to county attorneys, sheriffs, police departments, and human services agencies in all eighty-seven Minnesota counties. In addition, information was requested from various other states

concerning the existence of training standards for individuals involved in child protection.

The intent of the survey was to provide a general overview of how the legal system in Minnesota is handling child abuse cases. Our focus was on issues such as case load, training needs, general policies and guidelines, and recommendations for improving the system. The intent was not to achieve a comprehensive analysis of how well the system functions in handling these cases. In reviewing the survey responses, it is apparent that additional follow up and review is needed to more fully understand the problems and concerns facing those involved in child protection. We believe that, if a generalization is possible, those involved in child protection are doing a very good job of protecting children while respecting the rights of the accused. The Scott County cases that we have reviewed must be seen as an aberration.

The survey, together with our Scott County experience, has led to the development of recommendations for providing high quality child sexual abuse protection in Minnesota. Several of the more specific recommendations are established practices in many counties. Others are new. Thousands of child sexual abuse cases have been successfully and properly handled by local prosecutors in Minnesota. Again we emphasize: the child protection system in Minnesota works well. Nevertheless, we can and should examine ways to improve it.

A final word of caution must precede our recommendations. Any system for child protection, especially involving sexual abuse, is extremely complex. There is no single set of rules for how the problem of child sexual abuse should be handled. Some counties may do things differently than suggested below and achieve outstanding results. The recommendations in this report are intended to serve as a springboard for a sensitive and well-informed public debate on this subject. Participants in the debate should include: the legislature; county attorneys, who have primary jurisdiction in this area; law enforcement agencies; social welfare agencies; religious organizations; and other groups of interested citizens. To all of these, we offer the following observations.

### Investigation

The importance of thorough, competent investigations in child sexual abuse cases cannot be overemphasized. A thorough investigation protects the innocent and provides greater certainty that the guilty individuals will face the consequences of their conduct.

Many counties presently employ a multi-disciplinary team approach involving law enforcement, human services, and prosecution. A team approach may be the most effective means of handling child sexual abuse. However, the functions of child protection and criminal investigation are distinct and separate. Law enforcement, human services, and prosecution need to recognize their appropriate role distinctions.

Another key to competent investigation is adequate training. In our statewide survey of county attorneys, 100 percent of those responding cited a need for increased training for law enforcement officials involved in child sexual abuse cases. Law enforcement officers involved in child abuse investigations should have some background in child development and psychology. This would prove helpful in questioning children and evaluating their statements. Similarly, there is a recognized need for increased training for human services workers involved in child protection. Both human services and law enforcement personnel concurred in recognizing the need to improve skills in this area. Adequate resources, both state and local, must be made available for training purposes.

There is no consensus on the specific number of times a child should be interviewed before the trial. Responses to our survey indicate there is a consensus that contacts be minimized. On occasion, repeated meetings may be necessary to obtain the full story or allay a child's fears about the court process. Nevertheless, the Scott County experience has demonstrated the difficulties that develop from repeated questioning and a lack of reports, especially when the child has been isolated from its family and provided inducements to talk about abuse.

Regarding the human services component of investigation, many survey respondents cited a need to remove what is known as the "Tennessee warning" in child abuse investigations. The "Tennessee warning" requires that individuals being asked to provide what is defined as private or confidential information to state agents should be informed as to (1) whether he or she may legally refuse to give the data, (2) any known consequences of providing or refusing to provide the data, and (3) the identities of persons or entities authorized to receive the data. Law enforcement is already exempt from giving this warning because of the obvious concern that giving it hinders the investigative process. Because of the investigative process involved in any child abuse inquiry, such an exemption is also warranted for human services workers. This proposal is already being reviewed by the Minnesota County Attorney's Association.

## Recommendations

- Law enforcement officers involved in child abuse investigations may benefit from more extensive training in that area. This includes a need for training in child development, psychology, and interviewing techniques.
- Investigation of child sexual abuse should involve a team approach, including law enforcement, human services, and prosecution personnel. Such an approach should involve extensive communication from initial entry into the case until final disposition. This also will help limit the number of interviews.

- Where appropriate, search warrants should be used extensively in an attempt to obtain corroborative physical evidence.

- Basic to any interviewing of child witnesses are three standard and routine procedures.

- Interviews with child witnesses and victims must be kept to a minimum. Policies should be established to limit the negative effects of multiple interviews.

- Investigators should avoid telling child victims what other victims have alleged.

- Interview reports and investigative notes must be maintained in any investigation.

- Remove the requirement that human services personnel give "Tennessee warnings" when investigating child abuse cases.

## Prosecuting Attorneys

Prosecuting attorneys play a central role in the handling of child abuse cases. They have the responsibility of presenting evidence in both criminal and child dependency and neglect cases. It is essential that prosecuting attorneys maintain good working relationships with human services and law enforcement personnel so that investigative problems do not hamper prosecution efforts. Prosecutors must ensure that cases have been adequately investigated before filing criminal complaints.

It is important that prosecutors work with child victims to ease their anxiety about the court process. However, the Scott County cases have raised the issue of how close and how much contact the prosecutor should have with child victims.

Prosecutors also must recognize a separation of investigative and prosecution functions. The American Bar Association standards on prosecution functions provide that although prosecutors have an affirmative duty to investigate suspected illegal activity when it is not being adequately dealt with by other agencies, they should ordinarily rely on police and other investigative agencies for investigation.

As prosecutors recognize, the protection of children involves more than just successful prosecution of the offender. From the moment the state intervenes in the family unit until the family problem is resolved, prosecutors must seek to protect children. This requires a recognition and consideration of the impact of the prosecution's effort on the well-being of the child. Prosecutors recognize that, unless termination of parental rights is appropriate, offenders and victims will eventually be reunited. As such, where appropriate, the child's relationship with the family unit should be maintained. This involves attempting removal of the abusing party, rather than victims, from the home. The 1984 Minnesota legis-



lature provided judges with the authority to remove abusers from the house pursuant to Minn. Stat. § 260.191 suba. 1b (1984).

There are, of course, circumstances when the protection of children requires their removal from the home. However, the removal of a large number of children from their homes in these Scott County cases is not indicative of how other counties operate. In Hennepin County, for instance, less than two percent of the child protection cases result in removal of children from homes.

In responding to our survey, prosecutors also recognized the need for training. It should be noted that the Justice Assistance Act of 1985 provides the opportunity for Minnesota to receive over \$900,000 in matching funds to assist in improving the criminal justice system. The Attorney General's Office has worked with the Governor's Interagency Task Force on Criminal Justice in directing that those funds be used to improve the handling of child sexual abuse cases. This includes funding for increased training for prosecutors, law enforcement, human services, treatment, and other personnel involved in these cases.

## Recommendations

- Prosecutors should limit the number of interviews and contacts with child victims.
- Prosecutors should encourage and assist in establishing policies to ensure the speedy processing of child sexual abuse cases.
- Prosecutors should first seek to protect children by means other than removal from the home. Perpetrators, rather than victims, should be removed from the home.
- The Minnesota County Attorney's Association should continue its training efforts in working with child victims and prosecuting child sexual abuse cases. The legislature should provide the necessary funding for this training.

### Therapists

Therapists play an important and necessary role in dealing with child sexual abuse. Working closely with victim, family, and perpetrator, they can help the child deal with the effects of abuse and aid in bringing families together. They are necessary experts in family court cases. Even if reported abuse did not occur, therapists can and need to work with the child and the family to help resolve the underlying problems.

In working with sexually abused children, questions are raised regarding the role of therapists. Should the therapists perceive themselves as part of the prosecution team or is their role a more neutral one? Is it appropriate, and under what circumstances, should therapists act as investigators?

Recognition of the scope and seriousness of the problems of child abuse has only recently come to the forefront of public awareness. Many issues regarding the treatment and handling of victims are only beginning to be understood. How long should children remain in therapy when they deny being victims? What "incentives" should therapists use in trying to get children to admit they have been abused? To what type of "education" process concerning sexuality should children abused or suspected of being abused be exposed? These and other issues must be more fully explored.

Both the Scott County experience and our survey responses indicate a need for independent psychologists to counsel both victims and families. Regardless of the outcome of criminal or family court actions, victims and families must be aided in dealing with the underlying abuse and problems that may develop as a result of separation and court action.

## Recommendation

- The role of therapists in child sexual abuse cases should be more carefully studied. The Minnesota Psychological Association should examine the issue. Among the issues that should be examined are:

- When is it proper for therapists to act as investigators while engaged in an ongoing treatment of a child suspected of being sexually abused?
- Should therapists limit the number of times they question children about abuse during the course of treatment?
- What is the proper relationship between therapist and prosecutor?

### Human Services/Foster Care

Our statewide review of child abuse projects that human services agencies experienced almost a twenty-five percent increase in child abuse cases in 1984. The director of Pipestone County Human Services sums up the problem:

Pipestone County has experienced a 200 percent increase in child abuse/neglect in the period August through September 1984. For a small rural county agency, twenty-five new cases involving twenty-seven children of which twelve of these cases were complaints of sexual abuse from August 1, 1984, to October 16, 1984, is scary. We need action and especially need training and additional assistance.

The survey also indicates wide disparity in training and background of child protection personnel as well as case loads. Using the survey results, we compared the pro-

jected number of abuse cases in 1984 (based on nine-month statistics) to the number of full-time equivalent staff positions. The result was an estimate of the number of investigations per full-time position in one county to 116 in another. Follow-up review is needed to analyze this data.

There are many concerns that should be reviewed more thoroughly by the Department of Human Services. For example, what is the appropriate role of the State Department of Human Services when local agencies handle child abuse cases? Is there a need for closer monitoring by the state in this area? Is there a need for establishing uniform training or licensing standards for individuals involved in child protection?

Another important issue that needs to be addressed is the delicate balance between protecting the child and keeping the family together. In some Scott County cases, children were removed from the home at a time when there were allegations of abuse against only one parent. The question arises as to when and under what circumstances should children be removed from a home? As set forth in Minn. Stat. § 260.015 (1984), whenever possible, attempts must be made to preserve the family unit.

The use of foster care also must be examined. What type of training is required of foster care providers? What is their proper relationship with the prosecutor? In at least one Scott County case, questioning of a child by the foster parents resulted in that child's testimony being ruled inadmissible in court.

Visitation becomes an issue after a child is in foster care. Everyone involved in child protection has concerns about victims being intimidated by an accused parent, even during supervised visitation. Nevertheless, total isolation from members of even the extended family unit is a serious concern. It presents major barriers to eventual reunification of the family.

We need to understand that very few child sexual abuse cases result in termination of parental rights. Even if an offender serves time in jail, eventually he or she will return to the family. Again, the stated objective of family court is to preserve and strengthen family ties.

## Recommendations

- The Department of Human Services should examine its role with respect to local agencies. Licensing and continuing education programs for child protection workers should be considered.
- Child protection service workers should be provided with updated training and practice standards for assessment and intervention.

- Foster care providers should receive training in understanding physical and sexual abuse. However, foster care should be a neutral setting. Foster parents should not initiate questioning of children about sexual abuse.

- Total isolation of children from their families (or clergy who have worked with the family) during the pendency of sexual abuse cases should be avoided, by means such as supervised visitation.

## Court System

The report on the FBI/BCA investigation did not focus on the role of the courts, a major component in handling child abuse cases. After the conclusion of the one case that went to trial, there was concern about the trauma child witnesses possibly had to endure. Many survey respondents felt a need to reexamine trial procedures and rules of evidence to provide more protection for child victim/witnesses. The question of how to achieve the protection in a manner consistent with the constitutional rights of the accused is a difficult issue to resolve. Much of this is dependent on the sensitivity and training of trial judges.

Proposals have been made that would allow judges to protect children by rules of cross-examination. We recognize that in seeking to protect child witnesses any proposal that limits the right of cross-examination may raise constitutional issues. Those concerns carry greater weight in a criminal action where loss of liberty is a potential penalty. In family court, the trial judge may have greater discretion in protecting child witnesses.

In addition, in dependency and neglect cases, a family court judge presently does not have jurisdiction over the parents. In certain instances, the court's ability to achieve its goal of family unification can be more effectively achieved if it were to have authority over parents at the disposition stage of a case.

Delays in disposition of cases are also a major concern. Delays or continuances in these cases have a negative impact on both the children and the families. For example, an important consideration is the effect that time has on the memories of young witnesses. In addition, families should not suffer the pain of separation for an unduly long period of time. By requiring speedy action, one sets in motion the possibility of early treatment or other corrective actions needed to reunite the family.

Another area of concern is the need to provide greater anonymity for both the victims and the accused. Minnesota Statutes, sections 3641 to 3644, are outlined as various degrees of intrafamilial sexual abuse. The mere filing of a criminal complaint under these provisions almost invariably results in the victim being identified as

a family member. In our survey, one County Attorney noted that the mere filing of charges is more devastating to the victim than to the accused.

Finally, it must be recognized that the Scott County experience has and will continue to have an impact on the prosecution of child sexual abuse. It has provided an opportunity to challenge the credibility of children by claims of manipulation. This is an unfortunate occurrence because the Scott County experience is simply not representative of how these cases are handled elsewhere in Minnesota.

## Recommendations

- Child sexual abuse cases should have priority in scheduling. Judges should establish guidelines to ensure expeditious handling of child sexual abuse cases.
- Reexamine rules of evidence to provide greater protection for child witnesses. These might include:
  - Using informal settings (e.g., in chambers) when questioning children.
  - In family court, upon motion of counsel, have questions submitted to and asked by the judge.
  - Further study of an option that would provide that questions on direct and cross-examination be submitted to a guardian ad litem who would question the child on videotape. That videotape could, at the motion of either party, be moved as substantive evidence in a family court proceeding.
- Family court judges should have jurisdiction over parents in neglect and dependency matters. This includes use of contempt sanctions.
- Family court judges should have discretion to order counsel to submit questions on cross-examination to the court for questioning by the court when necessary for protection of the child.
- Efforts should be made to provide greater confidentiality for victims and defendants. "Intrafamilial sexual abuse" should be rephrased. This proposal is presently being pursued by the Minnesota County Attorney's Association.

■ Because of the valuable role of family court in protection of children, it should continue to play an integral role in resolving child sexual abuse cases.

## Community Concerns

Finally, a brief note in regards to the city of Jordan. It is accurate to state that the city of Jordan also should be listed among the victims of the so-called sex-ring cases. Over sixty of its citizens either were charged with or suspected of abusing over 100 children. State/federal investigators simply do not believe that accusations of such widespread abuse were accurate. The citizens of Jordan, most importantly the children, both those who were abused and those who were not, have suffered because of these public accusations. The impact those accusations have had on the community may be extensive and far reaching. At the same time, the precise nature of the impact will likely be difficult to discern.

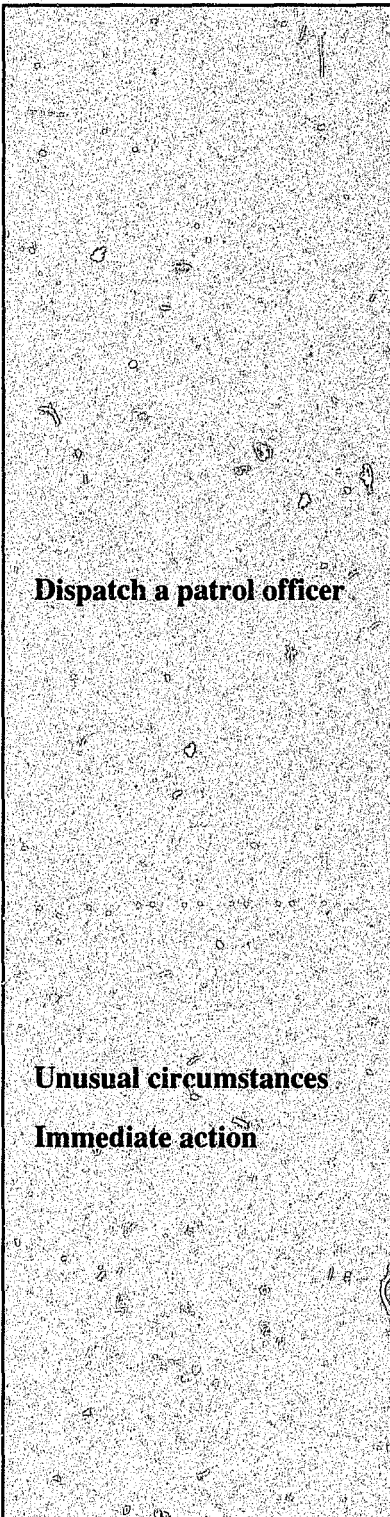
## Recommendation

- State officials, universities and colleges, churches, leaders in Jordan and Scott County, therapeutic community, law enforcement, medical community, and private foundations should undertake a combined effort to:
  - Identify and analyze the impact on the Jordan community.
  - Develop and implement ways to meet the needs of the community.
  - Ensure that there is greater public understanding of the short-term and long-term effects of "community trauma."

We have an obligation to the citizens of Jordan to help address, treat, and learn from these unfortunate events. This is an opportunity to develop a positive conclusion to this story for the citizens of Jordan and for the citizens of Minnesota.

**Missing Children**

# Chapter 5: Missing Children



## Introduction

The problem of missing children continues to be a pressing concern nationwide. While the exact number continues to escape us, research indicates that missing children are at a high risk of psychological trauma, physical harm, and in some cases, sexual exploitation.

This chapter examines four categories of missing children: voluntary missing or runaways; victims of parental kidnapping; children abducted by unknown individuals; and unknown missing child cases (in which the only known fact is that the child is missing). The chapter provides information on the investigator's role, as well as a checklist of steps that should be taken when investigating these cases.

## Phase one: Initial response

Any missing child case should be viewed as involving a potential crime against a person, therefore requiring a preliminary investigation to clarify the facts of the case and to structure the remainder of the investigation. A **patrol officer should be dispatched** to take the initial report and to conduct a preliminary investigation.

There are several reasons why patrol officers should be involved in the dynamics of missing child cases. Patrol officers, along with firefighters and emergency medical personnel, are the most widely available professionals in the community. The uniformed patrol officer is the person most likely to be available on a 24-hour, 7-day-a-week basis, and the most likely to be familiar with the neighborhood. The following procedures require that the patrol officer make direct contact with the parents—not only because the parents need assistance at this time but also because valuable information needs to be collected for investigative purposes.

## Unusual circumstances

If, during the preliminary investigation, the patrol officer determines or suspects that any of the following **unusual circumstances** exist, the police agency must be prepared to mobilize its available resources and take **immediate action**.

1. *The missing youth is 13 years of age or younger.* This age is established in the Federal Missing Children Assistance Act because children of this age group are elementary school students, have not established independence from parental control, and do not have the survival skills necessary to protect themselves from exploitation in the streets.
2. *The missing youth is believed to be out of the zone of safety for his or her age and developmental stage.* The zone of safety will vary depending on the age of the child and his or her developmental stage. For an infant, the zone of safety will be the immediate presence of an adult custodian or the crib, stroller, or baby carriage in which the infant was placed.

For a school-age child, the zone of safety might be the immediate neighborhood or the route between home and school.

3. *The missing youth is mentally incapacitated.* If the child is developmentally disabled or emotionally disturbed, he or she may have difficulty communicating with others about needs, identity, or address. The disability places this child in extreme danger of exploitation.
4. *The missing youth is drug dependent (including prescribed medication or addictive narcotics).* Any drug dependency, whether on a prescription medication such as insulin for diabetes, or an addictive narcotic, puts the missing child in an "at risk" category. The diabetic or epileptic child requires medication or his or her condition may become critical (life threatening), resulting in coma or seizures. The drug abuser, on the other hand, may resort to crime or become the victim of exploitation in order to satisfy the habit.
5. *The missing youth is a potential victim of foul play or sexual exploitation, or is in a dangerous environment.* Whenever a youth is missing and there are indications of possible abduction, such as violence at the scene of the abduction, the child is considered to be in a "dangerous environment" and immediate mobilization of the police department is essential. "Dangerous environment" is a relative term that depends on the age and development of the child—it could be a busy highway for a toddler; it could be an all-night truck stop for a teenager.
6. *The missing youth has been absent from home for more than 24 hours before being reported missing to the police.* If a parent fails to report a missing child for 24 hours, there may be possible neglect or abuse in the family. This time lapse allows hours to pass that could be crucial in recovering the child. If this occurs, the police department should take immediate action to compensate for lost time.
7. *The missing youth is believed to be with adults who endanger the welfare of the minor.* Whenever there is an indication that the child may be with an adult who would exploit or otherwise place the child at risk, immediate intervention is essential. A missing child is not simply in danger of potential sexual exploitation, but may become involved in criminal activity, such as burglary, shoplifting, or robbery.
8. *The absence is a significant deviation from established patterns of behavior and cannot be explained.* Most children have an established routine that is, within reasonable bounds, predictable. A major deviation from that routine is cause for concern. This is not to say that if a child is a few minutes late from school, an all-points bulletin should be issued. However, a child missing for several hours should trigger a response from the investigating agency.

Any of the above criteria in a missing child case signal the need for immediate action to minimize the danger to the child and promote a timely recovery. Such action will vary from department to department and from case to case. In the following sections, the **investigative steps** for the initial response are discussed.

### **Initial response**

*Interview parents.* Upon arriving at the scene, the patrol officer should interview the child's parents (both, if possible) to find out if the child has been abducted by a stranger or the other parent, or has left home voluntarily. The officer should always determine the **legal custody status** of the child. The officer should ask the parents if they know who saw the child

### **Investigative steps**

### **Legal custody status**

## Scene of the disappearance

### Names

### Complete description

### Search should be thorough

### Away from the parents

### Siblings

NCIC

last and should obtain the names and addresses of the child's friends. Great care should be taken to ensure the correct spelling of the missing child's full name and any nicknames (AKA's), the exact date of birth, sex, and race. This information is vital for query into the National Crime Information Center (NCIC) Missing Persons File (MPF). (See Appendix E for information on the NCIC.)

It is important to get the names and telephone numbers of individuals who were present at the actual **scene of the disappearance**. This process may be as simple as requesting those individuals' business cards or names and telephone numbers so that they can be contacted later.

*Note everyone present at the scene.* It is useful for the first officer arriving at the scene or at the child's home to write down the **names** of everyone present, as well as those who have joined the search. These names may provide leads to the identity of the abductor if subsequent investigation determines that an abduction took place. Often, the abductor returns to volunteer assistance in the search, by which he or she can monitor the progress being made.

*Physical description/photograph.* A **complete description** of the child should be obtained from the parents, including the clothing the child was wearing, and any handicaps, scars, or other identifying features of the child (such as braces on the teeth or pierced ears). This information should be broadcast in a "Be on the Lookout" bulletin. In addition, the patrol officer should ask for several recent photographs of the child and find out if the child has been fingerprinted and if dental charts and medical records are available.

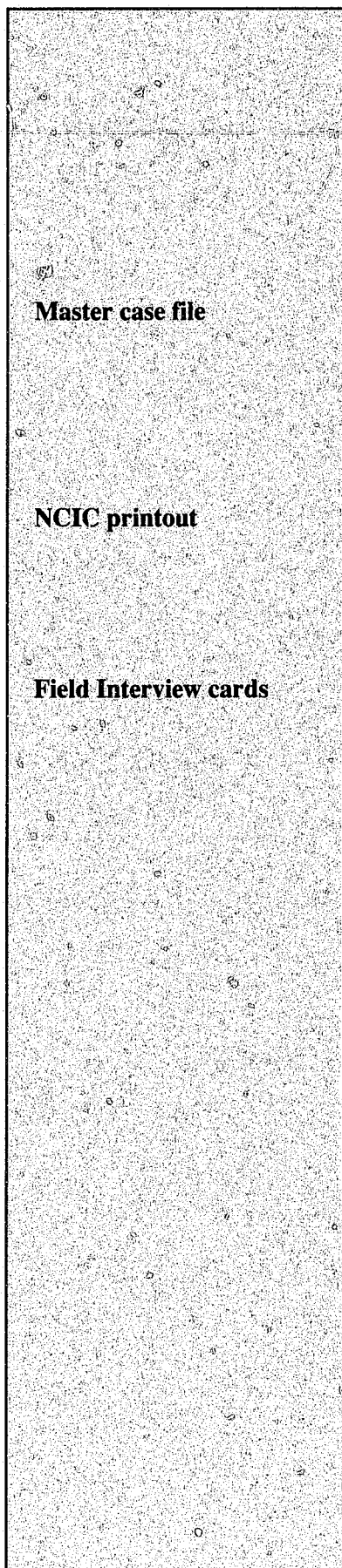
*Search the home.* The patrol officer responding to a missing child report should request permission to search the home. The **search should be thorough**—including closets and piles of clothes, under beds, in crawl spaces, attics, and other storage spaces, in large boxes, and old refrigerators—in short, anywhere a child could crawl into or hide and possibly be asleep or not able to get out. While conducting the search, the officer should be alert for other clues that may indicate foul play or possible reasons for the child's disappearance.

If the initial circumstances indicate that a child has disappeared at a particular site and the possibility of an abduction exists, the police officer should also conduct the search for the child as if the child were kidnapped.

*Talk with family members.* Other family members living in the home may provide valuable insight into the circumstances surrounding a child's being missing. If possible, interview family members individually and **away from the parents**, so that they may speak freely. For example, a sibling of an abused child who has run away may not feel safe revealing such information in the presence of an abusing parent.

Brothers and sisters may know of friends of the child who are unknown to the parents. Family members should be asked *if* the child spoke of running away or of suicide and may know the last time the child was seen. **Siblings** may be able to indicate the existence of physical or sexual abuse within the family. However, investigators are cautioned that in exploring the possibility of abuse with other members of the family, the officer should exercise the utmost tact. During the interviews with the parents and with other family members, it is important that neither false hopes nor false fears be imparted by the officer.

*File report with the NCIC.* Assuming the child was not recovered during the investigation related to the initial response, the investigating agency should immediately file a report with the NCIC. This report should be filed



in all missing child cases upon confirmation that there is a missing child. All missing children, including runaways, can and should be entered in the NCIC system without any waiting period. (See Appendix C for a sample missing person report for NCIC record entry and Appendix D for a sample unidentified person report for NCIC record entry.)

Detailed descriptions of the NCIC Missing Persons File (MPF) and the NCIC Unidentified Persons File (UPF) can be found in Appendix E, National Crime Information Center.

*Develop a case file.* All information developed as part of the preliminary investigation, as well as supplemental information, should be placed in the **master case file**. This file should include the missing persons report taken by the patrol officer who was dispatched to the home or scene of the disappearance; pictures of the child, or a memorandum indicating that none was available; a hard copy of the NCIC entry in the MPF; and supplemental reports with statements of witnesses, family, and friends. It is critical to the management of a missing child case to have this information in a central repository. As additional information is gathered, it should be added to the master file. When supplemental information is entered into the NCIC, a copy of the **NCIC printout** should be placed in the file.

### **Crime analysis unit**

The crime analysis unit should be involved in preparing case review information on the missing child. They can find out if the youth had been identified on **Field Interview (FI) cards** with other youths or adults, or had been involved with drugs or activities that could lead to information sources.

The crime analysis unit should also be involved in searching for previous missing-youth patterns in the area where the youth lived or was last seen. A person-pattern analysis should be made on the missing youth and known offenders in the area to determine if there are any cross patterns that could provide clues for investigative activity.

