

**ADOLESCENT ABUSE:
A GUIDE FOR
CUSTODY PERSONNEL**



June, 1984

State of California

**DEPARTMENT OF THE YOUTH AUTHORITY
PREVENTION AND COMMUNITY CORRECTIONS BRANCH**

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June, 1984

State of California

**DEPARTMENT OF THE YOUTH AUTHORITY
PREVENTION AND COMMUNITY CORRECTIONS BRANCH**

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FOREWORD

This document is published by the Department of the Youth Authority as a service to agencies and personnel working with adolescents. It includes information on abuse identification, reporting requirements, and program developments.

My thanks to the many staff and departments that made this timely publication possible. My special thanks to Sharon English, consultant in the Prevention and Community Corrections Branch, for the significant role she played in the development of this training material.

It is one of the many documents offered by the Youth Authority to assist the justice system network in providing the best possible service to the youth committed to our care.

James Rowland, *Director*

June, 1984

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ACQUISITIONS

INTRODUCTION

The Youth Authority is charged by law to assure quality care for youth placed in custody settings and to provide technical assistance on topics related to confinement. This manual is designed to enhance the awareness and understanding of administrators and staff working with delinquent youth regarding the signs of adolescent abuse, reporting responsibilities, facility functioning, and case management. The document offers ideas for further discussion, training and program models. Staff are encouraged to consider the role abuse plays in the lives of the youth committed to their charge. The staff's safety and job satisfaction may demand it; the youthful offender's future depends upon it.

Much of the material in this document was taken from the Health, Education and Welfare publications on child abuse including Preventing Child Abuse and Neglect: A Guide for Staff in Residential Institutions, and Adolescent Abuse and Neglect: Intervention Strategies. Also, the San Francisco Child Abuse Council Out-Of-Home Care Project materials were an invaluable aid; and much of that material is also included. Special thanks to Lois Riggs, Orange County Probation Department; Dorothy Dean, San Diego Probation Department; and Orange County Municipal Judge Pamela Iles for their written material and moral support. Orange and San Mateo Counties are thanked for the use of their policies; Santa Clara, San Bernardino, Riverside, and Fresno Counties are thanked for providing program examples. Finally, the Chief Probation Officers' Association's review and critique of the material is appreciated.

CHAPTER 1

THE DELINQUENT ADOLESCENTS: ARE THEY VICTIMS ALSO?

This is not "just another child abuse publication"! Although the youth in custody facilities are called, among other things, kids, they are, for the most part, not children. They are usually adolescents, ages 11-17, and they pose many problems different from children; for example, they may not exhibit clear physical signs of abuse. The in-custody situation adds to the problems and suggests that the incarcerated adolescents are a unique group of possible victims who have not yet received much attention. Sensitivity to child physical and sexual abuse has the public eye currently, and the state-of-the-art is growing daily. Awareness of institutional abuse and adolescent abuse is at the infancy stage that general child abuse was 10 years ago. Exact data on abused adolescents in institutions is not available; however, the 1982 figures from one data source, the Orange County Child Abuse Register, show that the 8-18 age group accounted for 52% of all reports. Of those, the 13-18 group was 26%.

HOW IS ADOLESCENT ABUSE DIFFERENT FROM CHILD ABUSE?*

Unlike small children, adolescents can speak, run, and physically protect themselves. In the out-of-custody setting, adolescents may be emotionally and psychologically dependent on their parents which may cause them to be submissive. In the in-custody setting, however, the youth is a nonvoluntary guest. Adolescent behavior patterns while in custody may or may not be related to a prior history of abuse; but a prior history of abuse is common in delinquents. Consideration of the resulting behavior pattern is necessary in a well-functioning institution.

There are two common patterns of abuse in adolescents. First, the parent or caretaker has been abusive for the youth's entire life (chronic). Second the parent or caretaker begins the abuse as a reaction to the developmental stage of adolescence (acute).

In both the chronic and acute, there can be extremely passive or aggressive behavior by the youth. The following material describes some of the behaviors which might be associated with chronic and acute abuse.

Chronic

Chronically abused passive youth are more apt to be:

- overly compliant, obedient, submissive
- suspicious of adults
- exhibiting extremely low self-esteem
- withdrawn and disrupting

Chronically abused passive youth who are involved in delinquent behavior tend to act out more self-destructive acts such as:

- status offenses like runaway
- substance abuse
- prostitution
- molestation of others
- self-mutilation
- pornography

Chronically abused aggressive youth are more apt to be:

- extremely hostile
- assaultive
- challenging to authority
- destructive

Chronically abused aggressive youth who are involved in delinquent behavior tend to act out more serious crimes such as:

- robbery
- murder
- arson
- assault
- rape

Acute

Acutely abused adolescents have usually experienced little or no physical violence in their lives until they reach the age of adolescence. The parent who is beginning to fear the loss of control, lashes out physically, emotionally, or sexually to retain the parental hold on the youth. A higher percentage of the acutely abused youth is female. The acutely abused youth may be:

- beyond control
- use drugs
- promiscuous
- challenging authority

Comparison

Although both the chronically abused and the acutely abused express a great deal of anger, often displaced, the chronically abused youth is:

- more protective of parents
- more apt to lie about or deny details of injuries
- less susceptible to intervention

The acutely abused youth may:

- be more apt to accuse the perpetrator
- allow more anger to surface
- be more receptive to changes in controlling the abusive pattern

Long-range differences within the dynamics of these two types of abused adolescents are as follows:

1. The chronically abused youth will have a lifetime of dysfunctional behavior and will be more inclined to remain in the justice system. The youth seem incapable of breaking the violent patterns.

*Most of this section was taken from the Lourie material (see bibliography) and from the 1979 4th National Conference on Child Abuse and Neglect Workshop on Adolescents.

2. It is easier to intervene in the case of the acutely abused youth. Both the youth and the parents will most probably outgrow the abuse and they will be more willing and capable of change or compromise.

Cases of adolescent abuse are frequently related to the stresses of the developmental stage. Adolescence is a time for searching and developing a new identity; and for establishing new relationships with friends and family. Youth have an increased interest in and awareness of themselves and their peers, coupled with the challenge of adjusting to major physiological changes, including sexual maturation.

As the adolescents face the need to be independent of their families, they still need, seek and resent, alternately and simultaneously, behavior controls imposed by their parents. The provocation inherent in testing controls, both in the family and in the custody setting, can lead to conflict and potentially lead to abuse.

The preceding background information focused on the parent/family/caretaker as the abuser. The abusive patterns of behavior by adolescents, however, could be described in their interactions with any other person including staff members and other youth.

Examples of when you might see evidence of abuse include:

- on your unit by a co-worker
- on your unit by other youth
- upon admission from a police agency
- upon admission from a group home or other facility
- upon readmission from a furlough or day pass
- upon readmission on a probation/parole violation

HOW CAN YOU IDENTIFY EMOTIONAL, PHYSICAL, AND SEXUAL ABUSE?