The unit should establish a tip file as a management tool to check information sources and substance with police records, and to prevent duplication of tip investigation by different shift investigators.

In addition, the crime analysis unit should produce case enhancement information. This should include a victim file, a school incidents file, field interrogatories information, a suspicious vehicle file, a suspicious persons file, and a tip file. The crime analysis unit should act as the broker of information exchanges relevant to the missing child case.

### **Summary: Initial response**

The initial response to a missing child should be to dispatch an officer to the child's home or to the scene of the disappearance. The purpose of the preliminary investigation is to sort out the facts of the case as they become known and to use them to structure the remainder of the investigation. The investigating officer should be alert to the presence of any unusual circumstances that would warrant an immediate, intensive response to protect the child.

Upon arriving at the scene, the officer should interview the parents and obtain a description to be broadcast as a "Be on the Lookout" bulletin. In addition, the officer should obtain a recent photograph of the missing child, interview other family members, and search the child's home. If these steps do not recover the child, a report of the missing child should



immediately be entered in the NCIC Missing Persons File and a master case file established. The initial response should be the same for all missing child cases.

## Phase two: Intensive investigation

Once the initial report has been taken and it has been determined that the child is missing, the case enters the second phase. During this phase, the responsibility for the ongoing investigation is assigned to another investigator or to the officer who made the initial report. Every missing child case requires that a law enforcement officer be assigned to lead the investigation, coordinate the search, follow up on leads, and be held accountable for the active investigation of the case.

The nature of the missing child case will dictate the proper response and degree of mobilization of law enforcement resources. The case will fall into one of the **four kinds of missing child cases**: voluntary missing child cases, parental kidnappings, abductions, and unknown missing child cases. The following sections suggest investigative responses for investigators of each of the four kinds of missing child cases.

### Voluntary missing child cases

The majority of missing child cases fall into this category. Another name for this child is a runaway, a youth under the age of 17 who has been absent from the home without parental permission at least overnight.<sup>1</sup> Fortunately, most of these cases resolve themselves in a short period of time. This by no means absolves the law enforcement agency from conducting an investigation, filing an NCIC missing persons report, or actively pursuing the recovery of the child, however.

*Family involvement.* Family members are a **vital source of information** that may assist law enforcement agencies in identifying the runaway youth if he or she is found. Parents should provide the medical and dental information to be entered into the NCIC MPF. Parents should be asked also to notify out-of-town relatives who may be contacted by the youth. Parents should have a **flier or poster** of the missing youth printed and distributed to truckstops, youth-oriented businesses, other law enforcement agencies, and youth services agencies—focusing on where the child is likely to go. Appendix F to this chapter contains a missing child poster format with information that should be included. Law enforcement agencies should assist in the preparation of these fliers.

It is most important to instruct family members to contact the police department immediately if the child returns home, and to relay any new information to the investigator assigned to the case.

*Interview friends.* During the initial response phase, parents and other family members were asked to provide lists of the child's friends. These people need to be asked if the missing child is staying with one of them or if the friends know the whereabouts of the youth. When interviewing the friends of a missing child, it is important to **convey nonjudgmental concern** for the welfare of the child. Any perceived hostility may result in deceptive and evasive responses. The investigator should question friends about any problems the runaway may have been facing, either at home or at school, including personal relationships and possible drug or alcohol abuse.

Asking the question "Do you think (name) is safe?" may generate a response that indicates more knowledge than admitted to previously. Friends also may be able to identify "hangouts" of which the parents are not aware.

Four kinds of cases

Vital source of information

Flier or poster

Convey nonjudgmental concern

### **Truckstops and bus stations**

### **Survival techniques**

### **Resources**

### **Contact the school**

### **Social Security numbers**

### **Child protective services**

*Patrol searches.* If the parents provided a photograph of the runaway, it should be reproduced and distributed to patrol units. Patrol officers assigned to areas with shopping malls, electronic game arcades, or other gathering places for young people, should check these areas and find out if the youth has been seen or if his or her whereabouts are known. Places known to have been frequented by the youth should be checked regularly by patrol officers. **Truckstops and bus stations** should be checked and photographs of the missing youth, as well as the telephone number of the investigating agency, should be distributed to ticket agents and other staff.

*Develop investigative leads.* The investigator should learn as much about the missing youth as possible by gathering information about his or her lifestyle, schooling, employment, hobbies, and anything that may give an indication of the **survival techniques** of the youth. A runaway child needs food to eat, a place to sleep, and means to sustain himself or herself.

It is important to know the **resources** that the youth has available. Does he or she have a bank account? Where? How much money is in it? Have there been withdrawals or has the account been closed out recently? Are other sources of money available to the youth? What are they? Have these been used? Was any money taken from the house when the child left? Did the child take more clothes or belongings than he or she would normally take on any given day? Does it appear that the youth planned to run away for a period of time, or was it on the spur of the moment? The answers to each of these questions can be an important clue in analyzing the mental state of the youth and probable actions subsequent to leaving home.

It is important for the investigator to effectively interact with other units in the department. It is particularly important that vice and intelligence officers be made aware of the case and be given photographs of the youth. As previously stated, runaways and other missing children are prime targets for sexual exploitation.

If the youth is of school age, the investigator should **contact the school** and ask officials to notify the investigator—not the parents—if the youth returns to school. School authorities and the police may be able to open the student's lockers and examine the contents, with parental permission. Notebooks and textbooks should be searched for names, addresses, and telephone numbers. School papers or books at home should be checked also. A search warrant may be necessary.

Teachers and other school personnel should be interviewed to discover any unusual school problems that could indicate a motive for running away. They should be questioned about behavior, indications of drug usage, attendance patterns, and identity of peers. If the child had been absent frequently, a check on the attendance of friends should be requested. Followup investigation is warranted if any patterns emerge. It is important to find out if the youth and a friend were together when the absences occurred and if so, where they may have been and what they were doing. If they "played hooky" together, they may have a secret hiding place that the runaway is using.

While Federal law prohibits the use of Social Security data to locate a missing person, **Social Security numbers** have become commonplace as numbers for motor vehicle operators' licenses and student identification numbers, and also are necessary to receive public assistance.

You should contact the **child protective services'** child abuse registry to find out if the child has been reported as a suspected victim of child abuse. Physician records should be checked also for indications of child abuse. An NCIC and local criminal history check on the parents should be made to determine if their past includes indications of child abuse or of molestation.

## Health care facilities

Hospitals and other **health care facilities** should be contacted, provided with a copy of the youth's photograph, and asked to notify the police if the youth seeks medical assistance. If the youth is a postpubescent female, the possibility of pregnancy and abortion should be considered, and planned parenthood facilities or other similar services contacted. The longer a youth remains a runaway, the more likely he or she will be sexually exploited and exposed to sexually transmitted diseases. Clinics for sexually transmitted diseases should be notified routinely of the identity of runaway youths. Such facilities may not be able to contact the parents or the police due to the confidential nature of the services they provide, but they may counsel the youth to make such a contact. Their clinics should also be informed of their responsibility to report child abuse—if they have reason to believe that an adult was responsible for sexual abuse of the minor.

*Summary.* The runaway is a child at risk of being exploited or becoming involved in crime and therefore is a legitimate law enforcement responsibility. Just as in any other kind of investigation, the voluntary missing child case should be assigned to investigation and followup. The department's patrol officers and special units, such as vice or intelligence, should be informed of and involved in the investigative process. Parents should be utilized fully to gather much of the information necessary for completing the NCIC file on the case. Friends and school officials should be interviewed in an attempt to determine the mental state of the youth, the possible motives for running away, and possible whereabouts. Health care facilities and clinics should be contacted and asked to get in touch with the investigator if their services are sought by the youth. The investigator should also consider the skills and resources the youth has for surviving and what implications these may have for the investigation.

## Case will remain open

Until the missing child has been located (or the body recovered), **the case will remain open** and active.

## Noncustodial parent

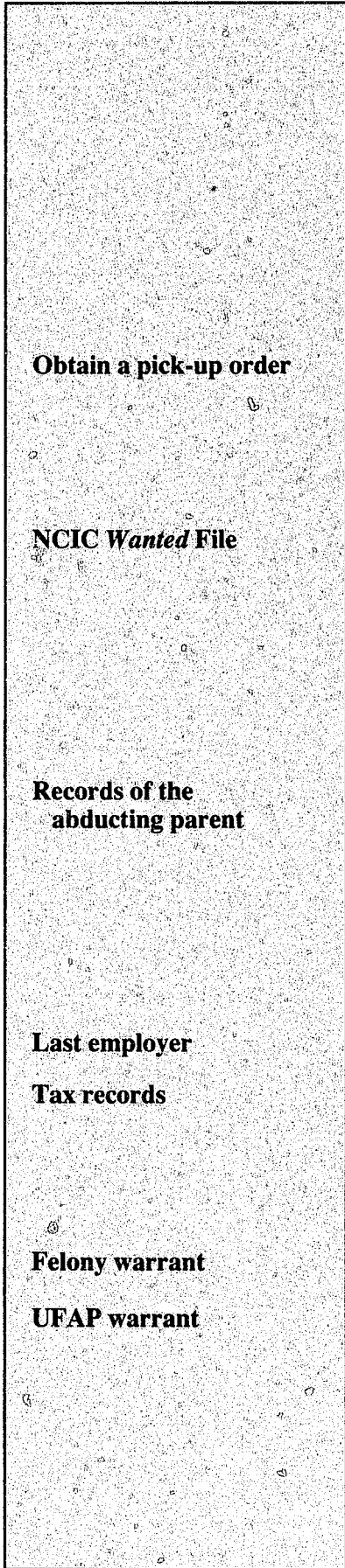
### Parental kidnappings

The second most common missing child case is a parental kidnaping.<sup>2</sup> This kind of case involves the abduction of a child by a **noncustodial parent**, or the concealment of a child after the end of a legal visitation period. Many law enforcement agencies underestimate the seriousness of parental kidnappings, claiming that the problem is basically one of intrafamilial conflict. The fact is that parental kidnappings can put the abducted child at risk. In addition to being uprooted from a home and being deprived of the other parent, the child is forced to spend a life on the run—often under circumstances that constitute willful neglect.

## Felony offense

Most States have recognized the seriousness of parental kidnaping by enacting legislation that makes this crime a **felony offense**. As State laws vary regarding the process required to bring charges against abductor parents, it is extremely important that each police department and sheriff's office establish policies with the prosecutor's office on handling these cases.

*Verifying custody.* Parental kidnappings are complex emotional situations requiring the investigating officer to know the State statute and sort through court records in order to determine if, in fact, a crime was committed. A good starting place is the verification of the custody arrangements ordered by the court—if a custody decree has been filed. The clerk of the court in which the custody decree was entered can confirm any changes in custody. It is possible that a temporary change in custody was ordered *ex parte* without the searching parent's knowledge, which would preclude a charge of parental kidnaping in some jurisdictions. Another source for confirming custody arrangements is the attorney of the searching parent.



**Obtain a pick-up order**

**NCIC Wanted File**

**Records of the  
abducting parent**

**Last employer**

**Tax records**

**Felony warrant**

**UFAP warrant**

Many parental kidnappings occur prior to the filing of a custody decree, and therefore the answer is not always clearcut. In these cases, the police agency should be guided by its policies and procedures and the decisions of the prosecutor's office. Actually, some State statutes legislate that a crime is committed even if there is no custody order filed.

*Interview the abductor parent.* Whenever there is an accusation of parental kidnapping or concealment, the accused parent should be located, if possible, and interviewed by a police officer. The purpose of the interview is to determine if the accused parent has physical custody of the child and to find out the child's condition if he or she has custody. Until the location of the child has been confirmed and the safety of the child ascertained directly by the officer, the child should be considered missing and at risk. Even if the accused parent has the child, the validity of the complaint may still be at issue under statute or court order. The officer should **obtain a pick-up order** prior to the interview in case the abductor flees.

*NCIC reporting.* Once a parental kidnapping report has been made, the law enforcement agency has the responsibility to investigate the report, determine if the facts uncovered indicate a violation of the law, and recover the child. If a felony warrant is issued for the arrest of the abducting parent, it should be entered in the *NCIC Wanted File*. The child should be listed in the *NCIC Missing Persons File*, not the *Wanted File*. The entry of the warrant information into the NCIC system should cross-reference the missing persons report, and vice versa. Another officer from a different department may query the NCIC on the parent or on the child. Cross-referencing lets that officer know to look for two individuals, not just the one presently being queried.

*Records examination.* As quickly as possible after the complaint has been filed, the police should ask the prosecutor to obtain a subpoena or search warrant to examine various **records of the abducting parent**, including telephone statements, bank accounts, credit cards, automobile registration, insurance, colleges, professional licenses, forwarding addresses, etc., as well as the telephone records of friends or relatives thought to be in contact with the abductor. The examination of these records can lead to the location of the parent and often assists in the solution of parental kidnapping cases.

Depending on the occupation of the abducting parent, union records can provide a good lead. If the occupation requires the use of an intermediary or agent, examination of his or her records pertaining to the abductor is warranted. The **last employer** of the abductor should be contacted and an attempt made to trace the abductor through records of reference requests or from the mailing address of **tax records**, such as the W-2 form.

*Other Federal assistance.* Assistance in locating and recovering the child may be obtained from the Federal Bureau of Investigation, the U.S. Postal Service, the U.S. Department of State, and the U.S. Department of Defense.

If there is reason to believe that the abductor has crossed State lines, and there has been a **felony warrant** issued, the U.S. Attorney can issue a Federal Unlawful Flight To Avoid Prosecution (**UFAP**) **warrant**. In order to facilitate the issuance of this warrant, local authorities must write a letter that states an intention to extradite the abductor, and should enclose a certified copy of the felony warrant. Thus, in the event that the officer has discretion in determining the degree of the crime charged, it would be more advantageous to file a felony charge because it would permit a UFAP warrant to be issued.

**FBI**

**Mail "cover"**

**Worldwide Locator  
Service**

Once the UFAP warrant has been issued, the **FBI** is permitted to assist in the search for the abductor, make the arrest, and turn the abductor over to State authorities for extradition and prosecution. Parents should be made aware that the FBI will not pick up and return a child to the searching parent. If the parent cannot pick up the child, he or she should make arrangements for a relative or other adult to take the child temporarily. Parents may also consider having protective services take temporary custody of the child. A UFAP warrant will not be issued if the abductor's whereabouts are known, since extradition can be accomplished without the assistance of the FBI.

If law enforcement authorities have reason to believe that friends or relatives are maintaining contact with the abductor by mail, the U.S. Postal Service, through the postal inspectors, may request that a "cover" be placed on the mail being sent to the friends' or relatives' addresses. The Postal Service will record the return addresses of mail being received by the friends or relatives before the mail is delivered. The person receiving the mail would be unaware of the interception for a specified period of time. Postal inspectors may be able to provide information from change-of-address forms as well.

The U.S. Department of State can conduct a "welfare and whereabouts" search to locate a child and determine the physical condition of the child if he or she has been taken from the country. Such requests should be made to the Office of Citizen Consular Services, Room 4811, U.S. Department of State, Washington, DC 20520, or by telephone at 1-202-647-3444. They do not have authority to help recover the child, however.

If the abductor is a member of or employed by the military, the branch of the military service employing the abductor should be asked to provide, through the **Worldwide Locator Service**, the most recent duty assignment. They will need the abductor's full name, Social Security number, date of birth, and last known duty assignment. Following are the addresses and telephone numbers of the military locator services:

**U.S. Army**

Worldwide Locator Service  
U.S. Army Personnel Service Support Center  
Fort Benjamin Harrison, IN 46249  
1-317-542-4211

**U.S. Air Force**

Air Force Military Personnel Center  
Attn: Worldwide Locator Service  
Randolph AFB  
San Antonio, TX 78150  
1-512-652-5774  
1-512-652-5775

**U.S. Navy**

Navy Locator Service  
No. 21 (if inquiry is from a private party)  
No. 36 (if inquiry is from a military source or  
governmental agency)  
No. 36C (if inquiry pertains to a Navy retiree)  
Washington, DC 20370  
1-202-694-3155

## U.S. Marine Corps

Commandant of the Marine Corps  
Headquarters, Marine Corps  
Attn: Locator Service  
Washington, DC 20380  
1-202-694-1624 (A through E)  
1-202-694-1861 (F through L)  
1-202-694-1610 (M through R)  
1-202-694-1913 (S through Z)

## U.S. Coast Guard

Coast Guard Locator Service  
Room 4502 (if inquiry pertains to enlisted personnel)  
Room 4208 (if inquiry pertains to officers)  
2100 2nd Street SW.  
Washington, DC 20593  
1-202-426-8898

If the abductor is a retired military or civil service employee who receives a retirement check, a court order should be obtained for examination of the records of the Office of Personnel Management, 1900 E Street NW., Washington, DC 20415, to find a current address.

*Parental Kidnapping handbook.* The National Center for Missing and Exploited Children has available, at no cost, copies of a handbook titled **Parental Kidnapping**. This manual is designed to provide step-by-step guidance in resolving parental kidnaping cases in both the criminal and civil justice systems. This manual is appropriate for law enforcement personnel and for searching parents. Write to the National Center at 2101 Wilson Boulevard, Suite 550, Arlington, VA 22201, to request a copy.

*Records of the child.* If the child is of school age, there may be requests from the abductor parent for school records. This records transfer should not be blocked because it may provide information on the child's whereabouts. Under the Family Educational Rights and Privacy Act (**FERPA**), the school must inform the parents—upon request—where records have been sent and the name of the requesting school. As this law relates to the rights of the family to receive information, the searching parent should be encouraged to use the FERPA provisions.

If the child is younger than school age, it may be necessary to confirm inoculations for childhood diseases in order to enter a day-care program. The medical records of the child should be flagged so that any request for the records will trigger a notification to the authorities. If the child is being taken out of the country or if the child is enrolling in school, the birth certificate may be needed. The **Bureau of Vital Statistics** or other record repositories should be notified to contact the police if a request is made for a copy of the birth certificate.

*Summary.* The first responsibility of the law enforcement agency in a suspected parental kidnaping case is to determine the missing child's location and ensure the safety of the child. Parental kidnaping cases are often legally complex and complicated by emotional conflicts between the child's parents. If there is a question of the custody status of the missing child, the searching parent should be referred to the prosecutor, or the case handled according to the policies and procedures of the law enforcement agency. Once a complaint has been filed, the law enforcement agency has the responsibility to investigate a parental kidnaping as it would any other criminal act.

**Parental Kidnapping  
handbook**

**FERPA**

**Bureau of Vital Statistics**

### Unknown individual

### Two considerations

### Away from the home

### Staffing for the CP

### Makes decisions

### Builds the case

If parental kidnaping can be treated as a felony under the laws of the State, there are numerous tools available to the local police agency to assist in the investigation. The NCIC is a vital tool. The abductor should be listed in the Wanted File, and the child listed in the Missing Persons File. Other Federal resources are also available to help locate the abducting parent.

## Abductions

The least common but most dreaded kind of missing child case is the abduction by an **unknown individual**. In these cases, a nonfamily member whose identity is unknown abducts the child. Investigators should be aware that a change in the status of the case may occur—a child who is originally reported as a voluntary missing case may be abducted while on the street.

There are **two considerations** in addressing an abduction case. The primary consideration is the safe recovery of the child. A second, yet vital, consideration is to build the case against the abductor. The latter consideration should not be overlooked and should be borne in mind throughout the investigation.

Time is of the essence in responding to abduction cases. The child should always be considered in extreme danger when abducted by an unknown individual. The mobilization of every appropriate resource available to the law enforcement agency is justified.

*Set up a command post.* As soon as it is suspected that the child has been abducted by an unknown individual, a command post (CP) should be established *away from the child's home*. An officer should be stationed at the home and should maintain contact with the CP via radio communication. The officer will be able to inform the CP if the child returns home or if a ransom demand is received. If the child is found, the officer will be able to inform the family. If the child is found injured or dead, the officer should be informed discreetly so that he or she can tell the parents firsthand.

The CP has the responsibility of ensuring that all aspects of the case are covered in the investigation. All assignments pertaining to the case will originate from the CP, and all information generated will be processed through it. Media information and press notices will originate there. In short, the person in charge of the CP must have the authority to marshal necessary resources or have immediate access to, and support of, the police chief or sheriff.

**Staffing for the CP** should consist of a team with a supervisor, investigative coordinator, search coordinator, media specialist, communications specialist, logistics specialist, and clerk/typist. Each of these persons has specific responsibilities, as indicated below:

*Supervisor.* Directs all activities relative to the recovery of the child and the investigation of the crime; **makes decisions** regarding the level of resources necessary for immediate reaction by the law enforcement agency; functions as the liaison with other area and Federal law enforcement agencies relative to the case; and coordinates the release of information to the press and public.

*Investigative coordinator.* Controls the law enforcement personnel assigned to collect evidence, interviews witnesses, and **builds the case** that eventually has to stand the scrutiny of a criminal trial; reviews the supplemental reports submitted by investigators; and briefs the CP supervisor.

<b>Coordinates</b>
<b>Provides accurate information</b>
<b>Maintains communications</b>
<b>Equipment and supplies</b>
<b>Clerical support</b>
<b>Activities log</b>
<b>Nonpolice personnel</b>

*Search coordinator.* **Coordinates** the activities undertaken to find the child, including liaison with the National Guard, volunteer search and rescue groups, and other law enforcement and public safety agencies that may be used in the search; assigns search teams; briefs search teams about appropriate procedures; and maintains the search map.

*Media specialist.* Supervises rumor control for securing active assistance from the public, including **providing accurate information** to the press and to the public about the status of the search and any elements of the case that may be made public; works closely with the CP supervisor; and coordinates communications between law enforcement and the public.

*Communications specialist.* Maintains radio and telephone **communications** among the CP staff, the search and the investigative teams, the officer assigned to the victim's home, and headquarters; and keeps a log of activities.

*Logistics specialist.* Makes arrangements for obtaining necessary **equipment and supplies**. In prolonged operations, this will include meals for searchers and cots for CP personnel needed to maintain around-the-clock presence.

*Clerk/typist.* Performs **clerical support** functions, including the maintenance of a master case file in which a copy of the initial report and all supplemental reports are placed after being logged.

All investigative activities should be controlled and coordinated by the CP. An **activities log** should be maintained and all activities carefully recorded. A situation board should be set up and a record kept of all searchers. Search team assignments should be made and logged. A sector map with an acetate overlay should be set up, with areas marked as search assignments are made, and marked again when the assignments are completed. Areas covered by ground search teams should be marked differently from those searched by air units.

A special system is necessary for receiving tips and other information from the community. A coordinated procedure should be established so that these calls are all received and recorded consistently. If possible, a "neutral" search line telephone number should be set up that is identified by its special purpose (the case) and not simply by the police department name. A protocol consisting of questions designed to elicit necessary investigative leads should be devised—normally the officer must ask for specific data in order to guide responses.

*Mobilization of nonpolice personnel.* The search coordinator is responsible for determining the number of **nonpolice personnel** needed to search for the child. Consideration should be given to the use of scout troops, neighbors, fire rescue units, neighborhood watch patrols, and family members. The search coordinator makes the assignments for conducting the search and explains the procedures to be followed if the child is found. Searchers must be told that the first concern is the health and care of the child and that all information about the police investigation is confidential. Requests for information should be referred to the media specialist.

It is critical to discern the differences between searching for a child who is still alive and searching for a child who is the victim of a homicide. Searches need to be conducted in such a way that the possibility of a child wandering away is covered as well as the possibility that the child was the victim of accidental death. In addition, the investigator should try to "think like a kidnaper" and examine those scenes and locales in the area where the child's body may have been deposited. For a more thorough discussion of search techniques, consult your department's procedural guide or criminal investigation texts.



### Upon finding the child

Upon finding the child, medical personnel should be called, emergency first aid rendered, if necessary, and the child taken to a hospital. Steps should be taken, however, to protect any evidence that may be available about the child at the scene. Searchers not needed for first aid should cordon off the area, limiting access until investigators arrive. This will require strong discipline, as people usually crowd around the child and contaminate the area. It is preferable to have a police representative with each search team in order to enforce discipline, preserve forensic evidence, and protect the scene from contamination.

### Door-to-door searches

*Patrol activities.* The CP supervisor decides the best allocation of patrol forces assigned to the search during the period of time in which the CP is in operation—usually the first 72–96 hours after the abduction. Patrol officers may be assigned to the search operation or to the investigation of the case. As law enforcement officers, the patrol personnel are uniquely trained to question witnesses, conduct building searches, and report on these activities. The particular circumstances of the case will dictate the most efficient and effective use of patrol officers assigned to assist with the missing child case.

In most departments, it may be necessary to assign officers to a double shift or to call in off-duty officers and assign them to the missing child search and investigation. Patrol officers should be assigned to conduct **door-to-door searches** and to ask questions such as “Were you anywhere near (location) at (time)?” and “What did you see?”—rather than “Did you see anything unusual?” The CP supervisor should coordinate these arrangements with the patrol division commander in accordance with departmental policies. Through the patrol division chain of command, officers not working the case can be assigned to follow up leads in their regular patrol areas in addition to being on the lookout for the child and the suspected abductor. Photographs or fliers should be distributed to patrol officers (see page 205).

### Routine patrol

It is extremely important that **routine patrol** be maintained in the area. Patrol officers assigned to the location from which the child was abducted should be instructed to look for anything unusual. This would include running NCIC checks on automobiles that appear to be abandoned or that have been parked in the same spot for a long period of time. Any cars that appear suspicious should be thoroughly examined by the patrol officer. If there is a crime analysis unit in the department, its expertise should be used to determine if the offense fits into any crime pattern in the area.

The patrol officers from the child’s neighborhood and school should be asked about any activity that may be related to the abduction—for example, complaints of a “peeping tom,” an individual lurking around a park or playground; or a burglary with no apparent theft.

### Finding the perpetrator

*Investigators’ responsibilities.* Under the leadership of the investigative coordinator, investigators should concentrate their efforts on **finding the perpetrator**. This entails interviewing witnesses; following up on leads; monitoring the parents’ telephone line; crime scene processing; and using records and police intelligence sources as well as crime analysis to identify, locate, and apprehend the suspected abductor. Officers should consider reviewing physician and pediatric records. This evidence, which can be secured by subpoena, is critical to provide a complete understanding of the circumstances surrounding the child’s disappearance. The child abuse registry should be consulted for potential reports that may have been filed concerning the family of the missing child.

Another family member or someone close to the missing child could be responsible for the disappearance or possible death of the child. The investigator should determine if it is necessary to give a polygraph test to the

## Door to door

parents and other caretakers who may be involved in the child's disappearance. If a polygraph of family members and other caretakers is deemed necessary, it should be administered at the outset of the investigation.

Officers should also go **door to door** and person to person to uncover any possible clues. Simply to ask if anyone "saw anything unusual" is not sufficient; witnesses may believe that they have seen absolutely nothing that is unusual in the course of daily events. A search for witnesses should be conducted 24 hours, 48 hours, and 7 days after the occurrence in order to identify individuals whose daily activities may have brought them in contact with the scene. Again, officers should know that the proper questions to ask are "Were you anywhere near (location) at (time)?" and "What did you see?"—not "Did anything unusual happen?"