Emotional Abuse

Physical and sexual abuse are more easily documented, but some research on those abuses point to the emotional trauma of the acts as more damaging than the actual act. Emotionally maltreated adolescents are not always physically or sexually abused; but physically or sexually abused youth are almost always emotionally injured. However, many youth who have never experienced any type of physical or sexual abuse may be the victims of extreme emotional trauma. Emotional abuse also differs from other types of abuse in that the victim may not realize he is being abused and the abuser may not recognize he is abusing.

The emotionally abused adolescent may come into the facility exhibiting the following behaviors or may develop the behaviors while in custody:

- self-destruction attempts
- apathy, depression, withdrawn
- poor peer relationships
- academic failure, lethargic attitude
- pseudo-maturity
- aggressive behavior, defiance

interpersonal difficulties
developmental lags
anorexia (prolonged loss of appetite)
anxiety/excessive fears
poor self-esteem
hyperactivity
lack of trust, fearful
delusional/excessive fantasy
anxiety/excessive fears
sadoomasochistic behavior
excessive peer dependence
rigid, overly conforming behavior
night terrors
self-mutilation (scratching self, picking at scabs, cigarette burns)

Frequently, it may be difficult to determine which behaviors are the result of an abuse history and which are the result of the trauma of incarceration.

Examples of actions which might be emotional abuse when used in excess include:

- verbal assaults including ridicule, scapegoating, denigration
- isolation
- peer pressure
- safety threats including fear of attack
- lack of personal involvement by staff, negative moods
- rigidity on the part of staff
- inappropriate expectations for performance
- physical restraints

The use of isolation is of particular importance to custody facilities. The purpose of isolation should be: (1) to provide protection to the youth, other youth, and staff; and (2) to give the youth an opportunity to regain control by providing external boundaries and decreased stimulations. If isolation is used as a punitive measure or with minimal attention or for prolonged time periods, the potential for abuse escalates.

Restraints are sometimes necessary for the protection of the youth and others. Restraints have been used therapeutically and to prevent the youth from hurting or destroying himself, others, or property. However, the potential for harm is high.

The situation where a youth is out of control and some restraint is needed until internal control is regained is different from the situation where a staff member restrains a youth who disagrees with him/her or does not do what the staff member wants. The latter is a power play.

Physical Abuse

Physical abuse of adolescents includes any nonaccidental injury caused by the youth's caretaker, such as beating, branding, or punching. It is important to remember that some serious physical indicators common in young children, such as fractures and burns are rare in adolescents. Physical abuse signs commonly seen in adolescents include:

damage to skin and surface tissue, such as bruises and lacerations, usually to the face, lips, mouth, or eyes

frequently unexplained damage to brain as evidenced by convulsions, altered mental status such as coma or irritability

damage to internal organs as suggested by shock, abdominal pain or distentions or bleeding within the organs

bruising in unusual area; for example, armpits, back, groin, backs of arms or legs

bruising patterns, "grids," such as hand prints, belt buckles, bite marks, electric cords, clothes hanger marks

bruises in various stages of healing (different colors, old and new scars)

swollen or tender limbs; unexplained lacerations to the arms, legs or torso

Remember, deliberate injury by other wards is also an assault and can be a criminal offense.

Certain behaviors are evidenced when there is a history of physical abuse. Some of those behaviors include:

exaggerated response to being touched regardless if touch is playful, supportive, or restraining

extremely provocative behavior which pushes encounters to the point where others physically maltreat them

extremes in behavior from aggressiveness to withdrawal

assaultive behaviors ranging from physical assaults to homicide attempts

fear of parents

self-mutilation and escapist behavior

Sexual Abuse

Sexual abuse includes any contacts or interactions between an adolescent and an adult in which the youth is being used for the sexual stimulation of the perpetrator or another person. These acts, when committed by a person under the age of 18 who is either significantly older than the victim or in a position of power or control

over another youth, may also be considered sexual abuse.

It is more difficult to document this abuse unless the victim is willing to report the incident or the act is observed. This is particularly true in institutions where secrecy may equal security. In some cases, however, gross indicators are available and those indicators may reflect either in-custody or out-of-custody activity. Some sexual abuse signs for boys and girls include:

exaggerated awareness of sex with either seductive interest or fearful avoidance of close contact with others

tearing, bruising or specific inflammation of the mouth, anus or genitals or evidence of semen (oral, rectal, vaginal)

venereal disease of the eyes, mouth, anus or genitals of the youth (be suspect of any venereal disease in a youth under 13)

pregnancy where a girl appears extremely fearful, distressed, or secretive

having a "jacket" or reputation for being sexually vulnerable

The "typical" incest situation usually starts at age 8. With teenage girls, the awareness of sexually inappropriate behavior (incest) can result in physical abuse or emotional abuse. For example, when the father resents the girl's friends and the girl shuns his advances, the other forms of abuse might occur.

Behavior signs frequently related to sexual abuse include:

- experiencing extremely poor peer relationships
- appearing excessively withdrawn
- molesting others
- dressing provocatively
- engaging in delinquent acts
- prostituting

Staff working with adolescent boys and girls who have been sexually abused should be aware of and sensitive to the reactions which these victims experience. For example, they may express grief over the loss of virginity, feel they are dirty or abnormal, fear further encounters with the perpetrator, and fear that a homosexual encounter may have lifelong consequences.

CHAPTER 2

THE LAW: WHAT ARE THE RULES?

If staff suspect abuse, they are mandated by law to report their suspicions. The reporter is not required to prove the abuse has occurred—only that there is reason to suspect abuse. The reporter is not expected to investigate the incident nor determine responsibility. Child abuse laws also cover adolescents.

If you abuse a youth, you could:

- go to jail
- be disciplined
- be civilly liable
- be fired

If you suspect an abuse situation and do not report, you could:

- go to jail
- be disciplined
- be civilly liable
- be fired

WHO MUST REPORT?

Penal Code (P.C.) Article 2.5, Section 11165, clearly states who is mandated to report. If you are a "child-care custodian," you are a mandated reporter. The classifications specifically named include school personnel, child-care institutional personnel, social workers, and probation officers. Reporting responsibilities cannot be transferred to supervisors or the administration. In fact, superiors and the agency may also be subject to civil liabilities. (Appendix A)

WHAT IS REPORTED?

As a child-care custodian, you must report suspected abuse including physical abuse, sexual abuse, and neglect. Specific definitions of abuse are spelled out in P.C. Sections 11165 and 11166, including willful cruelty or unjustifiable punishment, corporal punishment, and out-of-home abuse. The specific procedures for reporting are described in Sections 11167, 11168, and 11169. (Appendix B)

WHAT ARE THE CONSEQUENCES?

If you are a child-care custodian who reports suspected abuse, you are not civilly or criminally liable for your report unless it can be proven that you knowingly made a false report. If you are a child-care custodian who fails to report suspected abuse, you are guilty of a misdemeanor and could be punished by up to six months in the county jail or by a fine of not more than \$500 or by both. (Appendix C, P.C. 11172).

In Los Angeles, December 1982, two private school personnel were fined and placed on probation for child abuse. One teacher punched a boy and the other person, a principal, failed to report the incident. As the child abuse reporting law becomes more well-known and as

the legal community becomes more active in representing victims in civil causes of action, youth-care custodians must upgrade their skills and be more aware of the consequences of their actions.