Investigators need to inform hospitals, cab companies, and other jurisdictions that the child is missing. Recent crime reports from involved jurisdictions need to be analyzed, as do reports from areas in close proximity. Any reported crime against a child should be examined for a relationship to the abduction being investigated. Similarities in size, age, physical appearance, and sex of the victims should be looked for. Many cases in which a child was abducted are not listed as abductions because the victim escaped or was found murdered. In these cases the offense may be reported as a sexual molestation or homicide. Individuals with a past history of child sexual molestation should be interviewed. Priority should be given to those whose victims' appearance and developmental stage most nearly correspond to those of the missing child.

*FBI assistance.* Since the widely publicized Lindbergh kidnaping, the FBI has been able to become involved in kidnaping cases. While the public has traditionally thought of FBI involvement only in cases of interstate transportation of the victim or in cases in which a ransom has been demanded, neither of these circumstances is necessary for FBI assistance. Former FBI Director William Webster, in a **memorandum** issued in February 1983 to all FBI field offices, stated:

In accord with existing instructions, the following is set forth:

- A. When reports are brought to your attention, without regard for the means of referral, of minors abducted or missing under the circumstances indicating a possible abduction, unaccompanied by ransom demand or evidence of interstate transportation or travel, insure the following:
  1. Advise FBI HQ immediately.
  2. Furnish a teletype setting forth specific details bearing upon abduction or circumstances indicating a possible abduction, any ransom demand, interstate transportation and your action. Mere statements that the "local authorities advise no evidence of abduction exists" are not acceptable.
  3. Determine if it is necessary to institute a preliminary inquiry immediately in order to ascertain the need for a full investigation.
  4. Resolve questions pertaining to the abduction, seizure, confinement, inveiglement, decoy, kidnap, or carrying away by any means whatsoever, through the conduct of a preliminary inquiry in accord with existing Attorney General guidelines.
  5. Note that no ransom demand is necessary.
  6. Note that interstate travel can be assumed after 24 hours from the time the minor was abducted or missing under circumstances indicating a possible abduction.

## FBI memorandum

- B. Complete documentation is required as to the facts and circumstances which cause you to conduct or not to conduct a full investigation. Include any U. S. attorney's opinion and the specific liaison effected with local authorities together with any requests that local authorities, citizens or family members may make and your action thereafter.

This memorandum is explicit in the requirements that the FBI field offices are expected to fulfill when informed of a possible abduction. Local law enforcement agencies should always inform the FBI of the abduction report and collaborate on the investigation. The Bureau has resources and technical capabilities not available in most local agencies that can be applied to the investigation of a suspected abduction.

### Entries in the NCIC file

*NCIC reporting.* Completing the **entries in the NCIC file** should be done as soon as possible after an abduction happens. The file should be as complete as possible with medical and dental information within 30 days, or within the time stipulated by the State law. By establishing this as part of the investigative routine, there will not be a need to arouse the fears of the parents if an unidentified body is found and the information is needed by the medical examiner for identification.

*Summary.* The most dreaded kind of abduction is that in which a nonfamily member is the perpetrator. Fortunately, this kind of case appears to be unusual—but when it occurs, an immediate response and mobilization of law enforcement resources is required. *In every abduction case, the child should be considered in extreme danger.*

Once it has been established that the child is missing due to a possible abduction, the law enforcement agency should establish a command post that will direct the efforts to find the child and begin to investigate the case. The effort has two purposes: to find the child and ensure his or her safety, and to find the perpetrator and establish the criminal case against him or her.

The CP supervisor will have total control of both aspects of the case, determine the level of effort necessary, and provide liaison with other local and Federal law enforcement agencies. The FBI should be informed so that its technical and investigative skills may be utilized fully.

### Unknown missing child cases

Not every case can readily be classified, and cases in which the facts are insufficient to determine the reason the child is missing are called unknown missing child cases. In many, the only fact apparent is that there is a missing child. Without any facts that indicate otherwise, however, the police agency should **assume the child is in extreme danger** and should act accordingly. The investigative steps for unknown missing child cases encompass those taken for the other three kinds of missing child cases. If any of the unusual circumstances listed on page 201 exist, establishing a command post and conducting an extensive search should be normal law enforcement practice.

The unknown missing child case needs to be analyzed to determine if there are other traceable pieces of evidence. For example, if the youth is of driving age, was an automobile involved? If so, the Vehicle Identification Number (VIN) should be run through the NCIC system. Did the youth have jewelry or a tattoo that may be unique or easily identifiable? It is important that no potential lead be overlooked.

**Assume the child is  
in danger**

**As soon as possible**

Local departments are discouraged from establishing an arbitrary waiting period before taking action. The longer the police agency hesitates, the longer the child is endangered, and the greater the distance that the abductor, if there is one, can put between himself or herself and the investigating agency.

*NCIC reporting.* Entries in the NCIC file should be made **as soon as possible** after a child is reported missing. The file should be as complete as possible with medical and dental information within 30 days, or within the time stipulated by the State law.

### **Summary: Intensive investigation**

The second phase of the investigation of a missing child case is the intensive investigation. During this phase the case is still new and the trail of the child still fresh. For this reason, investigating agencies need to pursue actively whatever leads are available for all missing child cases.

Each kind of missing child case requires a suitable followup by a law enforcement agency.

*Voluntary missing child case* investigation focuses on the family, friends, school, and lifestyle of the missing youth. The youth's survival resources should be considered. Other units in the department and nearby jurisdictions should be informed of the case and provided with pictures of the missing youth. These cases will be located in the NCIC MPF: Juvenile file.

*Parental kidnaping case* investigation focuses on the abducting parent, his or her friends and relatives, and the needs of the child for public services, such as school, health, and child care. A thorough check of bank records, employment, labor unions, credit bureaus, etc., and the Worldwide Locator Service should be made in an attempt to locate the abductor. If possible, felony charges should be filed against the abductor parent and a Federal Unlawful Flight To Avoid Prosecution warrant issued. If friends or relatives are thought to be in contact with the abductor through the mail, the postal inspector's office should be asked to place a "cover" on that individual's mail. These cases will be located in the NCIC MPF: Endangered or Involuntary file.

*Abduction cases* require that the child be considered in extreme danger and are therefore subject to mobilization of every available resource of the investigating agency. A command post should be established away from the child's house. An officer should be stationed at the house to maintain communication between the command post and the parents in the event that the child is found or returns home. If the child is found seriously hurt or dead, the officer at the home needs to be informed discreetly. The search for an abducted child has two purposes: (1) to find the child and ensure his or her safety, and (2) to identify, locate, and apprehend the perpetrator and build a case that will result in his or her conviction in criminal court. The FBI should be informed of the abduction. These cases will be located in the NCIC MPF: Involuntary file.

*Unknown missing child cases* should be investigated using all the techniques discussed in the other three case categories. A child who is missing due to unknown causes should be assumed to be in extreme danger until facts indicate otherwise. Establishment of an arbitrary waiting period before police action is discouraged. If any unusual circumstances are present, a command post should be set up and an extensive search and investigation conducted. These cases will be located in the NCIC MPF: Endangered file.

## National Center

## Medical and dental information

## Friends and associates

### Phase three: Sustained investigation

Missing child cases are very often resolved during the intensive investigation phase; however, a significant portion require sustained effort by the law enforcement agency. *No missing child case is ever closed until the child is recovered or a body found and identified.*

In each kind of missing child case, the investigator should contact the **National Center for Missing and Exploited Children** (toll-free number: 1-800-843-5678) and should discuss the case with one of its technical advisers. The National Center can arrange for the toll-free number to be used for sighting information and can include the case in its national missing children media programs.

The National Center operates a hotline for taking information on sightings of missing children. The 800-line operators use a protocol developed by technical advisers—all former law enforcement personnel—consisting of about 60 specific questions that are computer supported. All leads are reviewed by technical advisers and are forwarded immediately—by first-class mail, NLETS (teletype), or express service—to the law enforcement agency on record in the NCIC.

The sustained investigation involves not only working whatever leads come in but also taking steps to generate additional leads. In the following sections, techniques for generating new information after the trail grows cold are discussed.

### Voluntary missing child cases

In the early stages of an investigation, parents should be asked to begin the process of collecting **medical and dental information** for entry into the NCIC system. (See page 205.) By the time a child has been missing for 30 days, or for the time stipulated by State law, the investigator should make sure that all available, pertinent information is entered into the NCIC system.

Routine contact should be maintained with the child's friends and family. Parents should again be instructed to notify the investigator if the child returns home. Contact should not be limited to the immediate family, however. Aunts, uncles, cousins, and grandparents, including those who live in other areas, should be contacted as well. The investigator could send an official preprinted postcard to these relatives with instructions on what to do if contacted by the missing youth. The postcard should include a statement that unless requested by the youth, the parents will not be contacted until after the child talks with the police. If the parents ask about this, they should be told that this is standard procedure. It gives the youth the opportunity to address any problems free of the influence of his or her parents. (The reason that the postcard should be preprinted is to depersonalize some of the information and thereby make it less threatening to the family.)

The runaway's network of **friends and associates** should be questioned to determine if the youth has had any contact with them. The longer the absence, the more likely it is that the youth will make contact with his or her friends. It is possible that the runaway will return to the community after the initial investigation. Vice officers and other units within the department should be updated on the case regularly. Patrol officers should be asked to revisit electronic game arcades, shopping malls, and other hangouts that may be frequented by the missing youth.

## Parental kidnappings

In some parental kidnapping cases it is easier to find the abducting parent after the crisis of the abduction itself has quieted and the abducting parent has resumed a more normal life. If the person receives pension checks, public assistance, Social Security checks, or other payments that can be tracked, the endorsed checks should be examined to determine where they were cashed or deposited. The investigator should examine credit bureau records on a regular basis to trace any loan applications the abductor may have filed.

The more time that passes, the more likely it is that the abducting parent will reestablish contact with his or her family, or use money on deposit in a bank. If an abductor conducts a transaction in his or her bank, the bank should be asked to flag the accounts—not block the transaction—and to notify the investigator. If the abductor makes a withdrawal in person, the bank should attempt to stall him or her and notify the police. If felony charges have been filed against the abducting parent, every 6 months a mail “cover” for close relatives and friends should be requested from postal inspectors.

The abductor’s employer or former employer should be asked to notify the investigator if the fugitive parent requests a reference or sends an address for forwarding pension fund checks. Again, these requests should be handled discreetly by the employer so as not to alert the abducting parent.

If the case is at least 6 months old, the **Federal Parent Locator Service (FPLS)** may be helpful. Information generated may provide useful leads, even though it may be dated and it takes 40 to 60 days to receive each one. The Federal Office of Child Support Enforcement maintains the FPLS, which can be reached at 1-202-401-9267. The FPLS can search for the abductor’s addresses in records of various Federal agencies, including the Selective Service, Internal Revenue Service, Social Security Administration, Department of Defense, Coast Guard, and National Personnel Records Center of the General Services Administration. The abductor’s Social Security number is needed to search these files. If the Social Security number is not known, additional information will be needed to obtain the number.

The FPLS data bases are not current and it takes months for new information to be entered. Even if the information is in the data base, it will take 40 to 60 days for an investigator to receive it once requested. Therefore, a request for an FPLS search should be made every 6 months. There is a nominal fee for the data base search.

Each State has a Parent Locator Service (PLS) maintained by the State Office of Child Support Enforcement. The PLS generally has more current information than the FPLS. Because policies concerning access vary among States, the investigator should contact the State PLS to determine who is authorized to access it.

Generally in parental kidnapping cases, investigators recover the child alive. There are some cases, however, in which the abducting parent has great rage against the other parent, is an alcoholic or drug abuser, has a history of child abuse, or is otherwise mentally unbalanced, which could place the child in great danger of serious injury or death. Again, after the child has been missing for 30 days, or for the time stipulated by State law, the NCIC file should be complete with all medical and dental information about the child so that if he or she becomes a homicide victim, identification may be made.

### Federal Parent Locator Service

### **Develop a poster**

### **Follow up on new information**

### **NCIC computer**

## **Abductions**

The investigator should work with the family to **develop a poster** with the child's picture, physical description, date of abduction, and unique characteristics or mannerisms. A telephone number that can be used for sightings should be listed, as well as any reward being offered. (A suggested missing child poster format is included at the end of the chapter as Appendix F.) This poster should be widely distributed to law enforcement agencies, missing children groups, the National Center for Missing and Exploited Children, truckstops, the media, and any other organization that might give exposure to the poster.

The FBI should always be consulted for utilization of their technical expertise. If a long period of time has elapsed since the abduction, computer enhancement of a photograph to show aging and physical development may be considered, and can be done by the FBI.

It is important to continually pursue new leads and to **follow up on every piece of new information**. Parents should be referred to local voluntary groups for support services. The National Center for Missing and Exploited Children has a directory of support services in each State.

## **Unknown missing child cases**

Until facts are uncovered that narrow the direction of the case, all possible reasons for the child's disappearance should be repeatedly explored. Friends and relatives of the missing child should be told how to respond if contacted by the missing child or the child's abductor. Posters with the child's picture, description, and a telephone number to call for sightings should be circulated. All medical and dental information should be in the **NCIC computer** so that if a body is found, or if the child is unable to give his or her identity, it can be matched to a record in the NCIC computer.

The investigator should consider the possibility that a family member or someone close to the missing child is responsible for the disappearance or possible death of the child. A polygraph examination of parents and other caretakers at the outset could lead to the resolution of the case.

## **Summary: Sustained investigation**

It is important that the case continue to be worked and new leads developed and explored, regardless of how long a missing child case has been under investigation. Posters should be distributed. The National Center for Missing and Exploited Children should be consulted and arrangements made to use the missing children's hotline, a toll-free number: 1-800-843-5678. In all missing child cases, the NCIC system should have complete dental and medical information to enable forensic matching should a body be found, or the child not know his or her name when recovered.

## **Phase four: Followup and closeout**

The investigation of a missing child case does not end with the recovery of the child or with the recovery and identification of the child's body. Obviously, it is important for the law enforcement agency to determine what happened to the child while the child was missing. This information may be important as police intelligence, providing important leads on possible drug activity and child pornography or prostitution operations.

## When a child has been found

## LOCATE message

## Programs in the community

## Two actions

Just as the different nature of missing child cases demands different investigative approaches, it also dictates a different approach to the recovery and debriefing of the victim. **When a child has been found**, the originating investigative agency must delete the name of the child from the NCIC Missing Persons File. This deletion will ensure the currency and accuracy of the NCIC information and increase its usefulness as a law enforcement tool. Care should be taken that the correct entry is deleted by doublechecking the NCIC number before entering the deletion.

If any investigative agency other than the originating agency should locate a missing child, the NCIC MPF should be questioned. If a record is found, the originating agency should be contacted by phone or by NLETS (teletype) to verify the status of the record. Once the record is verified, the agency that located the child should place a **LOCATE message** on the missing persons record in the NCIC. The originating agency will then delete the entry.

## Voluntary missing child cases

Traditionally when a runaway has been found, the child is returned to the home, but may run away again. Therefore, upon recovery of the runaway, three different matters should be considered:

*Why did the child leave home?* In exploring this area, the investigator should be sensitive to possible physical or sexual abuse in the home. If there are indications that any form of abuse existed, an investigation is required and alternative care for the child may be needed.

*What happened during the time the child was missing?* It is important to learn what the child was doing to survive while missing. Available evidence indicates that runaways are at a higher risk of rape and other forms of sexual coercion than the general population of adolescents.<sup>3</sup> Other forms of exploitation happen, such as involvement with drug distribution as well as other kinds of criminal activity. Getting the youth to talk about these experiences can provide valuable intelligence as well as leads for immediate arrests.

*What can be done for the youth now?* There is a multitude of social problems that can cause youngsters to leave home, not all of which are law enforcement responsibilities. The law enforcement officer in charge of a runaway case should have access to or knowledge of **programs in the community** that can help families resolve their problems. Such programs include mental health counseling, teenage pregnancy counseling, school social workers, residential care, and family counseling. A physical examination is needed to ensure the health and well-being of the child.

Once the missing child has been interviewed and the investigator is satisfied that the child will not be endangered if returned to the home, the family can be reunited or the proper referral made to a social services agency. The case can then be closed.

## Parental kidnappings

When a law enforcement agency is involved in the recovery of a child in a parental kidnapping case, there are **two actions** that must be taken. The first is that the abducting parent be taken into custody, preferably not in the presence of the child. If the arrest has to be made when the child is present, it is important that an officer take a few minutes at the time of the arrest to explain to the child what is happening. The child should be told that the arrest is proper and necessary—the abducting parent has broken the law,



**A criminal case must  
be pursued**

**Site for the child's  
interview**

and the child is not to blame. It is normal for the child of an arrested parent to feel confused in this type of case, and efforts to alleviate this confusion should be made.

The second action necessary is the immediate placement of the child. There may be several thousand miles separating the custodial parent from the child and it will take time to arrange their reunion. If possible, prior planning for the reunion should be made. Depending on the laws of the particular State, a pick-up order for the child may be necessary and should be obtained prior to arresting the abducting parent.

The investigator should develop a close working relationship with the agency providing child protective services (CPS) so that temporary shelter care can be provided when a child cannot be immediately returned home. The provider of the shelter care should understand that the child may be released only to a CPS worker or to the police, and the abducting parent not be given information about the location of the child. There have been cases where the abducting parent has been released on bond and attempted to abduct the child again.

As in the case of the recovered runaway, the recovered victim of parental kidnaping should be interviewed to determine if abuse occurred during the time of abduction or, as is usually alleged by the abducting parent, during the time the child was living with the custodial parent. If abuse by either parent is suspected, the appropriate child protective services agency should be notified and an investigation conducted, either by the local agency or the agency in the State of origin.

Investigators of parental kidnapings should keep in mind that recovery of the child is only part of the objective. **A criminal case must be pursued** in court. Witnesses, evidence, and victims should be prepared for the followthrough. The case can be closed after the child is recovered and the abducting parent is prosecuted for child abduction either in civil or criminal court.

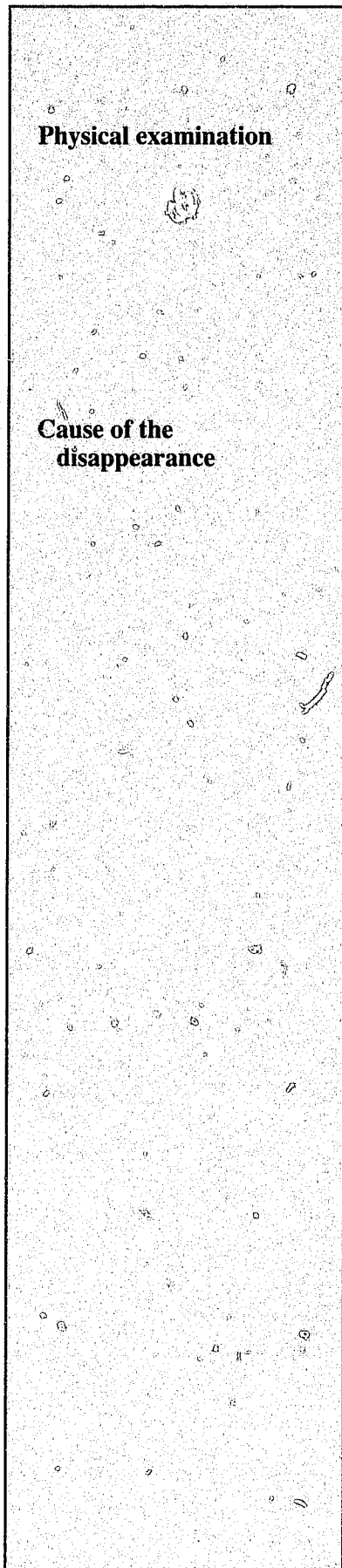
## **Abductions**

There are two concerns the investigator has upon recovering an abducted child: the health and safety of the child, and the apprehension and prosecution of the abductor. Nothing must take priority over the health and well-being of the child. A medical examination should be provided, and the child should be seen by a counselor/social worker to determine if the child needs counseling or other support services.

The parents or guardians should be notified immediately of the child's recovery. If an agency other than the originating agency should locate the child, first the officer of the originating agency should be notified, and he or she will notify the parents.

The **site for the child's interview** should be one in which the child can feel relaxed and undistracted. The length of time for any interviewing session should be appropriate for the age and interest span of the child. A multi-disciplinary or team approach to interviewing, including law enforcement and social workers, can help ensure collection of evidentiary information while minimizing trauma to the child. Extreme caution should be used in deciding whether to videotape the initial interviews with the victim. (A complete discussion of the legal implications for the interview appears in Chapter 6.)

The child should be asked what happened during the time the child was missing and as much information as possible gathered about the abductor. Questions should be asked about the appearance of the abductor(s),



the locations where the child was held, vehicles in which they traveled, and other factors that link the child with the suspected abductor(s). This questioning is required, even if the abductor is in custody, because offenses may have occurred in multiple jurisdictions.

A **physical examination** must be conducted by a medical authority and any injuries documented for later use as evidence. Laboratory samples indicating sexual abuse should also be preserved for later use as evidence. The child's clothing may need to be kept and examined for trace evidence.

In the event that the abducted child is found dead, the investigation should proceed as a homicide investigation.

### **Unknown missing child cases**

When a child is recovered whose disappearance was due to unknown circumstances, the investigator must find the **cause of the disappearance**. Once the cause is determined—voluntary, parental kidnaping, abduction, or other (such as accidental injury)—the procedure for those incidents should be followed.

If the child is dead, seriously injured, or otherwise unable to explain what happened, the investigator will need to use investigative and forensic techniques to find an explanation. It may be helpful to request assistance from the FBI to develop a crime scene profile. To do this, contact the local FBI field office and ask for the field profiling coordinator.

Crime scene profiling is not an exact science, but through clues and previous experience, profilers can get a feel for the scene and project scenarios for what may have happened. Further investigation is necessary, however, to validate their hypotheses.

### **Summary: Followup and closeout**

When a child is recovered, the investigator has the responsibility to question the child, find out what caused the child to be missing, what happened while the child was missing, and make the proper referrals to deal with the child's consequent problems. The investigator should be mindful of the potential for psychological trauma to the child, be sensitive to interviewing techniques, and make referrals for followup services. The investigator should consider also the requirements of a prosecution team to build a legal case against an abductor (see Chapter 6).

## Chapter 5: Appendixes Missing Children

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- A. Notes
- B. Investigator's checklist
- C. Missing person report for NCIC  
record entry
- D. Unidentified person report for NCIC  
record entry
- E. National Crime Information Center
- F. Missing child poster

## Appendix A: Notes

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1. Hotaling, G. and Finkelhor, D. 1988. *The Sexual Exploration of Missing Children: A Research Review*. Washington, D.C.: Government Printing Office, p. 5.
2. Ibid., p. 7.
3. Ibid., p. 1.

## Appendix B: Investigator's checklist

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1. Was the missing child report taken *personally* by an officer?
2. Did the reporting officer check for *unusual* circumstances?
3. Did the officer check the child's *home* for the missing child?
4. Was the missing child *promptly* entered in the NCIC?
5. Were the crime analysis and records sections utilized to provide case *enhancement*?
6. Have parents been assigned tasks to *facilitate* the investigation?
7. Have the missing child's *friends* been interviewed?
8. Is *parental kidnaping* a possibility?
9. Have Federal authorities been contacted and Unlawful Flight To Avoid Prosecution *warrants* obtained when appropriate?
10. Are the offender and the missing child *cross-referenced* in the NCIC?
11. Have school records of the missing child been *flagged* for law enforcement notification?
12. Has a *polygraph* been considered for the child's parents?
13. Has the *child abuse registry* been checked for previous contacts?
14. Has a *tip* line been established?
15. In long-term cases, has NCIC been fully loaded, including *medical and dental* records?
16. Has the National Center for Missing and Exploited Children been contacted for *technical assistance*?
17. Has the recovered child been *deleted* from the NCIC?
18. Has the recovered child been interviewed to determine why the child left, *what happened* while away, and *what can be done* to help the child now?
19. Has the investigation been coordinated with other agency *professionals*?
20. Does the missing child poster follow proper *format*?

# Appendix C: Missing person report for NCIC record entry

MISSING PERSON REPORT FOR NCIC RECORD ENTRY										Date of Report _____		
<b>Message Key (see definitions on page 1)</b> (MKE) <input type="checkbox"/> Disability (EMD) <input type="checkbox"/> Juvenile (EMJ) <input type="checkbox"/> Endangered (EME) <input type="checkbox"/> Victim (EMV) <input type="checkbox"/> Involuntary (EMI) <input type="checkbox"/> Caution			Name (NAM)			Sex (SEX) <input type="checkbox"/> Male (M) <input type="checkbox"/> Female (F)		Race <input type="checkbox"/> Asian or Pacific Islander (A) <input type="checkbox"/> Unknown (U) <input type="checkbox"/> Black (B) <input type="checkbox"/> White (W) <input type="checkbox"/> American Indian/Alaskan Native (I)				
Place of Birth (POB)		Date of Birth (DOB)		Date of Emancipation (DOE)		Height (HGT)	Weight (WGT)	Eye Color (EYE) <input type="checkbox"/> Black (BLK) <input type="checkbox"/> Hazel (HAZ) <input type="checkbox"/> Blue (BLU) <input type="checkbox"/> Maroon (MAR) <input type="checkbox"/> Brown (BRO) <input type="checkbox"/> Multicolored (MUL) <input type="checkbox"/> Gray (GRY) <input type="checkbox"/> Pink (PNK) <input type="checkbox"/> Green (GRN) <input type="checkbox"/> Unknown (XXX)				
Hair Color (HAIR) <input type="checkbox"/> Black (BLK) <input type="checkbox"/> Brown (BRO) <input type="checkbox"/> Red/Auburn (RED) <input type="checkbox"/> White (WHI) <input type="checkbox"/> Blonde/Strawberry (BLN) <input type="checkbox"/> Gray/Partially Gray (GRY) <input type="checkbox"/> Sandy (SDY) <input type="checkbox"/> Unknown (XXX)			Hair Description (HAIR) <input type="checkbox"/> Wavy <input type="checkbox"/> Curly <input type="checkbox"/> Straight <input type="checkbox"/> Treated									
Hair Length (MIS)		Hair Style (MIS)		Skin Tone (SKN) <input type="checkbox"/> Fair (FAR) <input type="checkbox"/> Olive (OLV) <input type="checkbox"/> Albino (ALB) <input type="checkbox"/> Light (LGT) <input type="checkbox"/> Ruddy (RUD) <input type="checkbox"/> Black (BLK) <input type="checkbox"/> Lt Brown (LBR) <input type="checkbox"/> Medium (MED) <input type="checkbox"/> Dark (DRK) <input type="checkbox"/> Medium (MBR) <input type="checkbox"/> Sallow (SAL) <input type="checkbox"/> Dk Brown (DBR) <input type="checkbox"/> Med Brown (MBR) <input type="checkbox"/> Yellow (YEL)		Scars, marks, tattoos, and other characteristics (SMT) (See check list)						
Has the missing person ever been fingerprinted? <input type="checkbox"/> No <input type="checkbox"/> Yes If so by whom?					Fingerprint Classification (FPC)		Other Identifying Numbers (MNU)					
Social Security Number (SOC)		Operator's License Number (OLN)		Operator's License State (OLS)	Operator's License Year of Expiration (OLY)	Date of Last Contact						
Originating Agency Case Number (OCA)		Blood Type (BLT) <input type="checkbox"/> A Positive (APOS) <input type="checkbox"/> B Positive (BPOS) <input type="checkbox"/> AB Positive (ABPOS) <input type="checkbox"/> O Positive (OPOS) <input type="checkbox"/> A Negative (ANEG) <input type="checkbox"/> B Negative (BNEG) <input type="checkbox"/> AB Negative (ABNEG) <input type="checkbox"/> O Negative (ONEG) <input type="checkbox"/> A Unknown (AUNK) <input type="checkbox"/> B Unknown (BUNK) <input type="checkbox"/> AB Unknown (ABUNK) <input type="checkbox"/> O Unknown (OUNK)			Has missing person ever donated blood? (FPA) <input type="checkbox"/> No <input type="checkbox"/> Yes Where?							
Has the missing person been circumcised? (CRC) <input type="checkbox"/> Was circumcised (C) <input type="checkbox"/> Was not circumcised (N) <input type="checkbox"/> Unknown (U)				Are footprints available? (FPA) <input type="checkbox"/> Yes (Y) <input type="checkbox"/> No (N)								
Are body x-rays available? (BXR) <input type="checkbox"/> Full (F) <input type="checkbox"/> Partial (P) <input type="checkbox"/> None (N)		Does the missing person have corrected vision? (SMT) <input type="checkbox"/> Yes <input type="checkbox"/> No Glasses <input type="checkbox"/> Con Lenses			Corrective vision prescription (VRX)							
Type of Contact Lenses and Color (MIS) <input type="checkbox"/> Hard <input type="checkbox"/> Longwear <input type="checkbox"/> Blue <input type="checkbox"/> Gray <input type="checkbox"/> Clear <input type="checkbox"/> Soft <input type="checkbox"/> Semi <input type="checkbox"/> Green <input type="checkbox"/> Brown			Jewelry Type (See check list) (JWT)			Jewelry Description (JWL)						
Handedness <input type="checkbox"/> Left <input type="checkbox"/> Right (MIS)			Build (MIS) <input type="checkbox"/> Very thin <input type="checkbox"/> Thin <input type="checkbox"/> Medium <input type="checkbox"/> Muscular <input type="checkbox"/> Heavy/Stocky <input type="checkbox"/> Obese									
Any other miscellaneous information (MIS)												
Below is a list of clothing and personal effects. Please indicate those items the missing person was last seen wearing. Include style, type, color, condition, labels, or laundry markings. (MIS)												
Item	Style/Type	Size	Color	Markings	Item	Style/Type	Size	Color	Markings			
Head Gear					Shoes/Boots/Sneakers							
Scarf/Tie/Gloves					Underwear							
Coat/Jacket/Vest					Bra/Girdle/Slip							
Sweater					Stockings/Pantyhose							
Shirt/Blouse					Wallet/Purse							
Pants/Skirt					Money							
Belts/Suspenders					Glasses							
Socks												
LICENSE PLATE AND VEHICLE INFORMATION												
License Plate Number (LIC)		State (LIS)		Year Expires (LY)		License Plate Type (LIT)						
Vehicle Identification # (VIN)		Year (VYR)	Make (VMA)	Model (VMO)	Style (VST)	Color (VCO)						
Aliases			Reporting Agency			Reporting Officer						
Complainant's Name			Complainant's Address			Complainant's Telephone Number						
Relationship of Complainant to Missing Person			Missing Person's Address			Missing Person's Occupation						
NCIC # (NIC)		Places missing person frequented (MIS)										
Close friends/relatives					Possible destination							
					Complainant's Signature _____ Date _____							
<ul style="list-style-type: none"> <li>• Attach current photo if available.</li> <li>• If additional space is needed attach additional sheets.</li> <li>• All dental information should be recorded on the dental report and entered in NCIC as a supplemental record.</li> </ul>												

# Appendix D: Unidentified person report for NCIC record entry

UNIDENTIFIED PERSON REPORT FOR NCIC RECORD ENTRY																																			
Reporting Agency (ORI)			Reporting Agency's Case Number (OCA)			Agency's Telephone Number		Date																											
Message Key (see definitions on page 1) (MKE) <input type="checkbox"/> Unidentified Deceased (EUD) <input type="checkbox"/> Unidentified Living (EUL) <input type="checkbox"/> Unidentified Disaster Victim (EUV)		Body Parts Status (if incomplete body or skeleton, see body diagram for coding corresponding parts) <input type="checkbox"/> Complete Body <input type="checkbox"/> Complete Skeleton				<table border="1" style="width: 100%; text-align: center;"> <tr> <td>2</td><td>3</td><td>4</td><td>5</td><td>6</td><td>7</td><td>8</td><td>9</td><td>10</td><td>11</td><td>12</td><td>13</td><td>14</td> </tr> <tr> <td colspan="6">N-Not Recovered</td> <td colspan="3">R-Recovered</td> <td colspan="4">S-Skeletal</td> </tr> </table>				2	3	4	5	6	7	8	9	10	11	12	13	14	N-Not Recovered						R-Recovered			S-Skeletal			
2	3	4	5	6	7	8	9	10	11	12	13	14																							
N-Not Recovered						R-Recovered			S-Skeletal																										
Sex (SEX) <input type="checkbox"/> Male (M) <input type="checkbox"/> Unknown (U) <input type="checkbox"/> Female (F)		Race (RAC) <input type="checkbox"/> Asian/Pacific Islander (A) <input type="checkbox"/> American Indian/Alaskan Native (I) <input type="checkbox"/> Unknown (X) <input type="checkbox"/> Black (B) <input type="checkbox"/> White (W)			Estimated Year of Birth (EYB)																														
Estimated Date of Death (EDD)		Date Body Found (DBF)		Approximate Height (HGT)			Approximate Weight (WGT)																												
Eye Color (EYE) <input type="checkbox"/> Brown (BRO) <input type="checkbox"/> Hazel (HAZ) <input type="checkbox"/> Black (BLK) <input type="checkbox"/> Gray (GRY) <input type="checkbox"/> Maroon (MAR) <input type="checkbox"/> Blue (BLU) <input type="checkbox"/> Green (GRN) <input type="checkbox"/> Multicolored (MUL)		<input type="checkbox"/> Pink (PNK) <input type="checkbox"/> Unknown (XXX) <input type="checkbox"/> Blonde/Strawberry (BLN)		Hair Color (HAI) <input type="checkbox"/> Brown (BRO) <input type="checkbox"/> Sandy (SDY) <input type="checkbox"/> Black (BLK) <input type="checkbox"/> Gray/Partially Gray (GRY) <input type="checkbox"/> White (WH) <input type="checkbox"/> Red/Auburn (RED) <input type="checkbox"/> Unknown (XXX)		Scars, Marks, Tattoos, and Other Characteristics (SMT) (See attached Personal Descriptors check list)																													
Fingerprint Classification (FPC)		Blood Type (BLT)		Circumcision (CRC)																															
<input type="checkbox"/> APOS <input type="checkbox"/> BPOS <input type="checkbox"/> ABPOS <input type="checkbox"/> OPOS <input type="checkbox"/> ANEG <input type="checkbox"/> BNEG <input type="checkbox"/> ABNEG <input type="checkbox"/> ONEG <input type="checkbox"/> AUNK <input type="checkbox"/> BUNK <input type="checkbox"/> ABUNK <input type="checkbox"/> OUNK		<input type="checkbox"/> Was Circumcised (C) <input type="checkbox"/> Unknown (U) <input type="checkbox"/> Was not Circumcised (N)																																	
Footprints Available (FPA)		Body X-Rays Available (BXR)		Corrective Vision Prescription (VRX)		Manner and Cause of Death (MCD)																													
<input type="checkbox"/> Yes (Y) <input type="checkbox"/> No (N)		<input type="checkbox"/> Full (F) <input type="checkbox"/> Partial (P) <input type="checkbox"/> None (N)		<input type="checkbox"/> Natural Causes (N) <input type="checkbox"/> Unknown (U) <input type="checkbox"/> Accidental (A) <input type="checkbox"/> Homicide (H) <input type="checkbox"/> Suicide (S)																															
Jewelry Type (See check list) (JWT)		Jewelry Description (JWD)			Glasses or Contact Lenses (SMT)																														
<input type="checkbox"/> Glasses <input type="checkbox"/> Contact Lenses																																			
Type of Contact Lenses and Color (MIS)		Bulld (MIS)		Hair Description (MIS)																															
<input type="checkbox"/> Hard <input type="checkbox"/> Longwear <input type="checkbox"/> Blue <input type="checkbox"/> Green <input type="checkbox"/> Brown <input type="checkbox"/> Soft <input type="checkbox"/> Semi <input type="checkbox"/> Gray <input type="checkbox"/> Clear		<input type="checkbox"/> Very Thin <input type="checkbox"/> Medium <input type="checkbox"/> Heavy/Obese <input type="checkbox"/> Thin <input type="checkbox"/> Muscular <input type="checkbox"/> Obese		<input type="checkbox"/> Wavy <input type="checkbox"/> Straight <input type="checkbox"/> Curly <input type="checkbox"/> Treated																															
Handedness (MIS)		Estimated Time of Death (MIS)			Manner of Death (MIS)																														
<input type="checkbox"/> Right <input type="checkbox"/> Left <input type="checkbox"/> Unknown																																			
Weather Conditions at Time of Death (MIS)				Place Body Found (MIS)																															
Additional Miscellaneous Information (MIS)																																			
Medical Examiner/Coroner Agency Name and Case Number (MAN)			Medical Examiner/Coroner Locality (MAL)			Medical Examiner/Coroner Telephone Number (MAT)																													
Below is a list of clothing and personal effects. Please indicate those items that have been found with the person or body. Include style, type, size, color, condition, etc. (MIS)																																			
Item	Style/Type	Size	Color	Markings	Item	Style/Type	Size	Color	Markings																										
Head Gear					Shoes/Boots/Sneakers																														
Scarf/Tie/Gloves					Underwear																														
Coat/Jacket/Vest					Bra/Girdle/Slip																														
Sweater					Stockings/Pantyhose																														
Shirt/Blouse					Wallet/Purse																														
Pants/Skirt					Money																														
Belts/Suspenders					Glasses																														
Socks					Other																														
Other																																			
NCIC Number (NIC)																																			
• If additional space is needed, attach additional sheets. • All dental information should be recorded on the dental form and entered in NCIC as a supplemental record.																																			

## Appendix E: National Crime Information Center

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The National Crime Information Center (NCIC) is an automated data base maintained by the Federal Bureau of Investigation. It provides criminal justice and law enforcement information to Federal, State, and local law enforcement agencies throughout this country, Canada, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands. The system operates around the clock every day of the year. In the NCIC, vast amounts of data are stored on wanted persons, stolen property (including automobiles) and documented criminal history information on individuals. This information can be accessed immediately and furnished through any NCIC terminal to any authorized criminal justice agency.

There are two files of particular interest to investigators of missing child cases:

- Missing Persons File (MPF).
- Unidentified Persons File (UPF).

In the sections that follow are instructions on how to use these files and other NCIC files that will be useful in the investigation of missing child cases.

### Missing Persons File

The MPF of the NCIC system contains information on individuals meeting the following FBI criteria:

*Disability.* A person of any age who is missing and under proven physical or mental disability or is senile—thereby subjecting himself or herself or others to personal and immediate danger.

*Endangered.* A person of any age who is missing and in the company of another person under circumstances indicating that his or her physical safety is in danger.

*Involuntary.* A person of any age who is missing under circumstances indicating that the disappearance was not voluntary—i.e., abduction or kidnaping.

*Juvenile.* A person of any age who is missing and declared unemancipated as defined by the laws of his or her State of residence and does not meet any of the other criteria for inclusion in the MPF.

*Catastrophe.* A person of any age who is missing after a disaster.

It is important to note that there is *no* time delay required for an entry to be accepted into the MPF. In addition, runaways *can* and *should* be entered into the system.

### Essential information

In order for an entry to be accepted into the MPF, the following information is essential:

- Message key. This item gives the kind of entry into the file—i.e., disabled, endangered, involuntary, juvenile, or catastrophe.
- Originating agency identifier (ORI). This code identifies the agency making the entry and provides a responding agency with an address for NLETS (teletype) messages regarding the case. The ORI for the National Center for Missing and Exploited Children is #DC001069W.
- Name of the child.
- Sex.
- Race.
- Date of birth.
- Date of emancipation.



- Height.
- Weight.
- Hair color.
- Date missing.
- Originating agency case number.

The entry of the above items will enable the NCIC system to accept the missing child's case. These items do not by any means, however, constitute a complete entry. There is no limit to the number of supplemental information entries that may be made to the Missing Persons File as additional information becomes available. The NCIC missing person report is provided to law enforcement agencies by the State NCIC control terminal agency or by the FBI to use in taking a missing persons report. All this information should be loaded into the system as it becomes available. In addition, there is a packet of forms that family members should be given to obtain medical and dental information. The more complete the information in the file, the more useful it becomes as a tool to aid in the positive identification of the missing person.

## Unidentified Persons File

The Unidentified Persons File (UPF) of the NCIC system provides information on unidentified bodies or parts of bodies that have been found or on individuals who cannot identify themselves due to handicap, amnesia, or age. The information that should be entered in the UPF parallels the information that is entered on missing persons and thereby enables matches to be made each day by computer comparisons. This system became operational on June 30, 1983, and the number of unidentified persons recorded has increased as more agencies, especially medical examiners, participate in the program. *Note:* MPF and UPF files are automatically correlated fully every night at FBI headquarters, with possible matches forwarded to both ORI's.

*Dental Records.* The entry of dental records in both the MPF and the UPF is extremely important in matching identities. For children who have been dead for a long period and whose fingerprints have decomposed, dental records provide the best means of identification. The UPF provides the opportunity to make a computer comparison of dental records and represents a major timesaver. There is room in the file to indicate 256 dental characteristics through the use of an alpha-numeric code.

*Entry in the NCIC system.* The State laws on investigative authority govern the entry of the information into the NCIC UPF. Entry may be made by the investigator assigned to the case or by the medical examiner's office. The American College of Forensic Pathologists has undertaken a project to enter the backlog of unidentified bodies throughout the country into the system in hopes of resolving identities.

## Other NCIC system files

In addition to the MPF and UPF, the investigator of missing child cases needs to be aware of the existence of other NCIC files.

*Wanted File.* This file contains identifying information on persons with outstanding arrest warrants. In parental kidnappings, the name of the parent should be entered in this file when a warrant is issued. The child should be entered in the *Missing Persons File*.

*Stolen Vehicle File.* If there is a vehicle missing as well as a child, the owner of the vehicle may request that the automobile be listed as stolen so that it may be used to trace the missing child.

## Summary: National Crime Information Center

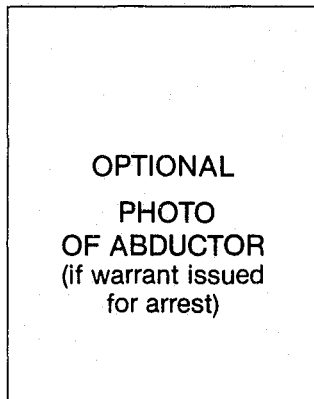
The NCIC system is a powerful tool for law enforcement agencies to use in the investigation of missing child cases. It is important that the information be entered accurately and completely. The more information that is entered on a missing child and subsequently on an unidentified child, the more likely it is that the system will produce a match.

There are more than 1,000 entries in the Unidentified Persons File—many of whom are juveniles. Somewhere in the country, law enforcement agencies have these children in their own missing persons files and, until they are properly entered into the system, the cases will remain unsolved.

## Appendix F: Missing child poster

# Have You Seen This Child?

### **WANTED: Arrest Warrant Issued**



OPTIONAL  
PHOTO  
OF ABDUCTOR  
(if warrant issued  
for arrest)

(Date of Photo)

#### **NAME OF ABDUCTOR**

Date of Birth:

Ht.:           Wt.:

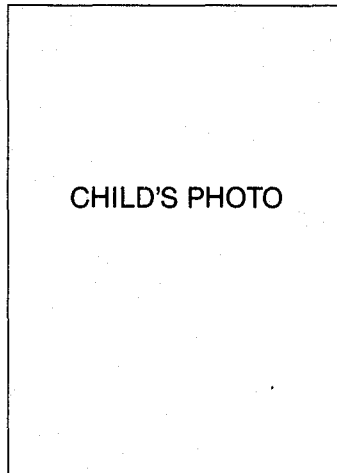
Hair:           Eyes:

Complexion:

Scars, etc.:

Occupation:

### **MISSING CHILD**



CHILD'S PHOTO

(Date of Photo)

#### **NAME OF CHILD**

Date of Birth:

Grade in School:

Ht.:           Wt.:

Complexion:

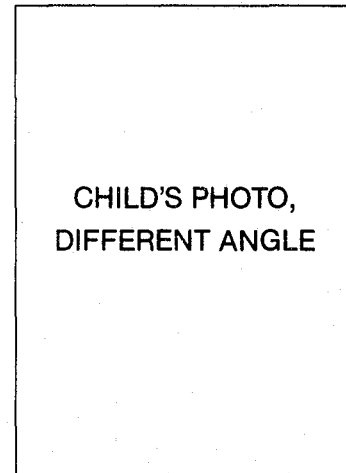
Scars, etc.:

Hobbies, sports, etc.:

Details of Abduction—Date, Place:

Indicate violation of court order, warrant on file.

Indicate if abuse has occurred.



CHILD'S PHOTO,  
DIFFERENT ANGLE

(Date of Photo)

Age:

Hair:           Eyes:

### **IF YOU HAVE ANY INFORMATION, PLEASE CONTACT:**

Officer's Name, Police Department:

Phone Number:

Case Number:

Warrant Number (if secured):

**National Center for Missing and Exploited Children**

**1-800-843-5678**

**(or support groups)**

**Legal Issues  
and Considerations**

# Chapter 6: Legal Issues and Considerations

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## Introduction

Child abuse, especially sexual abuse, has been historically the most prevalent unreported crime in the United States. The likelihood of this particular crime being reported is lessened by parents who are sometimes the abusers, the stigma of victimization, parental reluctance to expose the child to the judicial system, and a commonly held belief by members of our society that such abuses are “uncivilized” and do not occur. As a result, hundreds of thousands of abused children have entered adulthood without benefit of the understanding and professional counseling necessary to help offset the emotional and psychological trauma a child often incurs as an abuse victim.

The previous chapters of this manual highlight investigative techniques for use by investigators in child abuse cases. This chapter demonstrates how to turn those investigations into effective trial presentations that will increase the number of child abuse convictions and the length of resultant sentences. It has four basic objectives:

1. To promote cooperation among all agencies involved in child abuse investigations.
2. To highlight developments and procedures available to accommodate the child as a testifying witness, thereby minimizing the trauma inflicted upon the child abuse victim.
3. To update procedures and techniques that will enhance investigative efforts and prosecution of child abusers.
4. To increase understanding among child abuse investigators of legal requirements and issues that will increase the likelihood of conviction and appropriate sentencing of child abusers.

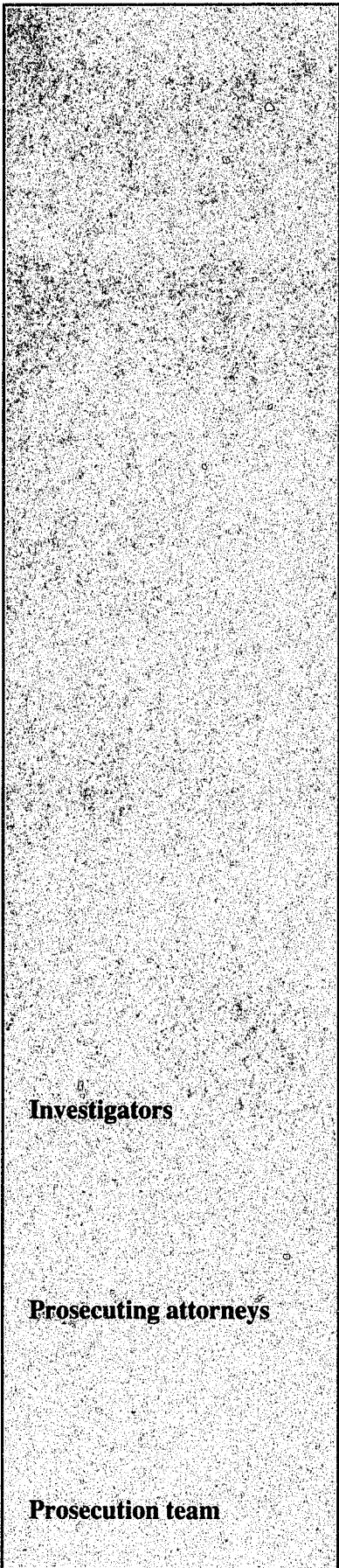
## Judicial process

The term “**verdict**” means a “true declaration,”<sup>1</sup> and is an appropriate description of the ultimate purpose of our judicial system. Indeed, legal scholars, invoking the name of “justice,” have proposed numerous modifications to the system to ensure justice for the criminal defendant. Some of these modifications, such as withholding evidence from a jury’s consideration because of police error or granting extensive pretrial discovery to a defendant, might promote the rights of a criminal defendant but may often mitigate against a true declaration being returned.

The recent introduction of the concept “**one day, one trial**” as a basis for jury impanelment is intended to promote jury convenience (no 2-week jury duty) and broaden the range of participants involved in the jury process. It is argued by defense attorneys that an “experienced” jury is more likely to convict and is therefore unfair to a criminal defendant. While one might fail to agree that inexperienced or reluctant jurors promote a more accurate jury verdict, law enforcement personnel must prepare their cases to satisfy the lack of experience present in most jury panels.

“Verdict”

“One day, one trial”



**Investigators**

**Prosecuting attorneys**

**Prosecution team**

Recognizing the practical and procedural obstacles confronting a criminal prosecutor in general and the additional problems inherent in a child abuse prosecution, it is imperative that the State present clear, thorough, and accurate facts to the jury—to do otherwise would invite acquittal. To the contrary, a function of the defense attorney is to create doubt and confusion in the mind of at least a single juror.

Two effective defense techniques involve impeaching the testimony of State investigators because of inconsistencies in their investigative reports and exposing testimonial inconsistencies among other State witnesses. Careful, accurate report writing, a knowledge of all the investigative reports, and an awareness of potential testimony by other State witnesses can prepare the investigator for trial and virtually serve to eliminate the possibility of the defense attorney impeaching the investigator's testimony.

The investigator should keep clear, accurate notes during an investigation, consult with other investigators when drafting reports to help identify potential inconsistencies, and if they exist, be prepared to explain them at trial. He or she also should review all reports thoroughly prior to trial for a refreshed recollection of the facts of the case at hand.

Because the statutes of most States had established "confidentiality" in the information obtained by social service agencies, law enforcement agencies paid little attention to its content. However, in 1987, the U.S. Supreme Court held that a State's interest in the confidentiality of these investigative files must yield to a criminal defendant's rights under the 6th and 14th amendments to discover favorable evidence. *Com. v. Ritchie*, 480 U.S. 39, 107 S.Ct. 989, 94 L.Ed.2d. 40 (1987). Therefore, to help rule out the possible impeachment of a State witness' testimony by the defense counsel, it is now essential that the efforts of police, prosecuting attorneys, and social service workers be coordinated, cooperative, and shared.

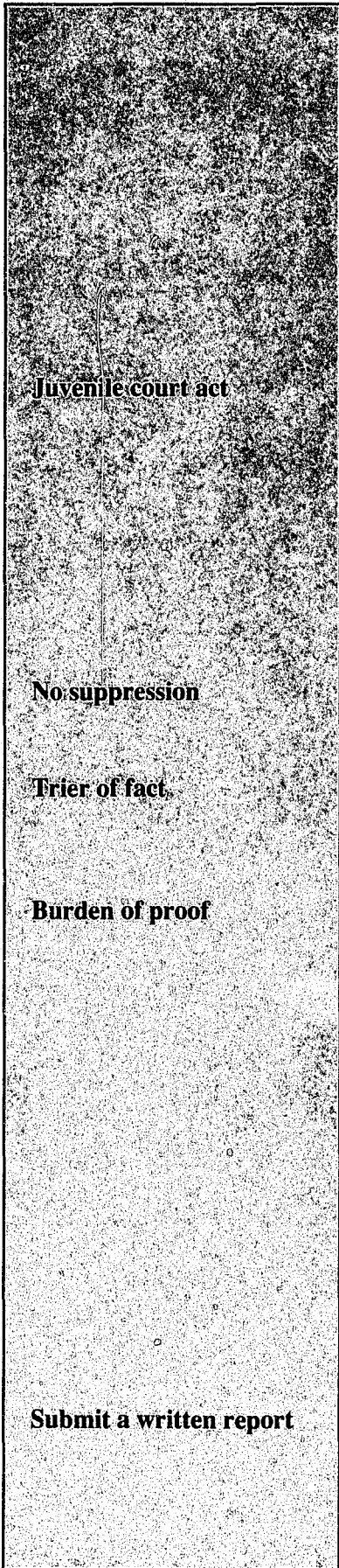
A second prosecutorial concern involves informing potential witnesses about and preparing them for the courtroom setting, the appropriate bounds of their testimony, cross-examination by opposing counsel, and proper comportment in a courtroom. The prosecutor, a local police officer, or social services professional can provide this training. Preparing a child victim for testifying will be discussed hereinafter.

Finally, the State's case also may be positively served by expert witnesses who can describe a medical problem or a physical injury, the psychological dynamics of child abuse, or the presence of behavioral indicators. This issue will be discussed more thoroughly later in this chapter.

Many **investigators**, whether police or social services-based, share the opinion that their responsibilities end with the arrest of the defendant or in the filing of a child abuse petition. In reality, many investigations are incomplete at this point. Justice is served, and a "true declaration" is obtained in a child abuse case only when (1) the perpetrator is convicted and appropriately sentenced for his or her actions or (2) the child is removed from the custody of an offending parent or guardian or otherwise properly protected.

**Prosecuting attorneys**, on the other hand, often are reluctant to take cases to trial that are not winners; child abuse cases can be difficult to prosecute. For one thing, most abuses are committed in private with little or no apparent corroborating evidence. Often the testimony of the victim stands alone against the denial of the defendant. Further, the abuse victim usually is young, easily intimidated by the court system, and unable to communicate or express himself or herself as well as the older defendant.

A successful **prosecution team** should include a police investigator, an assistant district attorney, a social services member, and a child victim repre-



sentative. Each team member should be aware of the function of the other, as well as the rules and regulations under which each operates. Law enforcement officials have a special need to familiarize themselves with the laws in the civil arena governing child abuse.

A team or multidisciplinary approach is essential to the prosecution of child abuse cases. Prosecution of these cases should be supervised by an attorney who coordinates the work of all the contributing agencies and who is involved in the case from the initial investigation to the final sentencing or disposition. See Appendix B for the primary concerns of a child abuse investigator.

### Civil proceedings

All States have a **juvenile court act** or similar law that sets forth the procedure for pursuing a civil remedy against a child abuser. Unlike a criminal proceeding where a defendant could be jailed, fined, or both, a civil proceeding can serve to separate a child from an abusive parent, guardian, or other person and provide other judicial protection. In most jurisdictions these statutes share the following common characteristics.

First, the rights established by the *Miranda*<sup>2</sup> decision are not available to a suspected child abuser in a civil proceeding. Even in criminal proceedings, social services investigators are not required by the U.S. Constitution to give the warnings established by the *Miranda* decision before questioning an alleged abuse perpetrator, unless they are acting as an agent of the police. Thus, there should be **no suppression** of evidence on this basis in a civil proceeding and only limited suppression in a criminal trial.