In *Landeros vs. Flood* (1976, 17 Cal. 3d 399) civil liability for mandated reporters not reporting is established. (Appendix D).

A discussion of liabilities for failure to report suspected abuse could be expanded to other Federal and State statutes and case law. The reader is referred to the training course, "Correctional Liabilities," available to correctional personnel through department training offices. Of particular interest should be: Title 42 USC, Section 1983; Title 8 USC, Section 242; and California Civil Code, Negligence and Intentional Torts.

IS EVERY "NONACCIDENTAL INJURY" TO A MINOR REPORTABLE (e.g., a fight between two youth)?

According to the San Francisco Child Abuse Council's "Prevention of Abuse and Neglect of Children in Out-of-Home Care" Project, technically the answer is yes. The protection against liability will extend to a report of any nonaccidental injury to any minor, whether inflicted by another minor, and whether inflicted out of mutual assault or out of a more traditional perpetrator/victim context.

They also state that it would not be expected that any mandated professional would incur penalties for failing to report injuries inflicted by one youth upon another UNLESS there were some link between an adult's lapse of duty and the injuries. If expected, and the particular fight occurred when adequate supervision would have prevented it, P.C. 11165 (f) probably applies.

IS SEXUAL ABUSE OF A MINOR BY ANOTHER MINOR REPORTABLE?

The answer stated above applies, except that injuries are clearly injuries, and sexual activity is not necessarily clearly sexual abuse. So, even where youth in a supervised setting may have some sexual contact, there isn't likely any duty to report. The insertion of an object into the rectum or the vagina of one youth by another youth however, is one example of reportable abuse.

WHY ARE STAFF HESITANT TO REPORT ABUSE WHEN THEY SUSPECT IT?

This extremely sensitive subject has some very practical and emotional hesitations which are easy to write about but difficult to work with or confront. When the abuse occurs at the work place, those hesitations include:

- fear of co-worker's response and being seen as untrustworthy

- long-range implications of administration's view of the report

- tendency of wards to report all discipline as abuse

- trauma of testifying against a co-worker

- breaking the code of silence, "airing the dirty laundry"

- risk of exposing facility's reputation

- risk of inviting interference by State and Federal investigators

- jeopardizing staff freedom and discretion

- risk of violating confidentiality. NOTE: The responsibility to adhere to the statutory duty to comply with the law supersedes any confidentiality privileges (*Tarossoff vs. Regents*)

- risk of receiving future employee evaluations as a troublemaker

- risk of endangering the future therapeutic relationship with the family or youth

- rationalizing the situation as not serious

A report is not be taken lightly and administrators need to be supportive of staff who risk discussing unacceptable practices.

EXAMPLES OF POLICIES

P.C. Section 11174 directed the Department of Justice to work in cooperation with the State Department of Social Services to develop guidelines for investigating child abuse in group homes and institutions (Appendix E). These guidelines, including a reporting form, were developed and all probation departments were notified. Policies and procedures developed by the departments vary depending on the specific county operations and resources. Sample policies and procedures from Orange County and San Mateo County are provided in Appendix F.

CHAPTER 3

THE STAFF: NO ONE UNDERSTANDS; WHAT CAN THEY DO?

If you work in an institution, you have a tough job. The very nature of the setting provides "driving forces" toward institutional abuse potential. In 1982, there were approximately 9,000 youth each day in county custody settings. These are stressful places in which to be or to work. The youth in the facilities are largely voiceless and at the mercy of the adults who operate the facility. Institutions are supposed to be impartial; programs are analyzed; and outside citizens often visit; but even the most diligent administrator or manager cannot be aware of all the practices. Despite the best intentions of program managers, occasionally the youth are the victims of maltreatment in the institutions which are designed to work with them.

Sympathy is easy to muster for dependent children, victims, and adolescents who are in out-of-home placements for nondelinquent behavior. The subject of institutionally abused youth in custody settings requires a different approach since frequently the public is of the opinion that punishment is appropriate, the harsher the better. Does that give custody personnel too much leeway in "discipline" or "behavior control"?

Youth advocates are not always sensitive to what staff deal with—the spitting, name calling, attacks, threats, smearing of feces, throwing urine, working every day in units where equipment is vandalized and weaker youth might be victimized by their peers.

There is stress in youth correctional work! After having studied for a degree, accepting low wages, and entering a field where the public says, "If you're dumb enough to work there . . .", recidivism is high; and you often wonder if you are helping anyone. Working becomes getting through the day with no fights, no injuries, and no paperwork. Staff usually go to work for a correctional department to assist troubled youth, to be in a "helping" role.

The reality of the serious problems the youth and the system have can be discouraging, leading to poor morale. In some ways, correctional workers also become victims.

Society accepts that parents can raise children just as they wish as long as the children are not obviously harmed, they go to school, and there is no threat or nuisance to others. What about institutions? Are the expectations higher? Staff in these facilities do take over the child-rearing for a set number of months and, at times, years. There is a belief that institutions which care for our youth have an obligation and mandate to abide by very high standards of care.

The driving forces center on the "at risk" youth, the institutional atmosphere, the stress of the assignments, and the opportunities staff have for finding fulfillment in their jobs. This chapter will offer some approaches and ideas to assist you in doing your job.

WHAT ARE THOSE YOUTH LIKE? *

Youth in placement and especially those in custody are generally difficult, troubled, and in need of much assistance. Frequently, they are seriously disturbed, sociopathic, and view other people as "objects". When others are objectified, they are more easily injured.

Institutionalized youth are alike in another respect. That is, the youth in institutions were "at risk" of being child abuse victims prior to their institutionalization. The emotionally disturbed, incorrigible, delinquent youth are more likely than other youth to be maltreated even when they are living in their own homes. These high risk youth have already been identified as not being appropriately left in the more normal setting. However, the institutions in which they are placed are expected to cope with them, treat them for problems which prompted institutionalization, and not abuse them.

Youth in custody have similar profiles; for example, they may:

- be mentally or emotionally handicapped with a well-documented lack of progress or positive response in group settings
- exhibit bizarre behavior which does not respond to rewards and punishment
- be dangerous
- be unable to show warmth or appreciation

HOW DOES THIS "AT RISK" POPULATION AFFECT STAFF?

Working in institutions is almost always psychologically taxing and emotionally draining, often physically grueling and occasionally dangerous. The role of the staff member who must exercise authority over these youth has many limitations, and the pressure on institutional workers is unremitting. The mundane requests and demands of numerous youth, their petty quarrels, and even their achievements bombard staff incessantly for their entire shift. There is seldom time for "escape" or a minute's reflection. Burnout tends to come early and remains a constant problem for even the most dedicated staff member. At times, the opportunity for overtime pay makes the job more financially palatable; however, the extra hours increase the likelihood of tiredness and impatience. In many ways it is surprising, given these factors, that child abuse occurs as infrequently as it does.

Institutional staff do not come to work at the beginning of their shift intending to maltreat the youth committed to their care. On the contrary, institutional maltreatment

* Most of this chapter is taken directly from Department of Health, Education and Welfare's "Preventing Child Abuse and Neglect: A Guide for Staff in Residential Institutions".

often results from the gradual development by a staff member of a pattern of reacting impulsively and impatiently to residents, and of resorting more and more frequently to physical solutions to the problems of confrontation and challenged authority. One of the major methods for preventing institutional abuse is detecting these patterns before they become abusive and rechanneling them more constructively.

ARE THERE FACTORS IN THE INSTITUTIONAL ATMOSPHERE WHICH MIGHT CAUSE A STAFF MEMBER TO BE ABUSIVE?

We have already discussed the high risk population and the built-in frustrations of being a staff member in a facility. Other factors include:

overcrowding which contributes to both physical and psychological conditions leading to being overly tired and harassed.

institutional staff's relationship with the youth which is different from a parent is directing/reprimanding, and frequently a confrontation results.

youth's tendency to invent instances of abuse or exaggerate description of maltreatment in order to retaliate against a staff member. This ability of some youth to manipulate the system is one of the great dilemmas in the management of institutions.

staff's tendency to become "institutionalized". Institutional staff and administrators begin to assume that the status quo within the institution, especially regarding the treatment of youth, is normative. They also tend to insulate themselves from the contrary opinions of noninstitutional persons by saying, "They couldn't possibly understand the issues unless they worked in our institutions."

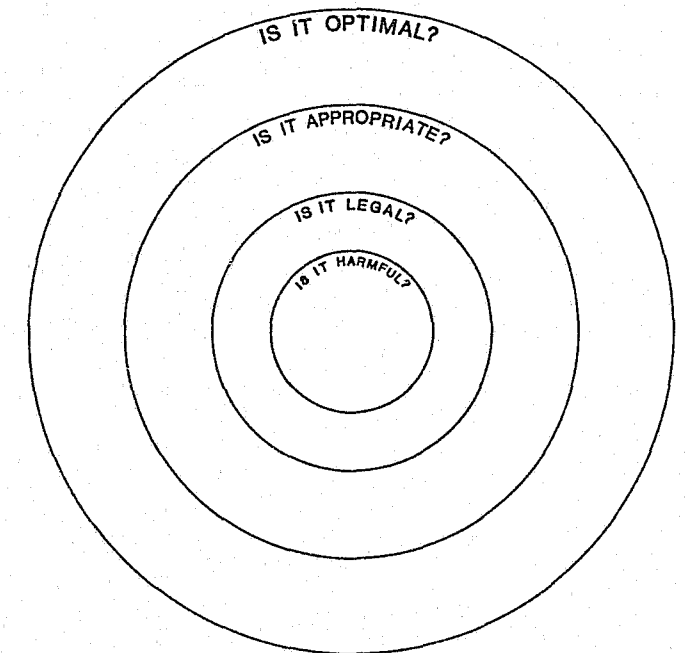
HOW DO YOU KNOW YOUR ACTIONS ARE APPROPRIATE?

The range of undesirable behavior toward youth in residential institutions encompasses everything from grave and criminally actionable physical abuse and neglect, through varying degrees of emotional abuse, to questions essentially involving optimal versus suboptimal treatment and environment.

The following diagram depicts these varying definitions of institutional youth abuse and neglect. Kinds of undesirable care of youth in institutions can be seen to lie within a series of concentric rings—ranging from the smallest, which asks the question, "Is it harmful?" to the largest, which asks the question, "Is it optimal?" Examples of actions which will be described in this material uses the Chapter 1 identification section in a practical application to institutions.

The First Circle: Is it harmful?

The actions which lie within the smallest circle in the diagram, which asks the question, "Is it harmful?" are the actions which are clearly abuse and neglect—no matter



who are the victims, who are the perpetrators, or the location or the abuse. Both physical abuse and emotional abuse, with harm to the youth, can occur in a residential institution in a number of ways:

Physical Abuse

Youth can be subject to harm as a result of being beaten. This may take the form of excessive or inappropriate corporal punishment. In California, prohibition of corporal punishment is covered in the California Administrative Code, (CAC) Title 15, Article 7, Section 4295, for juvenile halls. For ranches, camps and schools, the prohibition is in CAC, Title 15, Article 7, Section 4350. P.C. 673 describes the penalty for cruel punishment in institutions. Youth may be subjected to inappropriate and excessive use of restraining devices such as straight jackets, handcuffs, leg shackles, and even soft ties. Harm may occur to youth either through the overzealous application of a restraining device or through totally inappropriate usage of the restraints. Psychotropic and other drugs may be used as a method of keeping youth under control in the institution and harm may result from their overuse.

Youth may be isolated or secluded for long periods of time as a disciplinary or "treatment" device. These isolation or "solitary" rooms may range from tiny cubicles to jail-like cells. Their most salient feature is that youth in them have no contact with other youth and only limited contact with adults. At best, extended use leads to extreme boredom and depression. At worst, they can lead to suicide, psychosis, or self-starvation.

Youth may be sexually abused by institutional staff. This may include forcing or threatening youth to engage in acts for the sexual stimulation of the staff member or another person, the purchase of sexual favors, or even acceptance of sexual gratification when the youth is the initiator.

Emotional Abuse

Belittling or ridiculing a youth, especially in front of peers

Ridiculing a youth's family, background, culture, or race

Failing to treat suicide threats as serious

Consistently treating members of a peer group unequally and unfairly

Allowing the group to develop its own control system without staff intervention

Persistent lack of concern for the youth's welfare

The key questions in determining whether a specific instance of emotional abuse belongs within this circle of IS IT HARMFUL? include:

Is the youth being mentally or emotionally harmed by this abuse?

Is there a significant threat of future harm unless there is intervention?

The Second Circle: Is it legal?

The question IS IT LEGAL? reflects society's peculiar relationship to its institutionalized youth. This circle has been included in the diagram of institutional abuse because the courts have addressed themselves to many very specific aspects of the treatment of youth in institutions. The areas covered by these court orders were the result of class action suits brought on behalf of all residents in an institution. Some of the issues covered include:

prohibition of corporal punishment

prescription of specified hours of education and recreation

prohibition of mechanical restraints

prohibition for detailed procedures protecting youths' due process

rights in disciplinary proceedings

protection of youths' rights to treatment and care

The only way to define and recognize institutional abuse within the circle of IS IT LEGAL? is to have knowledge of the court orders and consent decrees which apply and are in force within the particular jurisdiction.

The Third Circle: Is it appropriate?

At this point, the discussion moves outside of the circle of IS IT HARMFUL? which describes practices which are clearly abusive or neglectful through the circle of IS IT LEGAL? where society, acting through the courts, has defined some parameters for institutionalized youth. The next circle in the diagram of institutional abuse asks the question, IS IT APPROPRIATE? Another way of asking this question is, "Is this the way the community has the right to expect that its youth will be treated in an institution?"