Second, an alleged child abuser has no constitutional right to a jury trial in a civil proceeding—the **trier of fact** is a judge or a master rather than a jury. In most instances, judges or masters are more experienced than jurors; therefore the issues of potential jury inexperience and the requirement of a unanimous verdict are not present in these proceedings.

Finally, the **burden of proof** necessary for adjudication under these acts is either by “clear and convincing evidence” or by a “preponderance of the evidence.” Both standards of proof are significantly less demanding than proof “beyond a reasonable doubt”—the standard in all criminal prosecutions. Not only is a verdict favorable to the victim more likely in a civil proceeding, but a hearing can be held even though the defendant has already been acquitted of the crime in a criminal trial. The constitutional prohibition against double jeopardy applies only to prosecuting a defendant twice in a criminal court for the same crime.

### Protective services statutes

A second group of laws important in child abuse prosecutions are statutes available in most States that deal with “protective services.” Under these enactments, acts of commission or omission (in which a person either commits an abusive act or neglects to act to protect a child from physical or sexual abuse) must be reported to a State department of social services agency by persons who have knowledge of such acts. Once a report has been made, the social services agency is required to initiate an investigation within a specified period of time (often 24 hours) and **submit a written report** within a further specified period of time. Many States also require the social services investigator to notify the appropriate law enforcement agency and/or prosecutor if abuse is believed to have occurred.

**X-rays, photographs**

**Agents' reports**

**Psychological trauma**

Thereafter, State laws vary greatly. Many mandate that x-rays, photographs, or both, be taken of the victim immediately by the social services investigator. In some instances, these **x-rays, photographs, and agents' reports** are made available to the police; other statutes make such information available only under subpoena.

To benefit from the foregoing enactments, the investigator must be aware of the content of State laws and regulations governing the social services department. In this way, the existence of statements from victims and/or witnesses, as well as other physical evidence generated by the social services investigation, is made known. Finally, the investigator should be sensitive, in a given situation, to the possibility of using either or both court procedures and be familiar with the advantages and disadvantages of each system.

## **Child stress**

In many abuse cases, especially those involving younger victims, the most difficult task often confronting law enforcement is preparing the child for court so that he or she will be capable of testifying when called upon. **Psychological trauma** or stress emanating from numerous sources can interfere with a child's ability to verbalize the victimization, causing the child to "freeze" on the witness stand. While these sources of trauma often overlap, it might be helpful to categorize them generally so they can be addressed individually.

1. The initial trauma prompted by an act of physical violation and, in many cases, the destruction of a trust relationship, causes many children to suppress their feelings and statements. Unlike adult victims, a child victim when hurt will attempt to forget the incident, not memorize it for use at a later trial. The child is then subjected to repeated interviews with police, social workers, psychologists, psychiatrists, and prosecuting attorneys, as well as relatives and nonabusing parents, sometimes causing the child to refuse to speak further about the matter.
2. Joint interviews with other members of the multidisciplinary team and assigning prosecutors and social workers to establish familiarity tend to relieve some of the stress associated with this issue. Several States have enabled courts to statutorily limit interviews.<sup>3</sup> Also, many States have implemented other programs that provide additional support to these children.
3. Children testifying in sexual abuse trials have reported feelings of "insignificance, hopelessness, and guilt,"<sup>4</sup> due in part to a legal system that often requires child witnesses to comply with adult evidentiary standards. For example, a child's reliability and credibility will be challenged on cross-examination as though he or she were an adult witness. In reality, there is no evidence that a child's testimony is inherently unreliable or that children are more susceptible than adults to fabricating false accusations of sexual abuse.<sup>5</sup>
4. Added to the trauma of cross-examination is the courtroom atmosphere itself. The physical surroundings; the judge, jury, court personnel, and defense attorney; the spectators; and the press are unfamiliar to the child victim. The child must also become prepared for absences from school and disruption of family activities and for trial delays and continuances.<sup>6</sup> These occurrences, which should be minimized by the prosecuting team, are addressed later in this chapter.
5. One of the most traumatic sources of stress arises when the child victim confronts the abuser in court. Rearranging the physical layout of the courtroom and using mechanical intervention devices can help lessen this potential source of trauma.

**Venue**

**State or Federal law**

**Sufficient evidence**

**Report writing**

**Prosecutors**

**Emotional reactions**

While some child psychologists suggest that the courtroom process can serve as positive reinforcement and therapy for some child victims, the potential for trauma and its impact upon the child always should be considered in these cases.

## Case preparation

In the legal process, an initial consideration usually concerns the **venue** of the alleged crime. Often a complex and confusing series of events has occurred over a period of time and at various locations. Multiple venues can exist and pose legal questions that should be addressed prior to the institution of proceedings. Under any circumstance, cooperation among all jurisdictions is essential.

The reports should follow clearly and accurately a logical line of development. An investigator's reports present his or her experience, knowledge, and professionalism, and sometimes are as important as the investigation itself. Appendix C of this chapter presents report writing guidelines.

The investigator needs to have a working knowledge of the appropriate **State or Federal law** to determine what criminal statutes have been broken and which violations are proven most easily in light of individual circumstances. A complete understanding of how the prosecutor's office interprets individual definitions and sections of the criminal law and how the department of social services interprets its laws and regulations also is necessary. It should be ascertained as soon as possible whether **sufficient evidence** exists to satisfy the elements of a crime. All witness interviews, physical evidence and reports, results of medical examinations, and psychological or psychiatric evaluations should be considered before a determination is made whether formal charges should be filed.

**Report writing** and presentation of case findings must be viewed as a critical phase of the investigative process. Decisions regarding the advisability of prosecution are based quite frequently upon the accuracy, thoroughness, and clarity of these reports. As noted previously, these reports always will be scrutinized by the defense attorney and, if poorly or inaccurately written, are an effective means to destroy an investigator's credibility.

**Prosecutors** specializing in child abuse cases must be sensitive to the needs of children and the traumatizing potential of the legal system. As with law enforcement investigators, the prosecutor assigned to child abuse cases must be knowledgeable about how to interview children and what **emotional reactions** to expect from both parents and child.

## Interviewing the child

This section addresses considerations which the investigator should be aware of when interviewing a child victim that would:

1. Aid in a favorable decision of legal issues encountered at trial (for example, competency).
2. Help locate evidence that would strengthen the case at trial, based upon a knowledge of technical legal issues usually not considered by investigators (for example, hearsay exceptions or previous similar acts of abuse by the same perpetrator).

The primary purpose for interviewing the child is to find out as much as possible about the abuse. Prior to beginning the interview, however, the investigator will need to decide whether the initial meeting should be videotaped.





**Lessening child victim  
trauma**

**Reduce the number of  
victim interviews**

**Immediate reactions**

## Videotaping initial meeting

Several factors need to be considered prior to deciding whether to videotape the initial meeting with a child.

In many instances, the child initially may exhibit severe emotional distress (such as sobbing or hysteria), and the investigator will wish to preserve this emotional reaction, but not necessarily take a statement from the victim. Such a videotape would graphically demonstrate the extent to which the child is distressed by the incident, therefore increasing a juror's belief that abuse had occurred. This videotaping would be similar to a photograph taken of physical injuries to prove and preserve their existence. The videotaping of a statement itself is not necessarily required and might not be appropriate, depending on the emotional state of the child.

The videotaped conduct can be used to present to the jury, in a dramatic and effective manner, the emotional and psychological effect of the abuse upon the child. No legislation is necessary to permit the making of such a videotape; it is merely a good investigative technique.

This type of videotaping does not relieve or lessen the trauma a child encounters in the courtroom, because his or her appearance as a witness would still be necessary. However, neither does it have any of the disadvantages of the videotaped interview, which is discussed below.

## Videotaping initial statement

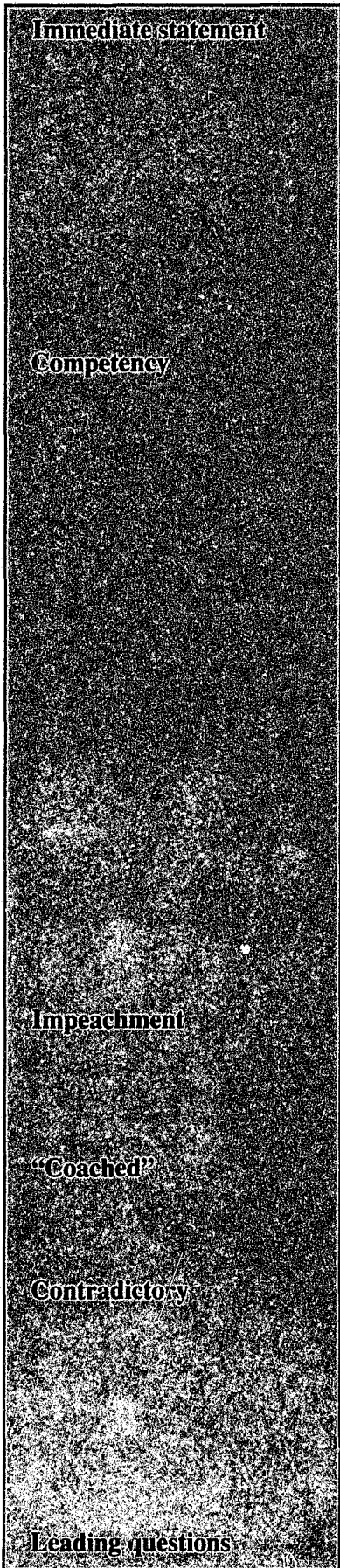
A number of police departments and district attorney offices have established rigid policies regarding the videotaping of a child's initial complaint to the police about an incident of abuse. While some agencies require videotaping in all situations and others refuse to videotape the child's statements under any circumstance, it would appear advisable to balance the advantages of videotaping against its disadvantages on a case-by-case basis before rendering a decision.

A first question to answer is: "How can I use a videotaped statement?" Videotapes cannot be used in the judicial process unless a statute or rule of court permits their introduction. Thus, if a State law or court rule allows the use of a videotaped statement at a preliminary hearing, grand jury proceeding, civil abuse adjudication, or custody hearing, without requiring the child's presence, videotaping the initial statement could prove advantageous.

Such a procedure would excuse the child's presence at a particular proceeding, thereby **lessening child victim trauma** and negating cross-examination and the possibility of conflicting testimony, which could be used for impeachment purposes by the defense at a subsequent criminal trial.

Another potential advantage to the State is that a videotaped statement would **reduce the number of victim interviews**. A single videotape could be used by police, social services investigators, and other interested parties to obtain information necessary for both prosecuting the case and for treating the child's victimization. Such a procedure undoubtedly would lessen the trauma of repeated interviews and also would reduce the possibility of conflicting testimony from the child victim.

Videotaping also preserves the child's most **immediate reactions** to the incident, enables experts to evaluate psychological damage and develop a treatment plan, and permits the prosecuting attorney to determine whether a child is competent to testify. These claimed advantages, however, are limited.



First, the child's most **immediate statement** is valuable only if it is accurate, clear, complete, and obtained in such a way that it projects in a positive manner in court. If the child is so upset that this is not likely to occur, videotape only the child's reactions as discussed above, not the interview itself.

Second, it is doubtful that the initial videotaped interview, which is conducted primarily for law enforcement purposes, would provide a psychiatrist with the data necessary to support treatment. It also should be noted that in many jurisdictions psychological or psychiatric interviews of a child victim are privileged communications and therefore confidential and not permissible for cross-examination purposes at trial. The decision in *Commonwealth v. Ritchie, supra*, weakens this argument and suggests that such interviews might be discoverable by defense counsel.

Third, while **competency** must be determined as early as possible and should be considered by the investigator at the initial interview, it need not be recorded by videotape. The investigator's personal observations and determinations should be communicated verbally to the prosecutor; otherwise, there is a risk of recording possible incompetency of the victim. Furthermore, as the child matures, his or her competency could improve prior to the trial or hearing. *It is better not to videotape when a possibility exists that the tape could later prove damaging when viewed by a jury.*

Three States—Texas, Louisiana, and Kentucky—have drafted laws that do permit a child's videotaped initial statement to be introduced as substantive evidence at a criminal trial. Admissibility, however, is dependent upon the videotaped questioning being conducted by a nonattorney and upon both the interviewer and child being available at trial for cross-examination. Thus, there is little benefit to be obtained from the videotaping because the potential for courtroom trauma in the child has not been reduced. Further, these statutes have been challenged in court, and their constitutionality is extremely doubtful.

One disadvantage that must be considered in videotaping a child's initial statement is whether the child is willing and capable of speaking about the incident. It is imperative that the child victim accurately and thoroughly describe the abusive incident. To appear unwilling to speak, to tell only a small part of the incident, or to transpose guilt to a "fictional" person often results in a later expansion or retraction by the child victim. Such an occurrence could prove devastating to the State's case at trial because the defense attorney will have the videotape to use for **impeachment** purposes.

Additionally, several interviews usually are necessary before a child is willing to discuss the incident fully. If the first statement is videotaped and pertinent information is withheld, the child's later detailed description of the incident would enable a defense attorney to argue that the child was "**coached.**" If the jury believes this expanded testimony is the product of a prosecutor's creativity rather than the child's memory, it could impact its finding in the case.

An even more damaging situation arises where the child's first statement is videotaped and the child's story at trial is **contradictory**. In this situation the defense attorney does not have to convince the jury of prosecutorial "coaching," but rather that the victim was lying, either when the first statement was taken or later at trial. Unless an expert witness can convince the jury that this conduct is a common practice among abused children, the investigator will have created the reasonable doubt necessary for acquittal by having elicited and preserved these inconsistencies.

A videotape preserves not just the child's answers, but also the interviewer's questions and the manner in which they were asked. The interviewer should be experienced because if it appears that **leading questions** have been used

**Confessions and guilty pleas**

**Defendant**

**Empty courtroom**

**Modify the courtroom**

during the videotaped interview or answers have been “suggested” by the interviewer, the tape would be used by the defense attorney to discredit information obtained from the child.

Recent reports suggest that a significant number of **confessions and guilty pleas** result when the child’s videotaped interview is shown to the defendant or his or her attorney. This is an additional factor to be considered, but it should not be a controlling one. It is a potential result, but only if the original videotaping was fair and appropriately conducted, and the child victim was truthful and thorough in his or her statement. If the defense attorney views a believable, independent videotaped statement from a competent child, the chances of persuading the defendant to enter a guilty plea improve. If the interview is poor, the defendant will have an incentive to go to trial, with a better chance of being acquitted.

The issue of “prompting” a confession presents an additional consideration for investigators; that is, the mental attitude of the **defendant**. If the defendant is experiencing much guilt and remorse, then showing him or her the videotaped interview could prompt a confession. Naturally, a confession would probably result in a guilty plea, thus saving the child from the trauma of testifying. An abusive family member or a person who committed the abuse under stress, alcohol, or drugs might be such a defendant. On the other hand, if the defendant is a pedophile or an individual who has no apparent remorse or guilt, then viewing the videotape probably would not increase the likelihood of a confession being elicited from that defendant.

In conclusion, if the primary reason for videotaping an interview with the child victim is to obtain a confession from the defendant, the defendant’s mental attitude must be considered. If he or she does not seem remorseful or guilt ridden, the interview should not be taped only for the purpose of getting a confession.

## **Preparing the child for court**

Preparing a child witness for a court appearance is quite different from preparing an adult witness. With an adult, the primary focus is upon reviewing the testimony, explaining any inconsistencies in that testimony, and discussing the manner of testifying. However, the effectiveness of a child witness is related directly to the comfort and security the witness experiences, because these factors affect the amount of trauma the child may experience in the courtroom setting. In preparing the child, the investigator or prosecutor must demystify the courtroom to promote the child’s feelings of comfort if the State expects him or her to speak freely under oath. There are several relatively simple acts which can facilitate this.<sup>7</sup>

First, the child and his or her family or representative should be familiarized with the trial setting by taking them into the **empty courtroom** in which the trial is to be held. The trial process and the function of the judge, jury, and attorneys should be explained, and they should be shown where the family or other personal representative of the child will be located, as well as court personnel and other participants.

If an increase in trauma would not result, the child’s basic testimony should be reviewed from the witness stand. Depending on the age of the child, it might be advisable for the child to attend another trial beforehand. The investigator should arrange to have the child and his or her parents meet the judge assigned to hear the case, other individuals serving in the courtroom, and members of the prosecutor’s office with whom they might interact.

Another method which can help lessen courtroom trauma is to ask the judge to **modify the courtroom** when the child is scheduled to testify. Smaller chairs could be used, the witness stand could be replaced by a table from

**Separate area**

**Witness advocacy programs**

**Scheduled**

**No continuances**

**Child's normal daily schedule**

**Support person**

which the child could testify, the judge could wear a suit rather than a robe, and he or she could sit on a level with the witness table rather than on the bench, which is higher and more intimidating.

On the day the child is scheduled to testify, the child could be placed "on call"; that is, he or she could remain at home or in a familiar setting until just before his or her testimony is to be taken. The child should not be present in the courthouse for several days while the trial is being held.

If "on call" status is impossible, there should be a **separate area**, apart from the courtroom, available for the child and his or her family or personal representative—a room where the child can play, eat, and nap, protected from regular courthouse activity—which would be less emotionally upsetting.

In many States, either statutes or prosecutors have established **witness advocacy programs** to aid and comfort witnesses. These are beneficial especially to young children. The child and his or her family or representative should be introduced as early as possible in the proceeding to the person in charge of this program. Some jurisdictions have developed coloring books and brochures for parents and children describing the courtroom process. Often, no one in the family has been involved in the legal system; its terms, procedures, and activities are a mystery.

The trial itself should be **scheduled** as early in the proceeding as possible; the judge, prosecutor, or court administrator can be requested to expedite the trial or hearing. Only in rare circumstances should the trial or hearing be delayed for 6 months, as in the regular scheduling process in most criminal courts. Optimally, once the trial has been scheduled, the court should grant **no continuances** unless it is absolutely necessary. A child expends tremendous energy in preparing for trial, and the potential for trauma increases greatly just prior to court. If the child has to get psychologically and emotionally prepared for trial several times, it is highly likely that he or she will reach a point of total frustration and refuse to testify. Defense attorneys are aware of this likelihood and intentionally delay and continue trials in an effort to cause the State to lose its key witness.

Finally, the prosecutor should plan the day the child is to testify in conjunction with the **child's normal daily schedule**. If the child usually naps in the early morning or early afternoon, those hours should be avoided.

If a victim-witness advocacy or guardian ad litem program is not available, a **support person** will be necessary for the child, preferably someone who will not be called to testify as a material witness. For example, if the child's mother is a potential witness for either party, the defense might obtain a sequestration order removing the mother from the courtroom until her testimony is to be given. If this occurred, the child would lose his or her primary support person during his or her testimony and might not cooperate. If the mother is testifying for the State, a prosecutor probably can avoid this situation by having the mother testify first. However, if the defense subpoenas the mother, this problem becomes more acute. In those cases, a support person with whom the child can relate should be selected, but that person should not be a potential witness. Generally, a grandparent, adult friend, or neighbor is used for this purpose. The person best qualified to serve in this capacity should be identified as soon as possible in the investigation.

## **Voir dire**

Jury verdicts in child abuse cases are extremely unpredictable and often unsatisfactory to the victim. The child victim's lack of maturity and vulnerability during cross-examination may damage his or her credibility.

## Jury selection

## Voir dire

“Competency”

“Credibility”

**Jury selection** is always a matter of extreme importance. One faulty selection could result in a hung jury and require a retrial. Moreover, older jurors, usually acceptable to the State, may not be a good choice in a child abuse trial. These individuals may have outdated ideas, attitudes, or prejudices about the family and be unaware of the prevalence of child victimization.

Most prosecutors favor younger jurors who have just raised a family or are in the process of doing so. Many sociologists suggest that a younger, masculine male who is raising children is the best jury candidate, theorizing that a take-charge male views the abusive acts as repulsive and the child as needing protection.<sup>8</sup> However, young mothers also are good candidates for jurors in child abuse cases.

**Voir dire** is the pretrial inquiry into the qualifications and propriety of individuals to be selected as jurors. Several voir dire questions, designed both to evaluate and educate potential jurors, are suggested below:

1. Do you tend to question the credibility of small children; do you think children, in general, are less credible than adults?
2. Do you enjoy the company of children?
3. Do you believe that it would be impossible for you to find a person guilty in a case where it is that person's word against another's?
4. Do you have any hearing problems?
5. This child is going to describe some disturbing events. Do you think, unpleasant as it may be, that you will be able to listen to what he or she has to say?
6. Some people view molestation of children within the family as a family affair and one that the government should leave within the family. Do you believe that it is proper for the police and the courts to interfere in this family?
7. Penalty plays no part in jury deliberations. The final disposition of this case will be in the hands of the judge. Are you confident that you would leave any thoughts of penalty or treatment out of your deliberations?
8. The child in this case may use words like “dick” and “peter.” Will you be able to listen to that kind of language without prejudice to the child?
9. There are some people who simply refuse to recognize that children are sexually molested. Do you think that child sexual abuse occurs in your community?

## Competency

“Competency” and “credibility” are two closely related concepts that must be considered by any law enforcement professional during an investigation. Most police assess the credibility of each and every potential witness in each case, both for investigative and trial purposes. “Do I believe this person?” is always a question foremost in an investigator's mind; competency usually is not paramount.

“Competency” has been defined as those personal qualifications that render a witness legally able and capable of presenting testimony in a court. It arises prior to presenting the witness' testimony to the jury and is determined, in most States, by the judge.<sup>9</sup> “Credibility,” on the other hand, presumes competency and is that quality that renders the evidence of a witness worthy of belief and the degree of credit to be given this testimony. This determination is solely the function of the jury.<sup>10</sup>

## Rule 601

Because victims of child abuse are often young, competency challenges are raised routinely when a child's testimony is offered in court. If found incompetent, the witness is precluded from testifying, thereby terminating the prosecution unless other evidence of the abuse exists. Accordingly, competency must be determined as early as possible in the investigation to prepare and evaluate the case. The initial interview usually presents this opportunity and the investigator must have the awareness and knowledge necessary to address the issue.

While specific legislation varies with individual States, the manner of approaching the issue of competency falls under two general theories. The proposal favored by most child advocates, prosecutors, and the American Bar Association, urges the adoption of laws or court rules similar to **Rule 601** of the *Federal Rules of Evidence*. This rule provides "...every person is competent to be a witness except as otherwise provided in these rules." Because age is not mentioned as an exception, a child's competency on that basis is presumed to exist with a prior showing of qualification before a judge.

The impact of this provision is to replace the judicial determination of competency with a jury determination of credibility. Thus the factors of perception, memory, and narrative ability, while still considered, are now a part of the determination of credibility and not competency. The result is that automatic competency hearings no longer are held.

To the contrary, a competency hearing is ordered only after a defendant has made a showing of a particular child's incompetency. The standard by which the child's competency is to be judged usually is whether the testimony has at least "minimum credibility." While both the burden of proof and the accompanying legal standards have been modified in favor of children, the primary factors considered by the jury in determining credibility are similar to those considered by the judge in States still governed by the common law concept of competency. Currently, some 20 States have adopted this rule.<sup>11</sup>

## Common law

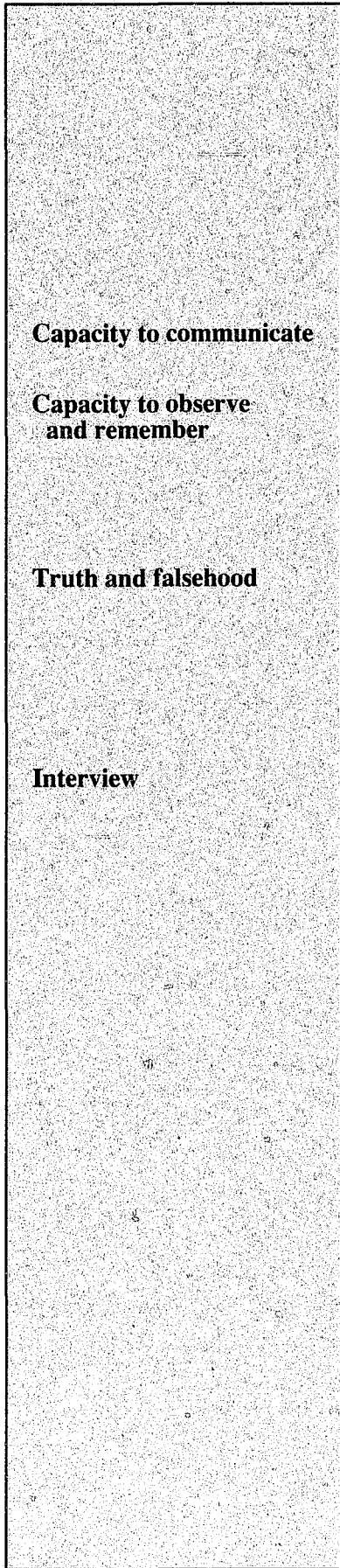
The prevailing rule in those States accepting the **common law** approach to competency is that competency is presumed when the witness is older than a specific age (often as young as 10 years). Only a showing of incompetency by the person asserting that condition will overcome this presumption. The burden of proof is therefore on the defendant in abuse cases where the victim has reached the stated age of competency.

When the child victim is younger than the specified age, the presumption of competency does not operate and the child has the burden of proving his or her competency. In most States, no particular age has been held to be conclusive of incompetency, and the issue is decided by the trial judge after an inquiry as to the child's mental maturity. The younger the victim, the more difficult it is to establish competency. While judicial discretion is not absolute, it will not be reversed absent a flagrant abuse of that discretion.

In earlier common law, the ability of a young child to understand the obligation of the oath was the pivotal consideration, because otherwise the child might be presenting unsworn testimony. Today, however, competency of the witness is not determined solely upon the basis of whether the child's vocabulary includes an understanding of the term "oath." Rather, there are **three legal requirements** for determining the competency of a child to testify:

## Three legal requirements

1. Present understanding of the difference between truth and falsity and conscious duty to speak the truth.
2. Mental capacity sufficient to observe the occurrence itself and the capacity to retain an independent recollection of those observations.



**Capacity to communicate**

**Capacity to observe and remember**

**Truth and falsehood**

**Interview**

3. Capacity to communicate this event to others, including both an ability to understand questions and to frame intelligent answers to said questions.<sup>12</sup>

The last two qualifications usually are easily answered when a witness of more than 6 years of age is called to testify on recent uncomplicated events. Further, many researchers believe there is little correlation between age and honesty, and even young children generally possess the basic skills necessary to observe, remember, and communicate information about events they witness.

The third qualification might be virtually impossible for a child under 4 years of age who is nonverbal or who has limited verbal skills. However, the use of anatomical dolls can expand the child's **capacity to communicate** by using the dolls to demonstrate what has occurred.

An example of incompetency based upon the second factor, the **capacity to observe and remember**, occurs when a witness is confronted with a complicated and confusing situation, rather than a simple one. An incident involving several varied sexual assaults, by different people, would be much more difficult to remember than a single sexual act performed by only one person.

It is the first factor, knowledge of the difference between **truth and falsehood** and a moral responsibility to speak the truth, that is usually the basis for defense counsel's challenge to the witness who is testifying. An accurate questioning of the child at the initial interview will alert the State as to whether this issue could be raised successfully at trial. It is advisable that the investigator not record questions and answers relating to competency, but merely make a mental note of them for the prosecutor.

The following is an example of an efficient but simple **interview** with a child to determine incompetency:

Q. How old are you?

A. Seven.

Q. Do you go to school?

A. Yes.

Q. What grade are you in?

A. Second.

Q. Do you go to church or Sunday school?

A. Yes.

Q. Do you know what this book is?

A. The Bible.

Q. If you put your hand on the Bible and the judge were to ask you, "Do you swear to tell the truth?" do you understand what that would mean?

A. I would be promising to tell the truth.

Q. Do you know the difference between the truth and a lie?

A. Yes.

Q. If I said my jacket was red, would that be the truth or a lie (jacket is black)?

A. A lie.

Q. If I said my jacket was black, would that be the truth or a lie?

A. The truth.

Q. Is it right or wrong to tell a lie?

A. Wrong.

Q. Is it right or wrong to tell the truth?

A. Right.

Q. What happens if you tell a lie?

A. I get punished by my parents.

Q. Suppose you put your hand on the Bible and promised that you would tell the truth, but then you didn't; what would happen?

A. I would be punished.

Q. Suppose you lied in court; what do you think would happen?

A. The judge could send me to jail.

Q. Do you know why you are going to court?

A. To tell what Joe did to me.

Q. Do you remember what Joe did to you?

A. Yes.

Q. Do you remember what you received as a birthday present last year?

A. Yes, I got a blue shirt, and a first baseman's mitt.

Q. When you go to court, will you promise to tell the truth about what Joe did to you?

A. Yes.

In the above answers, the child clearly demonstrated all the prerequisites for competency, including that he or she knew what the "truth" meant, that he or she had an obligation to tell the truth, and that he or she would be punished for lying. However, the requirement of awareness of the possibility of punishment in response to a falsehood is satisfied by significantly less.

In the State of Pennsylvania, the court permitted the child's testimony in the following instances: *Commonwealth v. Riley*, 326 A.2d. 384 (1974) (a 6-year-old witness stated that he would "go to the devil" if he lied); *Commonwealth v. Payton*, 392 A.2d. 723 (1978) (a 6-year-old witness testified that her mother would punish her if she told a lie); *Commonwealth v. Mangello*, 378 A.2d. 897 (1977) (a 6-year-old stated that people who tell lies "go to jail"). Familiarize yourself with the case law existing in your own State so that you know the judicial requirements for competency.

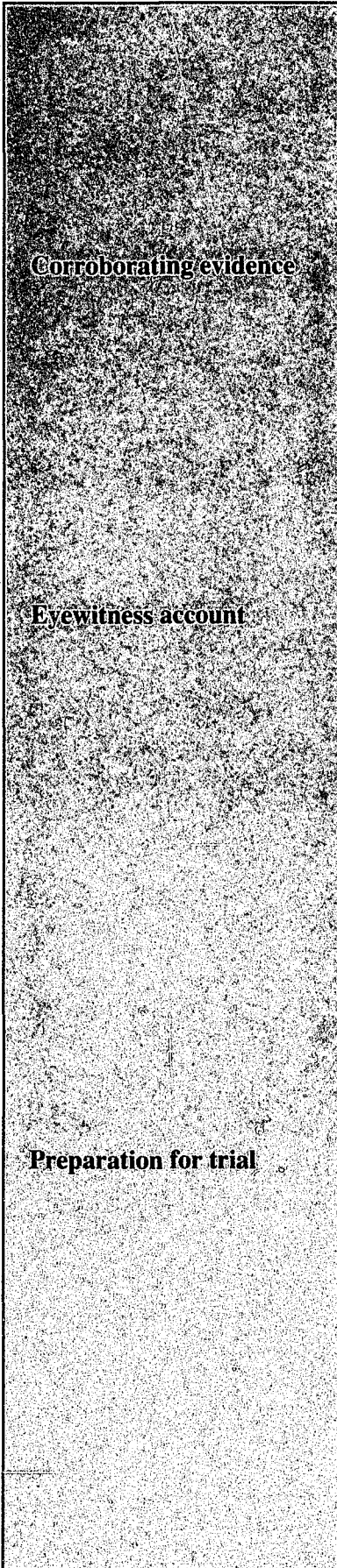
While interviewing and preparing the child for court, it is advisable for the investigator to **explain to him or her** the difference between truth and falsity or the importance of an oath and to tell the child the consequences of lying in court.

One final discussion involves the filing of pretrial motions by defense attorneys to compel the child to undergo psychological or psychiatric examination to determine his or her competency. These motions always should be opposed by the prosecution. A trial judge has no obligation to order an investigation of competency unless he or she cannot make this determination from observing and questioning the child.<sup>13</sup> While such an examination may benefit the court where a competency challenge is based upon insanity, competency in the context of a child abuse case is usually a legal, not a medical, issue. Often the trauma caused by these types of **psychological or psychiatric examinations** is as devastating to the child as a courtroom appearance.

**Explain to him or her**

**Psychological or  
psychiatric examinations**





## Corroboration

Acts of child abuse, especially sexual abuse, are most often committed in secret—rarely is there an independent eyewitness to the act. To the contrary, the perpetrator waits until the child is alone before acting, and then depends upon his or her adult status, superior communication skills, and the victim's immaturity and trauma to forestall conviction. Thus, where criminal allegations are based upon the unsupported testimony of a child victim, the probability of conviction is severely decreased.

The admission of **corroborating evidence** often is necessary to support a child's credibility and successfully prosecute abuse allegations. Several States have demonstrated skepticism by promulgating statutes or court rules that forbid a jury to even consider abuse allegations unless some other form of corroborating evidence is present.

Legal scholars working to improve the judicial process, argue on behalf of child victims that such a corroboration rule is highly undesirable and unnecessary—that they are based upon a series of myths and misconceptions surrounding the issue of child sexual abuse, including the supposed lack of credibility of child witnesses, misunderstanding the importance of behavioral indicators, and delayed disclosure of the incident.<sup>14</sup>

The most obvious and effective form of corroboration is a confession from the accused, or another **eyewitness account** of the incident. These types of corroboration are so convincing that they often result in a guilty plea to the criminal charges.<sup>15</sup>

Other forms of corroboration, although not as effective, are still often persuasive in the jury process. The most common examples of such evidence include medical or scientific findings, psychological or psychiatric testimony concerning behavioral indicators, various hearsay exceptions, and prior similar acts of abuse committed by the same perpetrator.

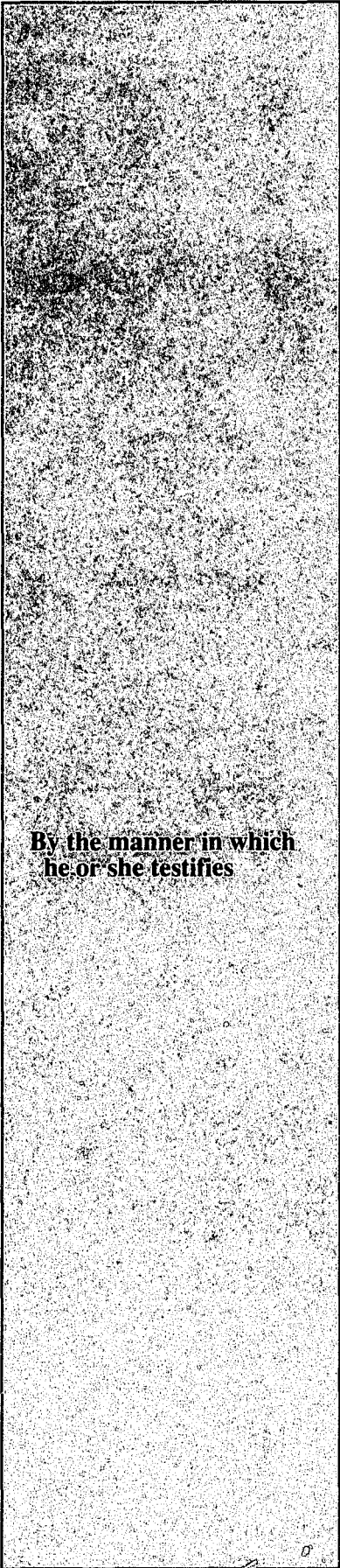
Corroborating evidence serves other purposes as well. In some cases it overcomes societal myths held by some jurors concerning the sexual abuse of children. In other instances, it is used to avoid directed verdicts of acquittal in those jurisdictions where corroboration is a prerequisite for conviction. Because corroboration by eyewitnesses or confessions by perpetrators seldom are found, the investigator must use these other types of evidence to build a winnable case.

## Expert witnesses

Police and social services investigators are trained thoroughly in locating and interviewing fact witnesses in **preparation for trial**. Most fact witnesses are persons who have perceived, through a sensory perception, some fact relevant to the presentation of the case. This information primarily is direct and personal in nature and is never based upon an opinion or conclusion. It is the function of the jury, not witnesses, to make inferences, form opinions, and draw conclusions from the evidence.

An exception to this rule is the testimony of experts. The expert is permitted to draw inferences and render opinions from facts introduced at trial. The reason for this is that a jury would be unable to draw such opinions because the expertise needed to support the opinion is beyond the knowledge of the average juror. To qualify as an expert, two elements must be present:

1. The subject of the opinion must be so distinctively related to a science, profession, business, or occupation as to be beyond the knowledge of the average layperson.



**By the manner in which  
he or she testifies**

2. The witness must have special skill, knowledge, or experience in that field which would make it probable that his or her opinion would aid the jury in its search for the truth.<sup>16</sup>

While most investigators are familiar with the fingerprint analyst, chemist, or forensic pathologist used in many criminal prosecutions, they are not as familiar with the expertise of the psychologist, psychiatrist, or clinical social worker—all of whom might present convincing testimony in an abuse case. They are only slightly more familiar with the importance of expert medical testimony in the same abuse area. Often, it is this type of expert testimony in the child abuse prosecution which not only confirms the credibility of the victim, but is dispositive proof of guilt. The possible positive contributions of these expert witness are as follows:

1. Providing greater reliability and validity to an interpretation of the facts to assist the trier of fact.
2. Presenting opinions to help the trier of fact resolve issues in the case, including the issue of innocence or guilt.
3. Presenting objective testimony such as observations of a victim's injuries, or an enumeration of the behavioral characteristics of the sexually abused child.
4. Assisting the prosecutor to organize the case.<sup>17</sup>

It is the prosecutor's duty to speak with an expert witness prior to trial to learn his or her qualifications and the key issues and opinions relating to his or her area of expertise.<sup>18</sup> The investigator's duty, on the other hand, is to determine as early as possible if an expert is already involved with the child victim, the expert's potential contribution at trial, and whether expert testimony is necessary.

The expert witness in a child abuse case often can have a vital impact upon the case **by the manner in which he or she testifies**. The following advice is offered to expert witnesses to improve their courtroom demeanor.

1. Always present your experience, education, memberships, and other qualifications for the jury to hear; never stipulate to an expert's credentials, unless the credentials are not impressive.
2. When testifying, use language the average person will understand; do not try to overwhelm the judge or jury with your knowledge.
3. On direct examination, avoid the temptation to testify in too much detail; be specific only in the area of primary importance to the case.
4. On cross-examination, listen to the precise question asked and be aware of the context in which it is asked. Answer only the question asked, if you can.
5. If a poorly worded question would confuse the jury or yourself, ask the attorney to rephrase the question and, if necessary, tell him why.
6. If you answer a question in a manner which seems contrary to your position, but you have a reasonable explanation or distinction to make, then explain.
7. Never become arrogant or emotional while on the witness stand; maintain an appearance of impartiality.
8. Talk directly to the jury or judge and maintain eye contact.

9. When asked about your fee, explain the rate was established prior to your doing any work, and the projected fee was for time spent in reviewing records, analyzing facts and arriving at conclusions, and traveling to and from court.<sup>19</sup>

### Medical or scientific testimony

Medical and scientific evidence, including the observations of medical personnel made during a **medical examination**, are critical to the prosecution of child abuse cases for two reasons. First, the observations themselves may corroborate the testimony of the child victim. Second, based upon his or her observations, an expert may be able to render an opinion to a reasonable degree of medical certainty on the cause of an injury.

In **physical abuse cases**, burns, lacerations, and other injuries might corroborate the child's testimony and also serve as a basis for an expert's opinion on the cause of injury. Likewise in **sexual abuse cases**, a doctor might observe vaginal and/or rectal lacerations, irritation, or other damage that could corroborate the abuse allegations and permit an expert to opine on the cause of injury.

*Physical abuse investigations.* Previous chapters have discussed various types of physical evidence sometimes present in child abuse cases, its gathering, and preservation. Even though such evidence often is absent, the investigator should pursue this line of inquiry for two reasons. First, such evidence graphically corroborates the victim's testimony and is extremely persuasive of guilt. Second, at trial it will impress the jury with the thoroughness and professionalism of the investigation and perhaps permit experts to explain that such evidence is seldom available.

Not all medical personnel have the training or understanding necessary to evaluate and treat children, nor do they possess the temperament to undergo the rigors of cross-examination at trial. Therefore, investigators must use extreme care and caution when selecting medical experts.

In physical abuse cases, the primary responsibility of the medical professional (from a prosecutorial viewpoint) is to locate, identify, and preserve all signs of injury incurred by the child and testify as to their significance at trial. The effectiveness of demonstrative evidence must be stressed. Color photographs from a 35-millimeter camera should be taken of all injuries, a color chart prepared to demonstrate the ages of bruises, and a ruler or scale employed in the photographs to show the dimensions of the injury. Traumatograms also may be used to chart the extent and location of injuries on the body.

An accurate consideration of the child's medical history and a meticulous search for prior medical injuries and other observable symptoms might enable an appropriate expert to discover evidence of "battered child syndrome." This term is used to describe a number of observable symptoms which can be used to prove that current injuries sustained by the child were intentional rather than accidental in nature.<sup>20</sup> A few experts can recount this prior medical history and then render an opinion as to whether the child's current injuries were intentionally caused. *State v. Moyer*, 151 Arizona 253, 727 P.2d. 31 (1986); *State v. Ahearn*, 307 N.C. 584, 300 S.E.2d. 689 (1983).

To be effective, medical personnel must be aware of the legal significance of the "chain of custody" of evidence, the necessity for security of physical samples, and the importance of report clarity and thoroughness. At trial these witnesses will be subjected to the same rigorous cross-examination as law enforcement personnel.

**Medical examination**

**Physical abuse cases**

**Sexual abuse cases**

## Hearsay rule

## Child's conduct

## "Behavioral indicators"

Finally, these experts must be trained to encourage the child victim to speak without the use of leading questions, and to record accurately and precisely his or her responding words and phrases. Further, the child's general appearance and emotional state must be noted. All of this might be helpful later in determining whether the child's comments can be introduced as substantive evidence at trial, because they constitute an exception to the **hearsay rule**. This concept will be addressed in greater detail hereinafter.

*Sexual abuse investigations.* The medical concerns present in the physical abuse investigation apply to medical professionals in sexual abuse cases. Sexual abuse cases require, if anything, greater diligence and care because corroboration is more critical to this type of case, and the traumatization resulting from sexual abuse is usually more severe.

In addition, there are several other indicia of corroboration available in child abuse situations that are not present in the physical abuse situations. For example, a child victim might on occasion contract sexually transmissible diseases or conditions from the perpetrator. In young children, these diseases or conditions are often indicative of sexual abuse. Gonorrhea, syphilis, herpes, and venereal warts are not common among younger children and are often transmitted by sexual intercourse. A recent study from Mount Sinai Hospital Medical Center in New York and Rush Medical Center in Chicago has advanced an opinion that chlamydia trachomatis found in a child under 13 years of age can be contracted only by sexual contact. (See *Child Protection Report*, Vol. XIII, No. 8, April 17, 1987).

There also have been several joint medical-scientific inventions and studies that have made the detection of abuse more observable. The ultraviolet Wood's Lamp has uncovered dried semen stains on clothing and bodies and detected even subtle contusions and marks of injury. In Maryland, doctors report that toluidine blue dye has been used to detect even superficial posterior fourchette lacerations which, in young children, are highly suggestive of sexual abuse.<sup>21</sup>

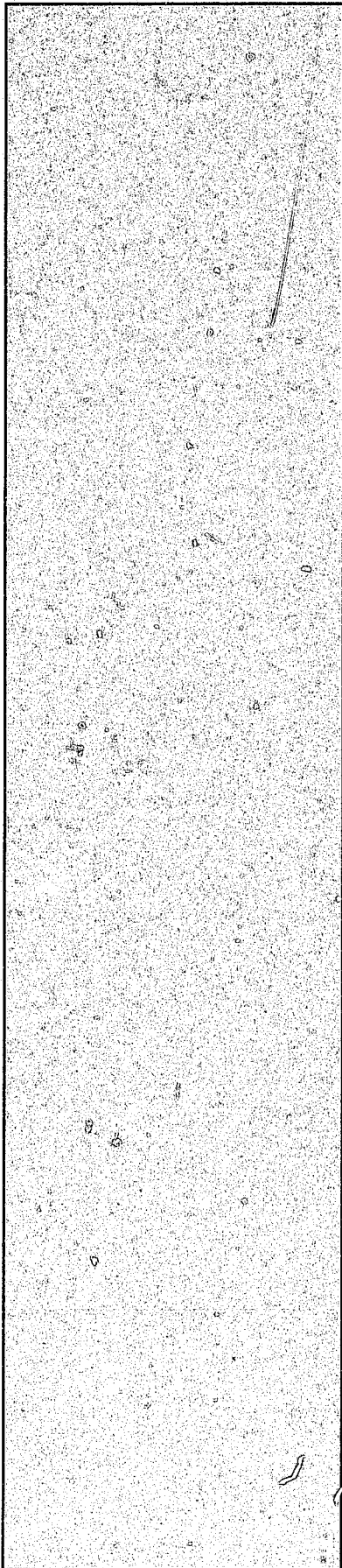
Finally the use of "rape kits" and the presence or absence of the acid phosphatase enzyme, P30, or genetic enzyme markers in bodily fluids all have made the act of sexual intercourse more detectable. While evidence of intercourse never answers the question of whether a teenager consented, it would be an effective corroborative tool if applied to a preschool child.

## Psychological and psychiatric testimony

In sexual abuse cases, the testimony of psychologists, psychiatrists, and licensed social workers is receiving increased attention at trial. Psychological experts recently have found that a **child's conduct** often undergoes identifiable behavioral changes as a result of experiencing sexual abuse or continual physical abuse.

"Sexually abused child syndrome," "incest trauma," "battered child syndrome," and "rape trauma" are psychological terms assigned to personality and behavioral changes that are experienced by many victims of physical or sexual abuse. Many children victimized by abuse exhibit noticeable, sometimes dramatic, changes in their behavioral patterns. This change in conduct has been studied and found to contain individual "**behavioral indicators**."

In many instances, the number of behavior patterns affected or the degree of change in a single characteristic can enable an expert to conclude that these behavioral alterations could be attributable to, or are consistent with, prior physical or sexual abuse. It is the confusion and anxiety of the child victim that causes these behavioral changes, which, when accompanied by other evidence, can corroborate an underlying allegation of abuse.



The most common behavioral indicators of sexual abuse are:

1. *Age-inappropriate sexual knowledge.* A young child's graphic simulation of sexual conduct or his or her verbal description of sexual results is a significant indicator of sexual abuse.
2. *Age-inappropriate sexual behavior.* When a child has been sexually abused, he or she may share new-found knowledge with playmates or aggressively force younger children to submit to the same acts to which he or she had been subjected.

Suspicious indicators of sexual and/or physical abuse often include:

1. *Aggressive behavior and incorrigibility.* The commission of crime, prostitution, or acts of ungovernability is often characteristic of a child whose self-esteem has been destroyed by an abusive family situation.
2. *Unwarranted fears.* Children sometimes become fearful of persons with whom they are familiar or of situations that are known, without an apparent reason.
3. *Self-destruction.* The child might make himself or herself less attractive to avoid the abuser's advances or inflict self-punishment because of feelings of guilt.
4. *Submissiveness.* Children who have been intimidated or punished into compliance often are submissive and passive in other areas of their life.
5. *School conduct.* A sudden, unexplained decrease in scholastic performance, decrease in activity involvement, listless behavior, abrupt changes in personal relationships, or unexplained hostility might indicate an abusive relationship.
6. *Regressive behavior.* A child's regression to thumbsucking or bedwetting or experiencing nightmares may signal an abusive situation.

The introduction and explanation of behavioral indicators at trial has been rejected by a few courts on the theory that alterations in behavior are common to victims of abuse and are within the knowledge and understanding of the average juror. Accordingly, these courts believe that an expert's testimony is not only irrelevant but, if permitted, would usurp the function of the jury.<sup>22</sup>

The majority of our courts, however, believe that the dynamics of child abuse are unique and not within the common knowledge of the jury. They permit an examination of the victim's behavior before and after the alleged abuse occurred and allow an expert to explain the dynamics of child abuse as manifested by behavioral indicators. It is then for the jury to determine whether it believes the witnesses, and if so, whether the behavioral indicators corroborate the allegation of abuse.<sup>23</sup>

Courts that permit behavioral indicator testimony are further divided on the issue of experts opining in a matter at trial on whether an incident of abuse did occur. If such an opinion could be made to a reasonable degree of psychological or psychiatric certainty, the expert should be permitted to opine on whether abuse had been inflicted. Allowing such testimony does not detract from the province of the jury, but rather enhances it, because the jury can believe or disbelieve all or part of the testimony of witnesses.

Courts are generally careful, however, to distinguish between opinions regarding the occurrence or nonoccurrence of abuse, based upon behavioral indicators, and opinions concerning whether the victim, or any other witness, has told the truth. To comment upon the veracity of a witness would indeed usurp the jury function and allow an expert to determine credibility of witnesses.<sup>24</sup>

## Rebuttal testimony

Expert testimony might also have great significance in the success of a prosecution where it is offered as **rebuttal testimony** to explain a child victim's apparent lack of credibility.<sup>25</sup> Among the factors considered by the jury in determining credibility are the demeanor of the witness in court, including any reluctance or hesitancy to testify, and whether the witness' current testimony is consistent with his or her previous statements.

If the child's courtroom testimony is contradictory or a recantation of prior statements, if the testimony is more detailed than prior information given to law enforcement officials, or if the witness seems reluctant to testify, juries may reject the witness as being untruthful. Such a conclusion is based upon the belief that a witness has his or her best recollection of the event at the time closest to the incident, and understands the importance of giving as accurate and detailed a statement as possible to facilitate the arrest of the perpetrator.

For reasons noted previously involving the effects of trauma on a child victim, the above rationalization is not necessarily valid in a child abuse situation. The child victim often is reluctant to recall or discuss the event in as much detail immediately after the incident as he or she would be at a later point in time, or the child might make false statements denying the incident occurred, to escape discussing the matter at all. Children tend to speak fully and openly only when they have confidence in the person with whom they are communicating. This confidence-building process often takes several meetings.

A psychological expert could explain to a jury the commonality of such conduct in child abuse cases, that this type of conduct is caused by psychological considerations, and that it is not indicative of fabrication by the witness. Such expert testimony could negate any defense argument that the child is being untruthful.<sup>26</sup>

## Hearsay

Child victims are increasingly making prompt complaints of physical or sexual assault to a parent, relative, friend, police officer, or medical person. It is important that an investigator identify, locate, and interview the child and accurately record what he or she said. Although these statements are hearsay, they might be introduced as substantive evidence at trial by the person to whom the statement was made, even though the child is absent. To do this, the statements would have to constitute an exception to the hearsay rule.

Hearsay is testimony introduced in court of a statement made out of court by a third party, which is offered to prove the truth of the matter asserted and thereby depends upon the credibility of the absent out-of-court party.

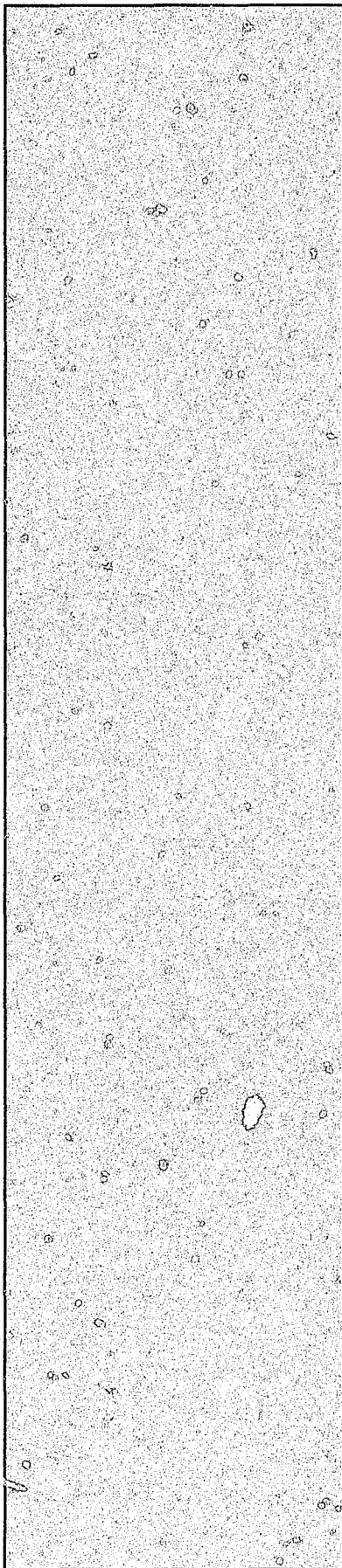
Early objections to the admission of this type of evidence centered upon the declarant's not being under oath when the statement was given and the failure of the defendant and the jury to be able to confront the declarant at trial.

The primary modern reason for excluding hearsay is the lack of opportunity for the defendant to **cross-examine** the absent declarant, thereby denying the jury the opportunity to assess his or her credibility.

From the inception of the hearsay rule, however, the courts created exceptions to the rule when outside circumstances established the reliability of an out-of-court statement. These exceptions permit the introduction of out-of-court statements at trial to prove the truth of the facts stated. The admissibility of such a statement depends upon a variety of factors. However, the basis most commonly found in child abuse situations concerns the **res gestae** exception to the hearsay rule. *Res gestae* allows a third party to testify as to

## Cross-examine

## Res gestae



a child's statement, and the statement can be considered as substantive evidence even though the child is either not present at trial, or if present, has been found "unavailable" to testify or has been declared incompetent because of his or her youthfulness.

Res gestae is actually a generic term encompassing a number of distinct exceptions to the hearsay rule, which should be of great interest to investigators of child abuse—present bodily condition, present mental state, statements of symptomology to physicians, prompt complaints, and "excited utterances."

### **Present bodily condition**

This constitutes statements that are spontaneous in nature, describe a physical condition or symptom which is presently existing, and are made by the children to third parties. Spontaneous means the child has not had an opportunity to consider the comment, but voluntarily "blurts it out." Examples of such a declaration are "My pee-pee hurts," or "Daddy hurt my butt."

### **Present mental state**

A term encompassing statements that must likewise be spontaneous and describe presently existing mental conditions. They could describe a child's intent, purpose, or emotional state of mind, such as fear or ill will. For example, if a child returned home from a weekend visitation with his or her father, with whom he or she had previously shared a good relationship, and stated, "I hate Daddy," that comment plus signs of physical injury could corroborate allegations of abuse.