This category of inappropriate behaviors and practices encompasses many of the most persistent and insidious forms of abusive practices in institutions. They rarely make headlines and may in some cases be acceptable in some families or cultures. They are practically impossible to discover except from within the institution and in many cases are actions which are separated from acceptable behavior by only the thin line of the judgment of the institutional staff member.

Physical practices which belong to the inappropriate sector of the diagram of institutional abuse include:

unnecessary physical force. For example, dragging a recalcitrant youth down the hall in a headlock rather than putting one hand on the youth's arm and one under the belt in the back and guiding him down the hall. It might also include pushing a youth down in a chair instead of asking the youth to sit down.

corporal punishment not resulting in harm to the youth. This includes some very painful forms of corporal punishment such as being forced to "duck squat," straddle a wall, stand on one foot, stand for an extended period, or being repeatedly awakened or forced to remain awake for long periods of time.

physical practices explained or justified by staff as "playing". These may include "playful" punches and hits.

physical practices which are bizarre, if not harmful, administered under the guise of treatment. These may include "behavior modification" by pinching and electrical shock, for example.

having the group hold a youth down as a form of "therapy".

Inappropriate emotional treatment of institutionalized youth, like its physical counterpart, takes many forms—often subtle—and is usually recognized as abuse more acutely by the victim. It is most easily defined as failure to treat institutionalized youth fairly and with respect and dignity.

Forms which this level of emotional abuse can take include:

incessantly teasing a youth

consistently using profane and vulgar language

talking negatively about the youth's family or habits encouraging or allowing a youth's peers to "pick on" that youth

encouraging peers to ridicule a youth; for example, as a "baby" or "chicken," in order to modify behavior

arbitrariness, failure to set consistent standards for behavior

capricious withdrawal of privileges which are important to the youth

sexually suggestive conversation or behavior with youth

shouting and screaming at youth

general lack of civility toward youth

The key to defining and recognizing physical and emotional abuse in this third circle of the diagram is the broadly-based question of whether or not the behavior or practice is an APPROPRIATE way for youth to be treated.

The Fourth Circle: Is it optimal?

The fourth and final circle of the institutional abuse diagram asks, "Is this the way the community would like its youth to be treated?" or IS IT OPTIMAL? To consider whether youth are receiving optimal care in an institution may be expanding this discussion somewhat beyond the question of institutional abuse and neglect. However, questions regarding the quality of the atmosphere, relationships, and treatment within the institution arise frequently and are of serious concern to parents or to institutionalized residents, as well as to advocates for youth within the community.

The areas which are legitimately addressed at this point on the diagram would include:

What is the quality of the relationships between the staff and the youth?

Are the youth known and cared about as individuals by all of the staff who work with them?

Is there individualized planning for each youth in the institution?

What is the nature of the daily schedule? Are there sufficient planned activities, or long periods of idleness?

Are there opportunities for quiet times?

What is the quality of treatment, if any?

Is the educational program responsive to the age and ability of the youth?

Are members of the community involved in institutional programs?

Are there active programs of preparation for re-entry into the life of the community?

DISCIPLINE/BEHAVIOR CONTROL CONTROL AND ABUSE: IS IT A FINE LINE?

The combination of physical punishment and rage is ineffective as a disciplinary tool and can be deadly. Many experts agree that while physical punishment and rage have the immediate effect of interrupting the youth's

behavior, the deterrent effect is not long-term. In addition, the use of excessive corporal punishment may teach a youth to resolve conflicts violently and to use physical power rather than reason to obtain results or to express anger. Physical punishment is more often effective for relieving staff tension than for disciplining a youth. Moreover, it frequently leaves the person with feelings of guilt and remorse in addition to jeopardizing the staff's job, family security, and personal security.

Discipline and punishment are not the same. Rules for behavior must be established. Discipline should be an educational process by which the staff assist youth in developing the internal controls necessary to assume responsibilities, make daily living decisions and learn to live in reasonable conformity to accepted levels of social behavior.*

The use of corporal punishment is almost universally accepted as a form of discipline by parents. However, corporal punishment is prohibited as a disciplinary technique by people engaged in the care of youth. Unfortunately, the staff are not always instructed in the use of alternatives. In a state of frustration or anger, a worker may resort to a familiar and frequently accepted slap.

WHEN IS PUNISHMENT REGARDED AS ABUSE?

Because of the concern over this issue, the San Francisco Child Abuse Council offers the following guidelines:

Intent: The intent of the disciplinary action must be evaluated. Is the intent to teach, to discipline, to halt undesirable behavior, and to instill desired behavior? Or is the intent to cause pain, to vent anger or frustration, or "use" the youth as a means of releasing built-up pressures?

The proper intent of discipline is to teach internal controls, not to cause pain or to violate others.

Control: If action (including corporal punishment) is undertaken, is it done in a controlled state? Is the person able to conduct appropriate disciplinary action without fear of escalation?

Disciplinary action is most effective when the disciplinarian is in control of his/her behavior.

ARE THERE WAYS YOU CAN SUBSTITUTE APPROPRIATE BEHAVIOR CONTROL METHODS FOR INAPPROPRIATE ONES?

The following chart is taken from the Federal publication, "Preventing Child Abuse and Neglect: A Guide for Staff in Residential Institutions."

* Paraphrased from "Manual of Standards for Residential Child Care Facilities", State of New Jersey

GENERAL BEHAVIORAL GUIDELINES FOR INSTITUTIONAL STAFF *

DO

1. DO maintain full supervision over each and every resident in your charge at all times.
2. DO make your presence known by your interested alertness and initiative and by taking action when needed.
3. DO know the authorized regulations and rules of disciplinary control in your area. CORPORAL PUNISHMENT IS NOT PERMITTED.
4. DO know positively your exact population count at all times and the exact location of each individual resident.
5. DO know, respect and enforce all safety rules and regulations at all times, everywhere.
6. DO treat all residents, their families and their friends with respect and dignity. Remain objective, fair and consistent in your dealings with them.
7. DO personally lock and unlock doors, screens and windows as required in your area of supervision and keep keys on your own person at all times.
8. DO record fully any and all pertinent activity that occurred during your tour of duty in appropriate logs or through unusual incident reports. This is a protection for you.
9. DO call for help or ask instructions for handling an explosive situation before it gets out of control.
10. DO keep medicine, drugs, tools and implements locked up while not being dispensed or used. Always issue and account for such items personally.
11. DO watch your language, dress and deportment. The residents are watching and evaluating you.
12. DO know those persons authorized to have information. Live up to the trust and responsibility placed in you by treating information confidentially.
13. DO assume your share of responsibility for the behavior of the entire resident population.
14. DO be familiar with, understand, and obey pertinent regulations, policies and procedures.
15. DO know leave regulations and how to arrange for leave properly.
16. DO remain calm, retain order and control of residents during unusual, potentially explosive or emergency situations. Contact the appropriate offices or personnel for necessary assistance.
17. DO observe and protect the right of every resident to be treated fairly, with respect and dignity and to live in an environment free from threats or physical harm.

* Used at Institutional Care Services Division, Department of Human Resources, District of Columbia.