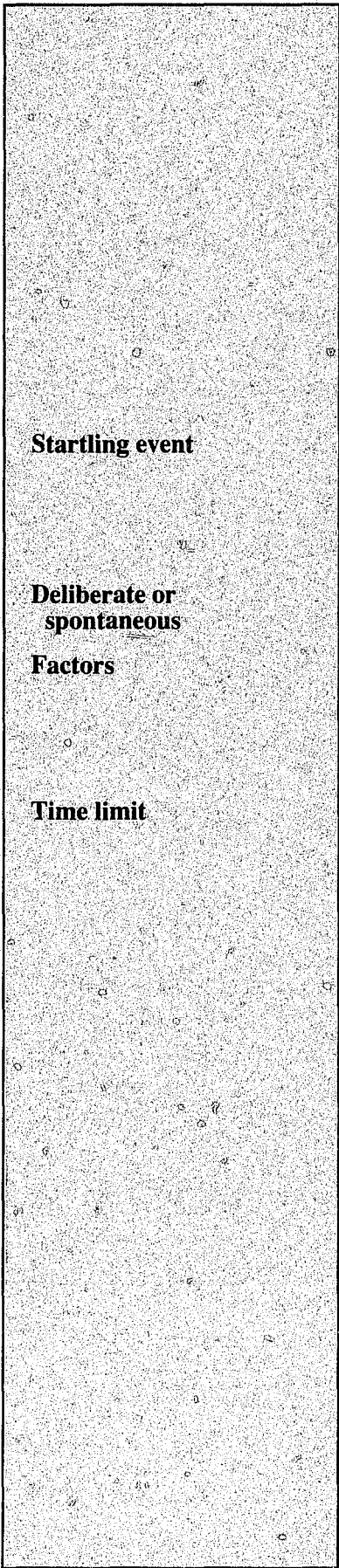
These spontaneous comments would occur shortly after the incident happened, while the condition exists, and probably would be made to a close friend or relative. As noted previously, an investigator must locate such people and record the comments accurately for trial use. Generally these types of comments represent an outburst by a child, are limited in content, and are merely used to corroborate other evidence.

### **Prompt complaint**

A victim's failure to promptly complain of a sexual assault would create a doubt in the minds of most people that the alleged assault had occurred. Historically, the common law negated this tendency by recognizing a limited hearsay exception which permitted the first person so informed by the victim to come into court and confirm his or her prompt outcry. This witness could only relate that the outcry was made and note the timing of the outcry. He or she could not relate any specific facts of the assault related to him or her by the victim. This doctrine has been expanded to include any person to whom the victim complained, but has not been expanded to include any additional facts related.

While limited in nature, this hearsay exception does serve several legitimate purposes. First, it does answer the reporting issue which would otherwise be troublesome to jurors, and it further raises the implication that the witness believed the victim because that witness has appeared in court.

Of even greater significance, however, is that if the witness observes any trauma or upset being experienced by the victim upon reporting the incident, and if the reporting occurs near the time of the incident, then the statement might also constitute an "excited utterance." If this were the case, then under the hearsay exception permitting excited utterances in court, all of



**Startling event**

**Deliberate or spontaneous**

**Factors**

**Time limit**

the victim's statement would come into evidence through the third-party witness.

**Excited utterances**

The statement that the prosecutor seeks to offer at trial usually is a more detailed account of what happened and, more important, who did it. The aspect of *res gestae* that governs a detailed statement would be the "excited utterance" exception. There are two elements essential to the existence of this exception:

1. There must be some occurrence or event sufficiently startling to render normal reflective thought processes of an observer inoperative.
2. The statement of the declarant must have been a spontaneous reaction to the occurrence or event and not the result of reflective thought.<sup>27</sup>

Usually the first element, a **startling event**, is readily satisfied. Certainly an act of sexual abuse or serious physical abuse upon a child would constitute such an event. However, defense counsel will often object to admissibility, arguing the statement lacks the requisite spontaneity.

The court, in determining the second element, must decide whether the statement was **deliberate or spontaneous**. Three **factors** most commonly used to decide this issue are:

1. The elapsed time between the startling incident and the statement.
2. Whether the statement was a detailed narrative or less contrived.
3. Whether the statement was in response to questioning or emanated from the child without questioning.<sup>28</sup>

No definite **time limit**, or distance from the site of the incident, has been established by the courts in determining whether an utterance is sufficiently spontaneous to allow its admission as part of *res gestae*. Many cases exist where courts have approved admissions as excited utterances, notwithstanding the declarant's failure to speak immediately after the incident. See *Commonwealth v. Cheeks*, 223 A.2d. 291 (1966), which encompassed a 45-minute delay.

A modern court trend in some States favors relaxing the definition of spontaneity even more when the child declarant is a victim of sexual abuse. In *Commonwealth v. Bailey*, 510 A.2d. 367 (1986), the court allowed at trial the introduction of a sexually abused child's out-of-court statement to his mother, even though it was given more than 48 hours after the incident occurred. In this case a 9-year-old boy was sexually abused while visiting his father on a Friday evening. He returned to his mother at 10:30 p.m. on Sunday, took a bath, and went to bed. At 7 o'clock the next morning, the mother found bloodstains on the child's underwear and questioned him. The boy became extremely upset, burst into tears, and told her about the incident.

The court permitted the statement despite the time delay because it theorized that the victim made the statement at the first available opportunity to speak of the incident outside the presence or influence of the abuser, to a person who was known and trusted by him. The length of elapsed time between occurrence and declaration, although important, is only one aspect of spontaneity. See also *State v. Woodward*, 646 P.2d. 135 (198) (statement by 5-year-old victim made 20 hours after the event was held admissible); *People v. Sandoval*, 709 P.2d. 90 (1985) (statement to neighbor 14 hours after assault was admissible as an excited utterance).



**Questioning or was  
totally unsolicited**

**Present physical  
symptoms or condition**

**Medical report**

Another consideration noted above is whether the statement was primarily a response to **questioning or was totally unsolicited**. While an initial question is common, for example, "What happened?," the issue of spontaneity is determined by whether continued questioning was so extensive that the question-and-answer exchange became reflective of thought, rather than spontaneous.

In most cases, all three factors are interrelated and are considered as a part of the total circumstance. All child abuse investigators must be aware of this issue so as to present the facts in a manner as favorable as possible to legally establishing spontaneity.

### **Statements to physicians**

An abused child often has to be taken to a doctor for a medical examination. The statement of a young child to a doctor or nurse, describing his or her **present physical symptoms or condition**, taken during examination, is admissible at trial as an exception to the hearsay rule. Some jurisdictions expand the rule to permit into evidence the child's medical history of past physical conditions or symptoms, if given under similar circumstances.

Such statements are considered inherently reliable because they are made by a patient to his or her doctor for the purpose of diagnosis and treatment. Reliability is assured because a patient knows the quality of treatment is based largely upon the accuracy of the information given to the treating physician. These statements must be discovered, evaluated, and accurately noted by the investigator for trial purposes.

If a nurse or social worker takes the child's medical history outside of the doctor's presence, the information can still be introduced at trial under the medical hearsay exception so long as (1) it is the doctor's practice to have the history taken by his or her staff, and (2) he or she relies upon the history thus obtained for the medical diagnosis and treatment.

A related issue is that even when the doctor is not available for trial, the doctor's **medical report** describing conditions and symptoms can be introduced as a medical record. This assumes, of course, that the child's statement would otherwise have been admissible as an exception to the hearsay rule. To introduce medical records into evidence, the following conditions must be met:

1. The information must be obtained contemporaneously with the medical examination.
2. The doctor or nurse must be operating within his or her regular course of duties.
3. The information must relate to a description of the patient's present physical symptoms or condition.
4. Records and reports must be authenticated by a custodian of the records.<sup>29</sup>

### **Legislative hearsay exceptions**

While the common law hearsay exceptions previously discussed retain their legal validity in most States, their applicability to out-of-court statements of child victims is severely limited by strict rules governing their admission into evidence. Unlike out-of-court statements made by adults, child victim statements are often made long after the abusive incident and at a time when the child is not upset or emotionally distraught.

**To confront**

**Absent from trial**

**Unavailable**

**“Indicia of reliability”**

As a result, a growing number of States have drafted legislation creating a more liberal hearsay exception for a child victim’s out-of-court statement in sexual abuse situations. These statutes universally apply to the civil abuse and neglect proceedings, but not all apply to criminal trials.

The reason courts are reluctant to admit a child’s out-of-court statement in a criminal proceeding is because the sixth amendment of the U.S. Constitution guarantees a defendant the right to **confront** a witness testifying against him or her. The U.S. Supreme Court has held, however, that a defendant’s right of confrontation is satisfied, and such a statement may be entered into evidence, when the person who made the out-of-court statement testifies at trial.<sup>30</sup>

Even if the child is present to testify in court, the admission of such a statement could serve two other purposes. First, if the witness presents testimony similar to the content of the out-of-court statement, the introduction of such a statement corroborates the witness’ testimony and helps establish his or her credibility. Second, if the child witness testifies differently from his or her prior statement or retracts the statement, then the out-of-court declaration can be used by the jury as substantive evidence and the jury can convict upon it alone.

The admission of an out-of-court statement becomes most important when the person making the statement is **absent from trial** and not subject to cross-examination, confrontation, or the oath. The U.S. Supreme Court imposes two conditions on the proponent of a hearsay statement if it is to be admitted into evidence. First, the prosecutor seeking to introduce the statement must show that the child who made the statement is “unavailable” as a witness. According to an American Bar Association proposal, which is similar to a majority of existing State laws, a child is **unavailable** when he or she is not able to testify in court for one or more of the following reasons:

1. The child’s death.
2. The child’s absence from the jurisdiction.
3. The child’s total failure of memory.
4. The child’s persistent refusal to testify despite judicial requests to do so.
5. The child’s physical or mental disability.
6. The existence of a privilege involving the child (such as the attorney/client privilege).
7. The child’s incompetency, including the child’s inability to communicate about the offense.
8. The substantial likelihood that the child would suffer severe emotional trauma from testifying at the proceeding or by means of a videotaped deposition or closed-circuit television.<sup>31</sup>

Proving the existence of any one of the above circumstances is enough to render a child “unavailable,” and all except No. 8 can be proven by lay testimony. No. 8 demands a degree of prospective psychological trauma to be suffered by the child if he or she is forced to testify. It requires expert testimony from a psychologist or psychiatrist to establish its likelihood of occurrence. If such a situation arises, law enforcement personnel must be prepared to have an expert available who could render such an opinion.

Once “unavailability” has been proven, a second condition imposed by the U.S. Supreme Court must be established before the hearsay statement will be introduced at trial. The prosecutor must demonstrate that the out-of-court statement has “**indicia of reliability.**” This means the statement of the

child victim must possess particular factors that demonstrate its trustworthiness. Any statement introduced as one of the traditional hearsay exceptions discussed previously has presumed reliability and needs nothing more. Any other statement by a child victim must have some additional identifiable factor or factors to support the reliability of the statement, other than the mere reliability of the declarant.

The American Bar Association suggests some factors that may be considered as indicia of reliability:

1. The child's personal knowledge of the event.
2. The age and maturity of the child.
3. Certainty that the statement was made, including the credibility of the person testifying about the statement.
4. Any apparent motive the child may have to falsify or distort the event, including bias, corruption, or coercion.
5. The timing of the child's statement.
6. Whether more than one person heard the statement.
7. Whether the child was suffering pain or distress when making the statement.
8. The nature and duration of any alleged abuse.
9. Whether the child's young age makes it unlikely that the child fabricated a statement that represents a graphic, detailed account beyond the child's knowledge and experience.
10. Whether the statement has a "ring of verity," has internal consistency or coherence, and uses terminology appropriate to the child's age.
11. Whether the statement is spontaneous or directly responsive to questions.
12. Whether the statement is suggestive due to improperly leading questions.
13. Whether extrinsic evidence exists to show the defendant's opportunity to commit the act complained of in the child's statement.<sup>32</sup>

This list merely provides guidance for the prosecutor of child abuse cases. The factors are not exhaustive and many are used in combination with one another to establish the necessary degree of "reliability."

On June 27, 1990, the U.S. Supreme Court, in *Idaho v. Wright*, \_\_\_ U.S. \_\_\_, 110 S.Ct. 3139, 111 L.Ed.2d. 638 (1990) held that the hearsay statements of two child victims lacked the particularized guarantees of trustworthiness required for admission under the Confrontation Clause. While reversing the conviction of the defendant, the court limited its holding to the facts in the case at hand.

Even more significant, the dicta in the opinion made it clear that a legislative hearsay exception may nevertheless be admissible at trial if the hearsay factors present demonstrate that a child declarant was particularly likely to be telling the truth when the statement was made.

Even if certain hearsay evidence does not fall within a 'firmly rooted hearsay exception' and is thus presumptively unreliable and inadmissible for Confrontation Clause purposes, it may nonetheless meet Confrontation Clause reliability standards if it is supported by a trustworthiness. *Idaho v. Wright*, 110 S.Ct. at p. 3148.

## Corroboration

Thus, if the State develops the necessary particularized guarantees of trustworthiness on a case-by-case basis, the prosecutor can withstand a constitutional challenge.

In addition to the constitutional requirements imposed by the U.S. Supreme Court, the legislation of a number of States requires that either the alleged act be "corroborated" (Colorado, Florida, Idaho, Indiana, Minnesota, Mississippi, Oklahoma, South Dakota, Utah, and Washington) or the statement itself be "corroborated" (Arizona) before the out-of-court statement will be admitted at trial. **Corroboration** is a legislative condition, not a constitutional requirement, and is based upon the fact that some State legislatures will not permit a person to be convicted of a crime on the basis of a hearsay statement alone.

Even those States that have drafted legislative hearsay exceptions differ greatly in the application of those exceptions and the requirements for admission into evidence. Both investigators and prosecutors must be familiar with the specific laws governing their jurisdiction and the manner in which these laws can be used in child abuse instances.

Courts exercise varying degrees of rulemaking authority in the areas of evidence and trial procedure. In some States, therefore, hearsay exceptions may be established by comprehensive court rules in addition to, or instead of, legislative enactments (See rules of the Supreme Court of Mississippi). While the effect on the presentation of evidence is similar, investigators should be aware of whether legislative enactments or court rules are controlling in a particular jurisdiction.

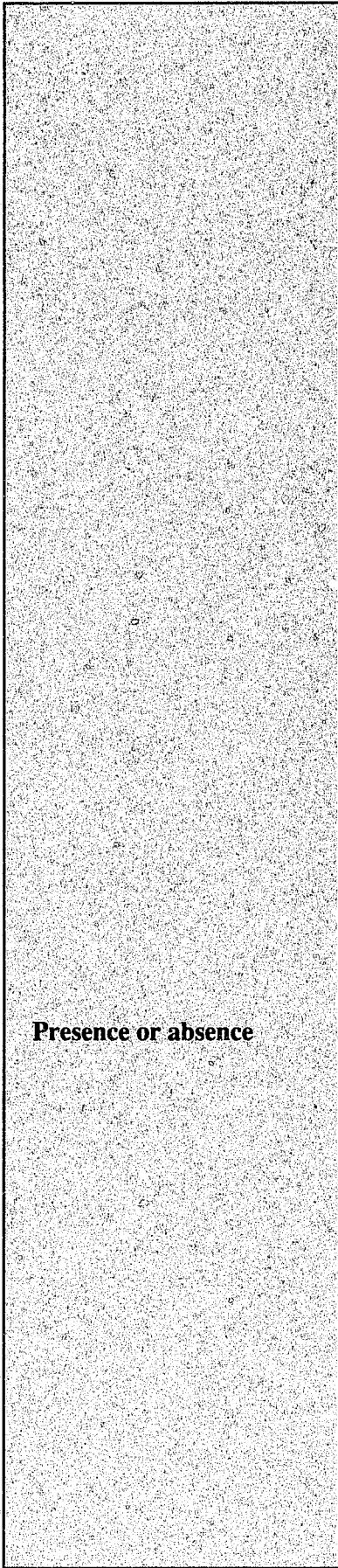
## Evidence of prior criminal conduct

It is a well-established rule of law that evidence of a person's prior criminal convictions cannot be introduced at a subsequent trial on a different offense. Most States, however, do on some occasions permit evidence of prior convictions involving dishonesty into evidence for the sole purpose of impeachment. Admission is based upon whether the trial court finds the State's need for the evidence of prior convictions is greater than the potential prejudice to the jury. *Commonwealth v. Gallagher*, 491 A.2d. 196 (1985). Evidence of criminal activity for which there has been no conviction is never acceptable for impeachment purposes.

Many States have established rules of evidence or statutes which permit prior convictions, and even illegal acts for which there has been no conviction, into evidence if the criminal conduct proves motive, opportunity, knowledge, identity, or absence of mistake on the part of the defendant. Again, the introduction of such evidence is conditioned upon a judicial finding that the probative value of the acts outweighs its tendency to prejudice the jury. *Commonwealth v. Pacell*, 497 A.2d. 1375 (1985).

Where a young child has been victimized by a sexual abuser, some States also have enacted laws which permit the use of prior similar criminal acts at the abuser's subsequent trial. Charged or uncharged sexual misconduct as well as prior convictions are all acceptable, but all of the acts must be directed against the same victim, and that victim must be the complainant in the current trial. It is thought that such evidence demonstrates the defendant's ill will, or lustful disposition toward this particular victim.

The evidence is relevant to bolster a victim's credibility or explain his or her testimonial confusion. In the former instance, an expert can explain that victims exposed to prolonged sexual assaults often fail to report the incident promptly. In the latter case, the jury may attribute any testimonial inaccuracy to the large number of incidents of abuse, rather than to a lack of victim veracity. *State v. Ferguson*, 100 Wash. 2d. 131, 667 P.2d. 68 (1983).



**Presence or absence**

In the area of physical abuse, many jurisdictions have likewise admitted the testimony of prior physical abuse against the same victim into evidence at trial for a subsequent incident. Such testimony is relevant to establish the basis for a "battered child syndrome" opinion from an expert and/or to demonstrate that the current abuse was intentional rather than accidental.

Prior uncharged criminal conduct and convictions for other offenses against *different victims* usually are not admitted into evidence at a trial involving a different victim. An exception to this rule arises when a defendant's alleged criminal conduct is so unique, and its comparison with the defendant's conduct at trial so strikingly similar, that it is as though the defendant affixed his or her "signature" to the crime in question.

Finally, a defendant accused of similar crimes involving a number of different victims can always, with the permission of the court, have those cases consolidated. This usually occurs where the child molester has a similar approach to the child victims and a similar pattern of exploitation. If the court is convinced that the individual abusive acts are all part of a common scheme, plan, or design, consolidation is appropriate. *Langham v. State*, 494 So.2d. 910 (Ala. 1986).

### **Mechanical intervention techniques**

In recognition of the growing incidence of child abuse and the trauma inherent therewith, many States have passed legislation designed to reduce child trauma associated with appearing in court and facing a perpetrator. These statutes generally have favored two mechanical methods to permit a child's testimony, taken outside of the courtroom and the defendant's presence, to be broadcast to the jury at trial time.

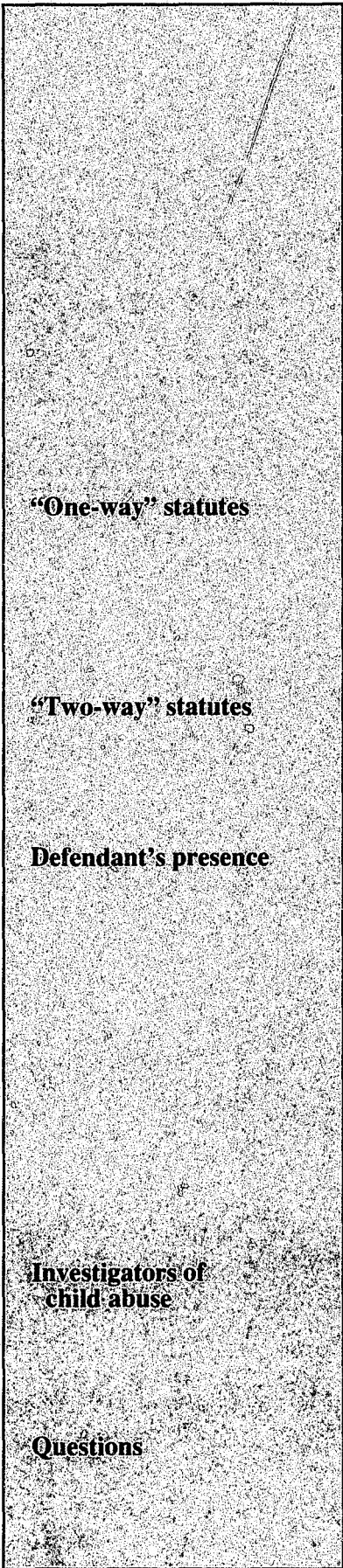
### **Videotaping depositions**

Thirty-three States permit the videotaping of a child's deposition outside the courtroom for later use at trial. This deposition usually is taken in the presence of a judge who rules on all legal issues as if at trial. The only parties usually present include the operator of the recording equipment, the child, his or her guardian ad litem, and the attorneys for the State and the defendant.

The **presence or absence** of the defendant in the deposition room has received varied treatment by States. Some States require the defendant to be present if the videotape is to be used at trial; others allow the judge to exclude the defendant from the room if he or she deems it appropriate. Several States do not permit the defendant's presence at all. Under all these statutes, however, the defendant must have constant, private, and simultaneous contact with his attorney while the deposition is being taken.

The pretrial videotaped deposition has the advantage of recording a child's testimony closer to the time of the abusive act and in a less formal setting than the courtroom. These statutes certainly reduce the courtroom trauma; however, the effect upon the source of trauma fostered by the defendant's presence is not clear. In those States where the defendant is in the deposition room, a child victim may have greater difficulty in testifying than at trial because he or she is in closer proximity to the defendant in the smaller deposition room than in the larger courtroom.

Those statutes excluding a defendant from the room in which the child's testimony is taken reduce both types of courtroom trauma. However, a defendant's constitutional right to confront an accuser might be jeopardized by this procedure. The American Bar Association advises the court to pro-



**"One-way" statutes**

**"Two-way" statutes**

**Defendant's presence**

**Investigators of  
child abuse**

**Questions**

vide two-way monitors that televise the defendant's image to the deposition room and the child's testimony to the room in which the defendant is located. This procedure is thought to lessen the legal challenge to the confrontation issue.

### **Closed-circuit television**

The second method, recognized by 25 States as of 1990, allows a child's testimony to be taken outside the courtroom during trial, while transmitting the live testimony simultaneously by closed-circuit television to the courtroom.

Under the majority of these statutes, the attorneys for the State and defendant are present in the room with the child, along with the child's guardian ad litem and the person operating the television camera. The judge, jury, defendant, and the public view the child's testimony from the courtroom while it is being given elsewhere. There are two approaches to these types of statutes.

In **"one-way" statutes**, the defendant and the court can observe and hear the child's testimony but the child cannot hear or see into the courtroom. These statutes represent about one-half the statutes that permit testimony to be taken outside the courtroom and reduce both sources of courtroom trauma for the child. The same legal issue involving a defendant's right of confrontation arises in this situation as arises in the televised deposition statutes where the defendant is excluded from the deposition room.

Under **"two-way" statutes**, a television not only transmits the child's testimony to the courtroom, but also projects the defendant's image into the room where the child testifies. This type of statute is strongly favored by the American Bar Association as being most protective of a defendant's right of confrontation.

A third approach used by some States, requires the **defendant's presence** in the room where the child testifies while that testimony is televised into the courtroom where the jury is situated. This alternative is effective to reduce the trauma engendered by the courtroom setting; any trauma caused by the defendant's proximity to the child will not be reduced and, as in the deposition situation, might be greatly increased. Naturally, there is no confrontation issue asserted in these situations.

The basic advantage of closed-circuit television is that the child's viewed testimony is live and not prerecorded. Live testimony is more acceptable to a jury because it is more realistic and also is more likely to withstand a constitutional challenge that the defendant was denied a fair trial.<sup>33</sup>

Finally, although closed-circuit television excludes spectators from the room where the child is testifying, it still makes it possible for the public to view the demeanor and testimony of a live witness.

**Investigators of child abuse** must be aware of the statutes available to reduce courtroom trauma, should their use become necessary. If courtroom trauma is likely to be so great that it will cause the child to recant or "freeze" on the witness stand, the prosecutor should be informed and any available statutes used. However, statutes should not be used merely because the victim might be inconvenienced or just minimally upset.

Legal commentators have raised many **questions** on whether the use of these statutes abridges a number of defendant's rights. The right to a public trial, right to jury trial, right to compulsory process of witnesses, right to a fair trial, and the right of a defendant to confront witnesses against him or her all have been cited as potential issues. The investigator should be aware

## Right of confrontation

of the newness of these statutes and of the fact that many unresolved constitutional issues do exist. Therefore, the validity of these statutes is uncertain. The investigator should not become dependent on using these statutes as a matter of course; he or she should use them only when necessary.

The most troublesome legal issue surrounding mechanical intervention is whether a defendant's **right of confrontation** is denied when the child victim and defendant are not face to face when the child testifies. This issue has been resolved by most State statutes in a manner similar to the position established by the U.S. Supreme Court in permitting legislative hearsay exceptions.

Thus, prior to using closed-circuit television or videotaping a deposition, the prosecutor must demonstrate to a judge that:

1. The child victim is "unavailable" to testify in the traditional courtroom setting.
2. The testimony to be introduced has sufficient indicia of reliability to justify its admission.

The factors establishing indicia of reliability are identical to those that have been discussed previously in conjunction with the legislative hearsay exceptions.

The definition of "unavailable" in the mechanical intervention situation, however, is more liberal than in the area of hearsay because the child witness is always subject to cross-examination in the former instance. The American Bar Association and most statutes define "unavailability" in this situation as follows:

1. The child's persistent refusal to testify despite judicial request to do so.
2. The child's total inability to communicate about the offense because of extreme fear, total failure of memory, or similar reason.
3. The substantial likelihood that the child will suffer severe emotional trauma for so testifying.<sup>34</sup>

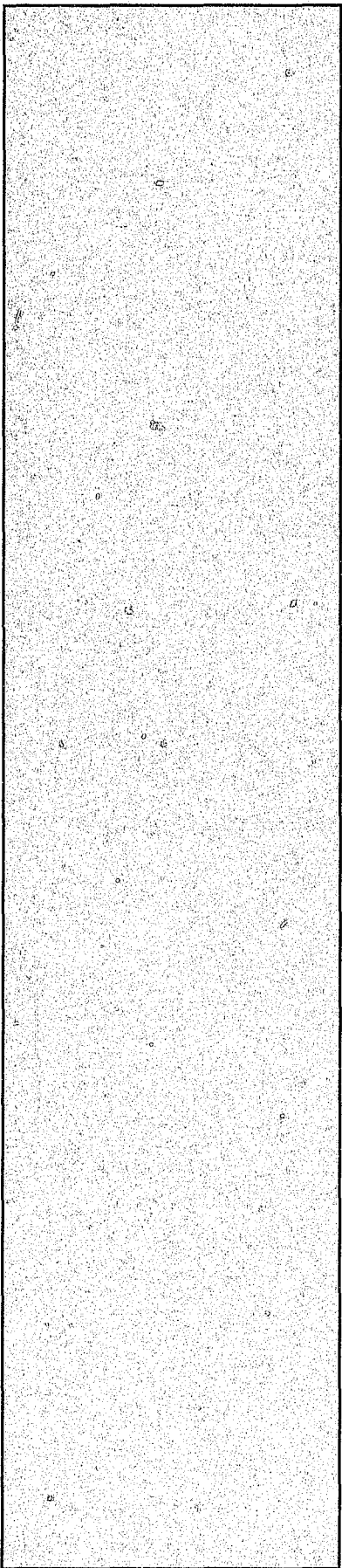
The first two definitions can be sustained by the testimony of lay witnesses. However, a finding of "unavailability" based upon No. 3 above refers to a future likelihood and can be sustained only if supported by expert testimony.

Some **State statutes** merely refer to "unavailability" in general terms and do not mention the above requirements. However, law enforcement personnel must be aware that Federal constitutional law requires consideration of these requirements in every case, regardless of the wording of the statute.

The investigator should be aware of the local statute and its requirements so that he or she can evaluate the child who might become "unavailable." The earlier this difficulty is discovered, the more likely that an alternative to overcome it can be developed prior to trial. A review of current State legislation can be found in Appendix D at the end of this chapter.<sup>35</sup>

On June 29, 1988, the U.S. Supreme Court, in a 6-2 decision, began addressing the right of confrontation issue posed by the use of closed-circuit television and videotaped depositions in criminal child abuse trials. In *Coy v. Iowa*, 487 U.S. 1012, 108 S.Ct. 2798, 101 L.Ed 2d. 857 (1988), the High Court held that the defendant's right of confrontation was violated when two young sexual assault victims were permitted to testify at trial against the defendant from behind a screen that obstructed their view of him. This procedure was employed pursuant to an Iowa statute that created a presumption of trauma in all victims of sexual abuse under the age of 14. The trial court made no inquiry into whether these specific witnesses would, in fact, be traumatized by facing the defendant in court.

## State statutes



The U.S. Supreme Court found that the right to confront one's accusers intended a face-to-face meeting, but the court noted that this right was not absolute and exceptions might exist under different circumstances. A State statute establishing a presumption of trauma based on age and nothing more did not constitute such an exception. The High Court left open the issue of whether individualized findings of trauma in a particular child witness might require the special protection of an exception to the general rule. A broad interpretation of *Coy v. Iowa, supra*, suggests that a trial court should categorically prohibit the use of mechanical intervention devices in criminal child abuse proceedings because to do otherwise would violate the defendant's right to confront his or her accusers, as guaranteed by the 6th and 14th Amendments. In reality, the Supreme Court took a much more enlightened and limited position, as evidenced by its subsequent decision in *Maryland v. Craig*, \_\_\_ U.S. \_\_\_, 110 S.Ct. 3157, 111 L.Ed. 2d. 666 (1990).

In this case a Maryland statute permitted a judge to receive the testimony of an alleged child abuse victim through a one-way closed-circuit television hookup if it was determined that a court appearance would cause serious emotional distress to the child victim. An expert testified to this determination prior to the lower court ruling which permitted the mechanical intervention.

Justice O'Connor, speaking for a majority of the High Court, held that a finding of necessity must be case specific. The trial court must hear evidence and determine whether the use of the one-way television system is necessary to protect the child witness' welfare. More specifically, a judicial finding was required that the child would be traumatized, not by the courtroom, but by the defendant's presence, and that the emotional distress suffered by the child was more than de minimus.

Without commenting on the minimum amount of emotional trauma required to comply with due process standards, the High Court accepted the trial court's decision on the credibility of the expert witness and found the finding of severe emotional distress, as required by the Maryland statute, plainly met constitutional standards.

## Conclusion

A great deal remains to be accomplished to assist child victim witnesses who are thrust into the legal process because of their victimization. While many improvements could be undertaken immediately without legislative authorization, others would necessitate improved laws designed to take into consideration the characteristics of children. The legal system should never abuse the rights of an accused to a fair trial, nor should it abuse a witness who happens to be a child. Until the State offers appropriate protection to these, our most helpless victims, many will continue to suffer in silence.



# **Chapter 6: Appendixes**

## **Legal Issues and Considerations**

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- A. Notes
- B. Investigator's checklist
- C. Report preparation for child abuse and neglect cases
- D. Statutory citations for selected issues in child-witness testimony

## Appendix A: Notes

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1. *Black's Law Dictionary* (rev. 5th ed.), p. 1398.
2. *Miranda v. Arizona*, 384 U.S. 436, 86 S.Ct. 1602, 16 L.Ed. 2d 694 (1966).
3. State Legislation—limiting the interviews with child victims: ALA.CODE §15-1-2(a) (1985); Ca. Penal Code §13517 (1985); Fla.Stat.Ann. §914.16 (1990); Haw.Rev.Stat. §588-1(3) (1986); Minn.Stat.Ann. §626.561(1) (1985); N.H. Rev.Stat.Ann. §169-C:38(II) (1988); N.D.Cent.Code §12.1-35-04 (1987); Utah Code Ann. §77-37-4(3) (1987); W.VA. Code §61-8-13(a), §61-8B-14, §61-8C-5 (1986).
4. Krieger, M.J., and Robbins, R. 1985. "The Adolescent Incest Victim and the Judicial System," *American Journal of Orthopsychiatry*, July 1985, pp. 419-425.
5. Berliner, L., and Barbieri, K. 1984. "The Testimony of the Child Victim of Sexual Assault," *Journal of Social Issues*, 40(2):125-37.
6. Burgess, A., Groth, N., Holmstrom, L., and Sgroi, S. 1978. *Sexual Assault of Children and Adolescents*. Lexington, Massachusetts: Lexington Books, p. 205.
7. Dent, H., and Stephenson, G. 1979. "An Experimental Study of the Effectiveness of Different Techniques of Questioning Child Witnesses," *British Journal of Social and Clinical Psychology*.
8. Smith, S. 1985. *Children's Story: Children in Criminal Court*. Los Angeles: California District Attorney's Association, p. 48.
9. *Black's Law Dictionary* (rev.5th ed.), p. 257.
10. *Ibid.*, p. 330.
11. Melton, T., Bulkley, J., and Wulkan, D. 1982. "Competency of Children as Witnesses," *Child Sexual Abuse and the Law*. Bulkley, J., ed. Washington, D.C.: American Bar Association, p. 127.
12. Melton, T.
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14. Lloyd, D. 1982. "The Corroboration of Sexual Victimization of Children," *Child Sexual Abuse and the Law*. Bulkley, J., ed. Washington, D.C.: American Bar Association, pp. 111-12.
15. Lloyd, D., p. 103.
16. *McCormick's Handbook of the Law of Evidence*, (2d ed. 1972). 13 pp. 29-30.
17. Goldman, E. 1984. "Maximizing Your Testimony in Court," *Child Abuse and Neglect: Moving Through the Legal Maze*. Ann Arbor, Michigan: The University of Michigan Medical School, pp. 335-41.
18. Duquette, D. 1981. "The Expert Witness in Child Abuse and Neglect: An Interdisciplinary Process," *Child Abuse and Neglect*. 5:355-63.

19. Schorr, R. 1979. "Courting—How to Do It," *Legal Aspects of Medical Practice*, September, pp. 363–64.
20. Kempe, N., "The Battered-Child Syndrome: *Journal of the American Medical Association*, Vol. 251, No. 24, June 1984.
21. McCauley, J., Gorman, R., and Guzinski, G., "Toluidine Blue in the Detection of Perineal Lacerations in Pediatric and Adolescent Sexual Abuse Victims," *Pediatrics*, Vol. 78, No. 6, pp. 1039–1043.
22. *Commonwealth v. Seese*, 512 Pa. 439, 517 A.2d 920 (1986).
23. *State v. Williams*, 451 N.W.2d 886 (Minn. 1990); *Sexton v. State*, 529 So.2d 1041 (Ala. 1988); *People v. Bledsoe*, 36 Cal.3d 236, 681 P.2d 291 (1984); *State v. Middleton*, 294 Or. 427, 657 P.2d 1215 (1983).
24. *State v. Meyers*, 382 N.W.2d 91 (Iowa 1986).
25. *State v. Wise*, 390 S.E.2d 142 (1990); *State v. Middleton*, 294 Or. 427, 657 P.2d 1215 (1983).
26. *People v. Doss*, 782 P.2d 1198 (Colo., 1989); *State v. Newman*, 784 P.2d 1006 (N.M., 1989).
27. *McCormick's Handbook of the Law of Evidence*, (2d ed.) §297, p. 704 (1972).
28. *Commonwealth v. Barnes*, 456 A.2d 1037 (1983).
29. *McCormick's Handbook of the Law of Evidence*, (2d ed.) §313, pp. 730–733 (1972).
30. *Ohio v. Roberts*, 448 U.S.56 (1980).
31. Eatman, R., and Bulkley, J. 1986. *Protecting Child Victim/Witness*. Washington, D.C.; National Legal Resource Center for Child Advocacy and Protection, p. 5.
32. *Ibid.*, p. 6.
33. Whitcomb, D., Chapiro, E., and Stellwager, L. 1985. *When the Victim Is a Child*. Washington., D.C.: National Institute of Justice, p. 50.
34. Eatman, R., and Bulkley, J., *supra*, p. 17.
35. Whitcomb, D., et al., *supra*, p. 29.

## Appendix B: Investigator's checklist

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1. What *crime* has been committed?
2. Have all the *elements* of the crime been met?
3. Is the written report *complete* and *logical* in its presentation?
4. What other *factors* should the prosecutor's office be advised of which do not appear in the body of the report.
5. Will vertical *prosecution* be used in the case?
6. What has been done to *prepare the child and family* for the courtroom?
7. Have the child and family been prepared for possible *defense tactics*?
8. Will the child require a *support person* during testimony? Who will it be?
9. Will the services of an *expert witness* be necessary? Who will be used?
10. Has the appropriate information or *evidence* been processed by a *forensic laboratory* in preparation for court?
11. Will the child's interview be *videotaped*?

## Appendix C: Report preparation for child abuse and neglect cases

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Documenting reported cases of child abuse and neglect is one of the most important aspects of a thorough investigation. The investigator's ability to communicate his or her findings in a logical and sequential manner is critical to any subsequent action that might occur as a result of the investigation. The following headings are designed to provide investigators with an organizational format that should be included in the documentation process. The headings are listed in the order that the information should appear in the body of the report. This is not an exhaustive list and can be expanded according to the circumstances encountered.

### Recommended original report headings:

#### Information

Briefly describe the situation as it was known to you. Give an overview of the progression of events and facts that are presently available.

#### Venue

Provide an exact location of the scene where the incident occurred, including street address or approximate location from cross streets. Indicate city, village, or township, and county and State.

#### Time and date

Include the time, date, and day of the week that the incident occurred. Also include the time, date, and day of the week the referral was received.

#### Interview complainant

Include date, time, and place of the interview, and name of the interviewing investigator. Provide a detailed account of the information provided by the complainant.

#### Victim

Indicate name, race, sex, date of birth, current age, height, weight, home address, and phone number of the victim.

#### Injuries

List all injuries received during the incident under investigation. Also list any suspected older injuries that may have been discovered as a result of this investigation.

#### Interview victim

Include the date, time, and place of the interview and the name of the person doing the interviewing. Describe the victim's account of what happened. This section should be very detailed and provide a thorough review of the incident from the victim's perspective.

#### Photographs

Take photographs whenever appropriate. Provide the name of the person who took the photographs, location, and time that they were taken. Indicate the type of camera (e.g., Polaroid, Instamatic, 35 mm) and whether the photographs are in color or black and white. If photographs were not taken, indicate why.

#### Evidence

List any evidence that is seized at the scene and where it was located. Provide information as to how the evidence was tagged. Include where the evidence is stored.

#### Suspected/Arrested

Provide suspect's full name, race, sex, date of birth, height, weight, address, and telephone. Include aliases. Indicate whether the suspect was charged and with what crimes.

#### Fingerprints and photographs

If the suspect is arrested, indicate who fingerprinted and photographed him or her and the fact that this process has taken place.

#### Lodged

Indicate where the suspect was lodged and include the time and the names of the officers involved.

#### Advice of rights (police officers only)

Indicate that the suspect was read his or her *Miranda* rights and whether or not the suspect agreed to be interviewed. Provide the name of the investigator who actually read the rights and the time, date, and location of this activity.

#### Interview suspect

If the suspect understands his or her *Miranda* rights and agrees to be interviewed, include the time, date, and location of the interview. Provide the interviewer's name and the name(s) of any other person(s) present during the interview. Provide a detailed account of the information provided by the suspect.

**Medical attention**

Include when medical attention was sought and the name of both the doctor and hospital where medical attention was received.

**Interview physician**

Provide date, time, and location of the interview. List the full name, address, and phone number of the person being interviewed. Indicate the exact nature of the injuries, including the physician's opinion of how the injuries occurred. Also indicate if the physician was a witness to any spontaneous utterance by the child or a family member.

**Interview emergency room staff**

Provide date, time, and location of the interview. List the full name, address, and telephone number of the person being interviewed. Include any information that a member of the emergency room staff might be able to provide. Of particular importance are any any spontaneous utterances by the child or a family member.

**Witnesses**

Identify any witnesses, with addresses and telephone numbers. Include the witnesses' relationship to the victim (such as a neighbor or a family member).

**Interview (name and witness)**

Include date, time, and place of the interview and name of the person doing the interviewing. Provide a detailed account of the information provided by the witness.

**Contact prosecutor**

Indicate the time and date that the prosecutor's office was contacted. List the name of the prosecutor or assistant who was contacted. Describe what action was authorized or future activity that may result.

**Contact juvenile court**

If removal of a child is anticipated, indicate the time, date, and representative of the court who was contacted. Indicate the decision of the court relative to removal of the child, e.g., removal authorized, or no action.

**Contact social services/law enforcement agency**

Indicate the time, date, and name of person contacted at the law enforcement agency or county social services office. Describe the outcome of the contact; e.g., action to be taken by D.S.S./law enforcement agency, or joint investigation.

## Appendix D: Statutory citations for selected issues in child-witness testimony

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### Competency

- Ala. Code §12-21-165(a) (1940); §15-25-3(c) (1985)
- Alaska R. Evid. 601
- Ariz. Rev. Stat. Ann §13-4061 (1985)
- Ark. R. Evid. 601
- Cal. Evid. Code 700 (1985); 701 (1985; 710 (1988)
- Colo. Rev. Stat. §13-90-106 (1989); 13-90-117.5 (1990)
- Conn. Gen. Stat Ann. §54-86(h) (1985)
- Del. Code. Ann. tit. 10 §4302 (1985);
- Del. R. Evid. 606
- Fla. Evid. Code §90.605(2) (1985); 90.606 (1) (1985)
- Ga. Code Ann. §24-9-5 (1990)
- Haw. R. Evid. 601 and 603.1
- Idaho Code §9-202 (1985)
- Ill. Code of Crim. Proc. §106A-5 (1989); 115-14 (1988)
- Ind. Civil Code Ann. §34-1-14-4 (1981); §34-1-14-5 (1990)
- Ind. Crim Code Ann. §35-37-4-1 (1981)
- Iowa R. Evid. §601 (1990)
- Kan. Stat. Ann. §60-417 (1963)
- Ky. Rev. Stat. Ann. §421.200 (1952)
- La. Rev. Stat. Ann. art. 601 (1988)
- Me. R. Evid. 601
- Md. Cts. & Jud. Proc. Code Ann. §9-103 (1985)
- Mass. Gen. Law Ann. ch. 233, §20 (1986)
- Mich. Rules of Evid. 601
- Mich. Comp. Laws Ann. §600.2163 (1970)
- Minn. Stat. Ann. §595.02(1) (1987)
- Miss. R. Evid. 601 (1986)
- Mo. Rev. Stat. §491.060 (2) (1985)
- Mont. R. Evid. 601 (1976)
- Neb. Rev. Stat. §27-601 (1975)
- Nev. Rev. Stat. §50.015 (1971); §50.035 (1971)
- N.H. R. Evid. 601
- N.J. R. Evid. 17 (1967)
- N.M. R. Evid. 601
- N.Y. R. Evid. §60.20 (1975)
- N.C. R. Evid. 601
- N.D. R. Evid. 601
- Ohio Rev. Code Ann. §2317.01 (1953)
- Okla. Stat. Ann. tit. 22, §702 (1957); tit. 12 §2601 (1978)
- Or. Rev. Stat. §40.310 (1981)
- Or. R. Evid. 601 (1981)
- Pa. Stat. Ann. titl 42, §5911 (1978)
- R.I. R. Evid. 601
- S.C. Code Ann. §19-11-25 (1988)
- S.D. Codified Laws Ann. §19-14-1, Rule 601
- Tenn. Code Ann. §24-1-101 (1985)
- Tex. R. Evid. 601 (1989)
- Utah Code Ann. §76-5-410 (1985)
- Vt. R. Evid. 601
- Wash. Rev. Code Ann. §5.20.020 (1986); 5.60.050 (1986)
- W.V. R. Evid. 601 (1985)
- W.V. Code §61-8-13(e) (1986); §61-8B-11(c) (1986)
- Wis. Stat. Ann. §906.01 (1974)
- Wyo. R. Evid. 601

## **Abused child hearsay exceptions**

Ariz. Rev. Stat. §13-1416 (1984)  
Colo. Rev. Stat. §18-3-411 (3)  
Ill. Rev. Stat. Ch. 38, para., 115-10 (1983)  
Ind. Code §35-37-4-6 (1984)  
Kan. Stat. Ann. §60-460 (dd) (1982)  
Minn. Stat. §595.02(3) (1984)  
S.D. Codified Laws Ann. §19-16-38 (1984)  
Utah Code Ann. §76-5-411 (1983)  
Wash. Rev. Code §9A.44.120 (1982)

## **Exclusion of spectators from courtroom**

Cal. Penal Code §868.7 (1983)  
Fla. Stat. Ann §918.16 (1977)  
Ga. Code Ann. §17-8-54 (1985)  
Ill. Ann. Stat. ch. 38, §115-11 (1987)  
La. Rev. Stat. Ann. §15:469.1 (1980)  
Mass. Gen. Laws Ann. ch. 278, §16A (1986)  
Mich. Stat. Ann. §27A.2163(1) (1988)  
Minn. Stat. Ann. §631.045 (1985)  
N.H. Rev. Stat. Ann. §632-A:8 (1979)  
N.C. Gen. Stat. §15-166 (1981)  
S.C. Code Ann. §16-3-1530 (G) (1984)  
S.D. Codified Laws Ann. §23A-24-6 (1983)  
Va. Code Ann. §19.2-266 (1987)  
Wis. Stat. Ann. §970.03 (4) (1987)

## **Videotaped testimony admissible**

Ala. Code §15-25-2 (1985)  
Ariz. Rev. Stat. Ann. §13-4251 (1987); §13-4253 (1985)  
Ark. Stat. Ann. §16-4-203 (1983)  
Cal. Penal Code §1346 (1989)  
Colo. Rev. Stat. §18030413 (1983); §18-6-401.3 (1985)  
Conn. Gen. Stat. Ann. §54-86g (1989)  
Del. Code Ann. tit. 11 §3511 (1985)

Fla. Stat. Ann. §92.53 (1985)  
Ill. Ann. Stat. ch. 38, §106A-1 (1988); ch. 38, §106A-2 (1988)  
Ind. Code Ann. §35-37-4-8 (1990)  
Iowa Code §910A.14 (1989)  
Iowa Rule Crim. Pro. §12(2)(b) (1985)  
Kan. Stat. Ann. §22-3434 (1986)  
Ky. Rev. Stat. Ann. §421.350 (4) (1986)  
Me. Rev. Stat. Ann. titl 15, §1205 (1989)  
Mass. Gen. Laws Ann. ch. 278, §16D (1985)  
Mich. Stat. Ann. §27A.2163 (1) (1988)  
Minn. Stat. Ann. §595.02 (4) (1987)  
Miss. Code Ann. §13-1-407 (1986)  
Mo. Rev. Stat. §§491.675 to .705 (1987)  
Mont. Code Ann. §46-15-401 (1989); §46-15-402 (1977); §46-15-403 (1977)  
Neb. Rev. Stat. §29-1925 (1988); §29-1926 (1988)  
Nev. Rev. Stat. §174.227 (1985); §174.229 (1985); §174.231 (1985)  
N.H. Rev. Stat. Ann. §517:13-a (1988)  
N.M. Stat. Ann. §30.9-17 (1978)  
N.M. R. Crim. Pro. §29.1 (1980)  
N.Y. Crim. Proc. Law §190.25 (1987); §190.30 (1987); §190.32 (1984)  
Ohio Rev. Code Ann. §2907.41 (1986); §2937.11 (1986)  
Okla. Stat. Ann. tit. 22 §753 (1984)  
Pa. Stat. Ann. tit. 42 §5984 (1986)  
R.I. Gen. Laws §11-37-13.2 (1985)  
S.C. Code Ann. §16-3-1530(g) (1984)  
S.D. Codified Laws Ann. §23A-12-9 (1986)  
Tenn. Code Ann. §24-7-116(d) & (e) (1985)  
Tex. Code Crim. Proc. Ann. art. 38.071 (1987)  
Utah Rule Crim. Proc. 15.5 (3) (1989)  
Vt. R. Evid §807 (1985)  
Wis. Stat. Ann. §967.04(7) to (10) (1985)  
Wyo. Stat. §7-11-408 (1987)



## **Closed-circuit testimony available**

Ala Code §15-25-1 (1985); §15-25-3 (1985)  
Alaska Stat. §12.45.046 (1988)  
Ariz. Rev. Stat. Ann. §134-4251 (1987); §13-4253 (1985)  
Cal. Penal Code §1347 (1987)  
Conn. Gen. Stat. Ann. §54-86g (1990)  
Fla. Stat Ann. §92.54 (1987)  
Ga. Code. §17-8-55 (1990)  
Haw. R. Evid. §616(a), (d), and (e) (1985)  
Idaho Code §19-3024A (1990)  
Ill. Ann. Stat. ch. 38, §106A-1 (1988); ch. 38, §106A-3 (1988)  
Ind. Code Ann. §35-37-4-8 (1990)  
Iowa Code Ann. §910A.14(1) (1989)  
Kan. Stat. Ann. §22-3434 (1986)  
Ky. Rev. Stat. Ann. §421-350(1),(3) & (5) (1986)  
La. Rev. Stat. Ann. §15:283 (1984)  
Md. Code Ann. §9-102 (1985)  
Mass. Gen. Laws Ann. ch. 278, §16D (1988)  
Mich. Stat. Ann. §27A.2163(1) (1988)  
Minn. Stat. Ann. §595.02(4) (1987)  
Miss. Code Ann. §13-1-401 (1986); §13-1-405 (1986); 13-1-411 (1986)  
Miss. R. Evid §617 (1991)  
N.J. Rev. Stat. §2A:84A-32.4 (1985)  
N.Y. Crim. Proc. Law §S 65.00 to 65.30 and §542-a (1985)  
Ohio Rev. Code Ann. §2907.41 (1986); §2937.11(B) (1986)  
Okla. Stat. Ann. tit. 22, §753 (1984)  
Or. Rev. Stat. §40.460(24) (1989)  
Pa. Stat. Ann. tit. 42 §5985 (1986)  
R.I. Gen. Laws §11-37-13.2 (1985)  
Tex. Code Crim. Proc. Ann. art. 38.071 (1987)  
Utah Rule Crim. Pro. §15.5 (1989)  
Vt. R. Evid §807 (1985)

Va. Code Ann. §18.2-67.9 (1987)  
Wash. Code Ann. §9A.44.150 (1990)

## **Pretrial videotaped statements**

Ariz. Rev. Stat. Ann. §13-4251 (1987); 4252 (1985)  
Haw. Rule Evid. 616 (a) to (c) (1985)  
Ind. Code Ann. §35-37-4-6 (1990)  
Iowa code Ann. 910-A.14 (3) (1989)  
Kan Stat. Ann. §22-3433 (1986)  
Ky. Rev. Stat. Ann. §421.350 (2) (1986)  
La. Rev. Stat. Ann. §15:440.1-.6 (1986)  
Mich. Stat. Ann. §27A2163 (1988)  
Minn. Stat. Ann. §595.02 (3) (1986)  
Mo. Rev. Stat. §492.304 (1985)  
Okla. Stat. Ann. tit. 22§752 (1986)  
R.I. Crim. Code §11-37-13.2 (1985)  
Tenn. Code Ann. 24-7-116(c) (1985)  
Tex. Code Crim. Proc. Ann. art. 38.071 (1987)  
Utah Rule Crim. Pro. 15.5 (3) (1989)  
Wis. Stat. Ann. 908.08 (1989)

## **Legislative hearsay exceptions**

Ala. Code §15-25-31 to 15-25-37 (1989)  
Alaska Stat. §12.40.110 (1985)  
Ariz. Rev. Stat. Ann. §13-1416 (1989)  
Ark. R. Evid. §803(25)(A) (1985)  
Cal. Evid. Code §1228 (1985)  
Colo. Rev. Stat. §13-25-129 (1987); §18-3-411(3) (1985)  
Fla. Stat. Ann. §90.803(23) (1985)  
Ga. Code Ann. §24-3-16 (1986)  
Idaho Code §19-3024 (1986)  
Ill. Ann. Stat. ch. 38, §115-10 (1987)  
Ind. Code Ann. §35-37-4-6 (1990)  
Kan. Stat. Ann. §60-460(dd) (1988)  
Ky. Rev. Stat. Ann. §421.355 (1986)

Me. Rev. Stat. Ann. titl. 15 §1205 (1989)  
Md. Cts. & Jud. Proc. Code Ann. §9-103.1 (1988)  
Mass. Stat. ch. 233, §81 (1990)  
Minn. Stat. Ann. §595.02(3) (1986)  
Miss. Code Ann. §13-1-403 (1986)  
Miss. R. Evid. 803(25) (1991)  
Mo. Rev. Stat. §491.075 (1985)  
Nev. Rev. Stat. §51.385 (1985)  
N.J. R. Evid. §63(33) (1989)  
Okla. Stat. Ann. titl. 12, §2803.1 (1990)  
Or. Rev. Stat. §40.460, Rule 803 (1989)  
Pa. Stat. tit. 42 §5985.1 (1989)  
S.D. Codified Laws Ann. §19-16-38 (1987)  
Tex. Code Crim. Proc. Ann. art. 38.072 (1985)  
Utah Code Ann. §76-5-411 (1988)  
Vt. R. Evid. §804a (1986)  
Wash. Rev. Code Ann. §9A.44.120 (1985)

## **Presence of support person at trial**

Ark. Stat. Ann. §16-42-102 (1985)  
Cal. Penal Code §868.5 (1989)  
Conn. Crim. Proc. §54-86g (b) (2) (1989)  
Del. Stat. tit 11§5134 (1985)  
Haw. Rev. Stat. §621-28 (1985)  
Idaho Code §19-3023 (1989)  
Mich. Stat. Ann. §27A2163(1) (1988)  
Minn. Stat. Ann. §631.046 (1986)  
N.Y. Stat. Ann. §642-a (1986)  
O.S. Supp. §2803.1 (1990)  
Pa. Stat. Ann. tit. 42§5983 (1986)  
R.I. Gen. Laws §12-28-9(2) (1985)  
Wash. Rev. Code Ann. §7.69A.020 (1985); §7.69A.30 (1985)