DO NOT

1. DO NOT leave any resident or group of residents unsupervised at any time, anywhere.
2. DO NOT forget that slackening supervision means surrendering control.
3. DO NOT use unauthorized disciplinary measures such as corporal punishment, physical abuse, or loss of meals.
4. DO NOT accept a questionable or incorrect population count, or take the whereabouts of any resident for granted.
5. DO NOT violate safety rules or regulations at any time, anywhere, either on or off the grounds, indoors or outdoors. The physical safety of residents is your responsibility.
6. DO NOT become involved in personal dealings, (gifts, favors, etc.), fraternization, compromise or undue familiarity with residents, their families or their friends.
7. DO NOT give keys to residents or permit keys to come into the possession of residents and/or unauthorized personnel.
8. DO NOT leave your tour of duty with your logs incomplete. Record important data in residence log and in residents' records, and complete unusual incident reports before leaving your tour of duty.
9. DO NOT attempt to handle alone any emergency which is beyond your resources.
10. DO NOT leave medicines, drug tools, or any implements within access of residents.
11. DO NOT be a poor model for residents by your dress, language or behavior.
12. DO NOT give, reveal or allow to be released any information, orally or in writing, about residents to any unauthorized person or agency. This includes careless conversations in the presence of residents.
13. DO NOT limit your supervision to those in your immediate care. You are a staff member, representing an entire institution.
14. DO NOT violate administrative policies, regulations or rules and procedures.
15. DO NOT take leave without arranging for it ahead of time or calling in to obtain leave approval from your Supervisor.
16. DO NOT take any action or make any statements which could incite, encourage or condone any disruption or negative behavior or any breach of policy, procedure, rules or regulations.
17. DO NOT violate, contribute to the violation of, or condone the violation of residents' rights. Knowledge of any such violation must be reported through the prescribed unusual incident procedure.

Poor communication skills result in poor group control and in negative ward reactions. For example:

ACTION

Blaming/accusing
Name calling, threats

Commands
Sarcasm
Hitting
Lecturing and moralizing
Warnings
Prophecy
Comparison
Bribes
Long explanations

REACTION

Defensive, guilt, lies
Rage, self-fulfilling prophecy challenged and defiant or frightened and seclusive
Anger, defiance, resistance
Embarrassment, humiliated
Anger, revenge, poor model
Bored, irritated
Fear, discount the action, challenged to test the limits
Doomed, defeated
Irritated, anger at person compared to
Youth holds out for bargains
Irritation, tunes out adult

Some of the substitutes for inappropriate actions seem obvious and yet, regular review and reemphasis can make a difference in the daily operation of a living unit.*

Instead of threats
Instead of interrogating

Instead of preaching
Instead of bossing
Instead of shrieking, yelling, shouting, and losing control
Instead of prolonged silence
Instead of public criticism
Instead of carping
Instead of begging or pleading

Instead of bribery
Instead of blind obedience "do it because I said so"
Instead of just letting things go
Instead of over-reacting

Try persuasion, pointing out positive aspects of desired behavior.
Try resolving disagreements with both parties explaining their needs and view.
Try modeling, setting an example.
Try challenging, appealing to the youth's competitive desire to do well.
Try distancing; be aware of when you are out of control, even leaving the scene if someone else is there to supervise the group.
Try ignoring undesirable behavior.
Try talking with the youth in private
Try not holding a grudge; don't keep reminding the youth of the mistake.
Try contracting, spelling out the specific behavior and specific rewards or punishments.
Try rewarding.
Try giving a justification for a rule or punishment (do not debate).
Try establishing routines/expectations.
Try being under control of your emotions while disciplining.

* Reference: How to Influence Childrearing by Charles Schaefer, Ph.D.

CHAPTER 4

WHAT CAN MANAGEMENT DO TO HELP?

This chapter will provide some ideas on how the material can be used in recruiting and training staff and in developing policies in specific areas.

HOW CAN A FACILITY SCREEN FOR POTENTIALLY ABUSIVE WORKERS?

Some of the following questions could be added to the application process either by a questionnaire or as part of the interview. The intent of the questions is to indicate general areas which could be considered as possible warning signs of a potential for abuse. Those signs in and of themselves are not conclusive but can aid management in assessing an applicant more thoroughly.

How were you disciplined as a child?

Did your parents use any disciplinary technique on you or siblings which you considered "extreme"? How do you feel about that technique now?

Do you ever get angry? How do you usually express anger?

Do you ever get afraid you may be making a wrong decision in your life?

Do you think youth should generally behave more adult-like and take more responsibility for themselves and their actions?

Do you expect that youth should adjust readily to living away from home?

If a youth cries or throws a temper tantrum, what do you think that indicates?

What would you do with a youth who was always hitting other youth?

What would you do if a large 16-year-old turned on you with a baseball bat?

If you tried over and over to "get through" to a disturbed youth to no avail, would you give up, or keep trying?

If you were sexually attracted to a youth, what would you do?

If you go to the point of losing control, what would you do? Would you talk about it? To whom?

If you walked into a room where two youth were involved in sexual activity, what would be your reaction?

Are some youth harder to work with than others? Why?

Do you remember a "bully" in your past? How did you deal with him/her?

Why do you think parents abuse their children? What do you think of these parents? What do you think might help them?

Have you ever heard of caretakers or teachers abusing youth? How do you think this happens? What could be done to prevent it?

Were you beaten as a child? How do you feel about that now?

Do you feel you were "deprived" as a child?

What rewards do you find in your work with youth?

Do you find most youth you work with provocative and difficult?

How do you avoid negative interactions with youth when you are angry?

Some of the answers which would indicate a "potential" to abuse will be those demonstrating predisposing factors such as:

- Negative childhood experience
- Tendency toward isolation or internalization of problems
- Observed or received violent behavior as a child
- Lack of appropriate anger expression
- High or unrealistic expectations of youth
- Insensitivity to youths' needs
- Lack of planning or preparation for effective intervention
- Lack of understanding of youths' behavior
- Over-investment in youth for ego gratification
- Rigidity, inflexibility
- Past experience that might affect clear judgment toward a specific youth
- Difficulty with a specific developmental age
- Low self-esteem
- Punitive tendencies

It is worth mentioning one more time that the presence of the above-listed factors in and of themselves should not be taken as conclusive evidence of the prospective employee's lack of suitability to work with youth. For example, someone may indicate a very strong abusive background. However, this person may have come to terms with the experience and may not have unstable characteristics at this time in his/her life. This person may be able to excel in caretaking tasks. An additional point is that some of the above-mentioned characteristics may be present (in variable degrees) in everyone; it is only the extreme responses that might indicate a potential problem area.

WHAT AREAS SHOULD BE TARGETED FOR TRAINING?

Training of staff is a decisive factor in effective service delivery. While a broad range of training is provided to new staff and as part of in-service sessions, the issue of adolescent abuse should be a high priority for institutional staff and for anyone developing treatment plans. A related issue for training to focus on is the proper expression of anger by staff. If the expression of anger is discouraged or if there is not enough training or support on the appropriate release of anger, the following situations can result:

- stress builds up
- inappropriate response
- displaced anger at co-workers or youth
- sabotaging
- depression
- overeating
- illness
- absenteeism
- accidents, destruction of property
- articles get lost
- alcoholism, drug abuse
- child abuse or other violence

The advantages of expressing anger in appropriate ways include:

- improved communication
- prevention of psychosomatic illnesses or depression
- prevention of some of the factors mentioned above

Training programs on the other specific issues should include:

- dynamics of adolescent abuse
- identification of adolescent abuse
- dynamics of family rearing patterns
- managing problem behavior
- discipline techniques including role playing
- stress of institutional work
- techniques for teaching self-discipline to youth
- legal responsibilities to report abuse and on liabilities for not reporting
- training on the typical reactions and behavior patterns of abused/molested youth
- use of restraints and isolation

Staff have a powerful effect on the youth in their care. Learning positive control techniques leads to a positive effect. Inappropriate control techniques defeat the treatment purpose of institutionalization and frequently instill negative behavior patterns on ways of handling stressful situations. The more in-service training provided around disciplinary matters, the better, since overdisciplining is a frequent form of abuse in institutions, and is not necessarily done out of maliciousness, but rather, inability to cope and the lack of understanding of the purpose of discipline.

WHAT POLICIES NEED TO BE DEVELOPED TO ASSIST STAFF?

Most departments have policies to cover most facets of institutional care. Others have memos of understanding or staff notices on related issues. The State standards mandate some policies and suggest others. Policies regarding the following areas are suggested as vital to the area of adolescent abuse:

- child abuse reporting responsibilities, including liabilities and local procedures
- isolation, seclusion
- restraints, use of force
- allowable sanctions
- sexual contact with residents
- use of medications
- procedures if staff is attacked or threatened
- procedures if youth is attacked by other wards

In each policy, the administration needs to clearly state what kind of behavior is expected of staff. Of particular concern is the issue of youth attacking staff and youth attacking other youth. Statistically, male staff members are more apt to confront the hostile youth who is prone to attack.

This may be partially due to:

- the need to present a "macho" image whose authority is not to be questioned,
- the more accepted practice of males physically settling differences,
- the need for male juveniles to "save face" once confronted,
- the attitude of many that belittling and ridiculing build character and make "men out of boys," and
- the misguided belief that youth in institutions are there to be punished and forced to follow orders.

Female staff generally deal with confrontation by backing off, changing course, or requesting other staff to assist in the situation and assist in diverting the confrontation. However, when female staff are accosted, they may be more prone to physical injury for several reasons:

- they may not be physically as able to restrain a fighting adolescent,
- they may be less apt to have self-defense skills,
- they are not psychologically in tune with the fighting philosophy.

When working with female youth who tend to fight viciously, both male and female staff are more susceptible to attacks with objects: sharpened utensils, clothing, or towels used to strangle or choke, biting, etc.

When youth have attacked or might attack other youth

in the institution, staff should:

- be aware of potential problems and request increased security by added coverage
- modify tension by changing the atmosphere of the unit
- separate youth who are initiating the violence
- alternate free time on the unit for aggressors
- establish consistent discipline including removal or reduction of privileges, transfer to more secure detention, and the filing of new charges

Staff can control the atmosphere on the unit further by remaining in an authoritarian role, changing activities, and by controlling confrontation. Safety of all residents should be the first priority.

In developing a policy on discipline, punishment, and control, the following should be included:

- corporal punishment shall not be used—
- corporal punishment includes, but is not limited to, striking a youth directly or with any physical object shaking, shoving, spanking, or other forms of aggressive physical contact
- punishment of a youth by another youth or group of youth condoned by, or at the instigation of, staff
- youth shall not be required or forced to take an uncomfortable position such as squatting, bending, or standing against a wall
- youth shall not be required or forced to repeat physical movements.

The following actions shall not be permitted:

- harsh, humiliating, belittling, or degrading responses of any form, including verbal, emotional, and physical
- deprivation of what the youth is entitled to, or what is necessary for proper development, care, or treat-

ment as described in the State standards

- extensive withholding of emotional response or stimulation,
- placing or keeping a youth in a locked room for extended periods of time
- requiring the youth to remain silent for long periods of time,
- mechanical or excessive physical restraint
- assignment of unduly physically strenuous or harsh work
- prolonged confinement to bed

In developing a policy on the use of restraints, the following should be included:

- physical restraint shall require special justification and shall be employed only to protect a youth from injury to self or to others and shall not be employed as punishment.

In developing a policy on isolation, the following should be included:

- only certain clearly designated staff members may authorize the use of isolation and the conditions under which it may be used
- standards should be established and maintained regarding the frequency of observation of the isolated youth
- the youth's file should contain documentation of the use and the reason for isolation
- appropriate administrative or professional staff should establish specific time periods for the isolation
- specific isolation areas should be designated
- staff should be instructed that isolation should not be used as punishment.

CHAPTER 5

THE FUTURE: ARE THERE ANY IDEAS OR PROGRAM MODELS?

Institutional counselors and field officers should consider this material as they supervise their caseloads and as they refer the youth to specialized treatment services.

HOW DOES A HISTORY OF ABUSE/MOLESTATION IMPACT TREATMENT PLANS OR CASE MANAGEMENT?

The primary purpose of institutions is the orderly operation of a residential program. Most of the time is spent on the daily living unit operation, meeting basic needs such as eating, sleeping, education, and recreation. The counseling aspect does not always have a high priority for a variety of reasons including limited staff resources. The counseling aspect of institutionalization and post release supervision is, however, one of the reasons many people go into youth corrections work. It also can be one of the most important parts of the youths' future adjustment, including how well they fulfil the parenting role with their own children.

Staff working with the youth and their families cannot avoid considering how an early history of abuse/molestation impacts their treatment plans. The family dynamics and behavior patterns dictate or at least give an indication of how the youth will behave as an adult, unless there is intervention. Violence in families usually continues for subsequent generations; battered parents were often battered children; molesters were often molested.

The relationship of abuse to delinquency is often quoted; however, there is not a lot of quality research on the subject. Most studies were not extensive, and in California, very little has been done to date. Line workers, however, are of the opinion that there is a correlation between abuse and delinquency; and on informal caseload surveys, they feel there does seem to be a high incidence of violent families. Not all those families identified as violent were involved in official abuse reporting, even though many could and should have been reported in the past.

Incestuous families are another hidden statistic depending on county sophistication and processing. The arena of status offenses has spotty research even though most shelter-care operators and counselors for runaways are of the opinion that there is a relationship between those behaviors and abuse in the home.

Each of these areas has potential for research, program development, and training. All fit under the umbrella of preventing delinquency in the future. Parental child rearing practices are an integral part of the justice system not yet adequately addressed, especially with high risk families; i.e., probationers and parolees.

If delinquent acts are partially the result of learned behavior, counselors are compelled to understand and consider how it was learned and how it impacts the future

planning. One study, "Delinquency Patterns in Maltreated Children and Siblings," by Bolton, Reich and Guitierrez, discusses the possibility that maltreated youth may become delinquents or more often, may be involved in status offenses (escapist behaviors) whereas their siblings who were not maltreated but who observed the violence, become the perpetrators, assuming that victimizing others is acceptable behavior. In field supervision, this is an important view that the officer should be aware of in working with the family. Frequently, more than one family member is on probation which gives further support to the importance of the family dynamics in correctional work.

Youth on caseloads both in and out of custody who are the victims of abuse will probably grow up with low self-images, myriad self-doubts, predispositions toward violent interactions, or escapist tendencies. Another reaction may be extreme dependency on the counselor or officer so much so as to require inappropriate amounts of attention. Suicidal thoughts are common along with excessive mood changes and self-mutilation.

Understanding the dynamics of the behavior of youth raised in violence and neglect can help the staff avoid many pitfalls; for example, getting caught up in validating the youth's need to project a low self-image, uncontrollable rage, violence or self-mutilating behavior. The youth frequently sets him/herself up for disaster because the youth has learned to control his or her environment through initiating the same type of behavior that may have precipitated the abuse years ago. This is the familiar world the youth knows; and no matter how unpleasant, it is predictable.

Youth who grow up under negative conditions—constantly being criticized, scapegoated, and belittled—are not going to become competent adults capable of developing their full potential. They incorporate the image in which they have been cast by their parents and live with all the negative feelings they have developed as a result. They may develop character and behavior disorders mental illness or at least, become persons filled with self-doubt and internal anger. They view themselves as less desirable, less intelligent, and less competent than their peers. They are handicapped in establishing positive and effective relationships; they develop into adults who are less effective than they could be.

As the case-carrying staff member, you might suspect abuse in a family but will find that adolescents frequently impede your investigations. They are reluctant to discuss the abuse in the home because they may feel they deserve it; fear they will be removed from the home; or feel embarrassed or ashamed. On the other hand, some may exaggerate any discipline as abuse or neglect to retaliate against their parents or to avoid any control of their behavior.

In working with the parents of the adolescent, there may also be difficulty in assessing the facts. They may, for example, fear the discovery (especially of molest), feel victimized themselves over having no control, feel a great deal of anger at the youth for acting out, feel their family operation "is no one else's business," or fear a loss of respect in the community or with relatives. In assessing the youth on the caseload, reference back to Chapter 1 is suggested where chronic and acute abuse is defined.

For the *chronically* abused youth on the caseload, the abuse is characterized as a pattern extending through several generations. The youth's poor self-esteem causes problems for him or her in learning and in forming relationships. Frequently, these families have a pattern of social isolation, often viewing other people as sources of pain and criticism rather than of pleasure and nurturance. The parents often show various patterns of disturbance in personality development which may be present through behavior that is immature and inadequate, dependent and narcissistic, rigid and domineering, or disorganized and overwhelmed.

When the youth has been so psychologically injured by the chronic abuse and criticisms, by failure in school and in relationships, the response to adolescence is to act out *pain* rather than to talk about it. This acting out often involves the youth in the juvenile justice system where the maltreatment may go undetected.

For the *acutely* abused adolescent on the caseload, the parents are responding to the loss of control in their family and to the adolescent's tendency to disrupt the order in the family. The separation and control issues set the stage for the parent to overact and lose control themselves. Rigid parents have not given the youth the opportunity to learn self-control.

As the staff member involved with the case management and planning for the youth who may have been victimized, you may be the most significant person in the youth's life. You have the opportunity to be a positive influence enabling the youth to leave the institution a better integrated person with new skills and attitudes. You can break the cycle of abuse and help the youth become capable of making socially acceptable positive choices. The abused youth have experienced failure by their parents or caretakers; emotions of anger, hurt, outrage, and distrust are directed toward all parent surrogates.

The manner in which staff approach abused youth will reinforce the negative image of adults or provide a model which will enable the youth to modify their attitudes and increase their ability to relate constructively with adults and their environment.

In planning for the youth on the caseload, here are some suggestions:

Don't Label—Youth should not be identified as "abused" to themselves or other residents. Staff should be aware of a history of known abuse and may explore the possibility of abuse in counseling, but avoid labeling or stereotyping abused youngsters.

Use Positive Approach—Many abused youth have had little exposure to positive thinking, feelings, and behavior. Encourage the youngster and let him/her know when he/she does well.

Be Consistent and Fair—Explain the rules and your expectations clearly. Explain why each rule is required and what discipline will follow if it is disregarded. Most abused youth accept structure and routine if they understand it.

Expect Testing of Limits—This is not a deterioration of behavior but an exploration by the youth to determine how flexible the rules are and if staff are consistent.

Avoid Power Plays—These youth have been victimized by those with power and authority over them and will react negatively toward unwarranted and arbitrary use of power.

Provide Time and Space—Practice patience and allow the youth a way to "let off steam" in a safe situation. Give them permission to express anger and complaints without fear of criticism or retaliation. Do not rush or crowd them to discuss the experiences. Some abused youth will be very verbal about the experiences and may try to obtain sympathy and special treatment. Others will be unable or reluctant to discuss it and staff should respect their right to privacy, but be available when and if they do want to talk.

Build Self-Esteem—Low self-esteem is a universal characteristic of abused youth. Self-image is established by the parent's view of the youth. If the youth are not valued or are abused physically or emotionally, the youth will view themselves in a negative manner as having no worth and deserving of punishment. Upon entering a custody institution, this negative image has just been reaffirmed. Avoid comments or behavior that will reinforce the low self-esteem. Provide achievable tasks and goals that will enhance self-esteem and an opportunity for personal growth.

Treat Youth with Dignity—Do not fall into the habit of making negative or derogatory comments or name calling. Also, do not allow others to fall into this habit. It is not helpful or effective.

Stay Objective Regarding Family—Many youth will either defend or defame the actions of their parents or family members. Allow them to ventilate their feelings about the family members but remain objective and nonjudgmental. Explore how abuse/neglect might occur in the dynamics of their own situations. Help them to accept and be realistic about the family relationships and deal with their feelings. Move toward establishing more positive family relationships or terminating destructive ones. Closure is needed to allow the youth to proceed to other personal relationships of a positive nature.

Be Aware of Special Problems—Abused youth adapt in various ways. It is important to recognize the potential for problems in their adaptive behavior:

1. **Aggression**—Returning violence for violence is an adaptive mechanism. Some abused youth will be quick to react to anything they perceive as a threat, whether from staff or other residents. Let them know it is unacceptable and that you will not allow them to be hurt or to hurt others. Discipline should be nonpunitive and, if possible, constructive.
2. **Victim**—Youth sometime perceive themselves as helpless and have no hope to escape pain. They are easy targets in custody for continued abuse by others and will not defend or protect themselves. Staff should avoid placing them in situations where they can be victimized and protect them when necessary. As their self-esteem increases, their willingness to be a victim will decrease.
3. **Withdrawal**—Youth who withdraw from contacts with staff and peers feel safer alone. They are usually conforming and adjust to the institution. They have high potential for explosive-type behavior. They "bottle up" their anger and hostilities, which can be triggered by perceived threats or personal stress. Staff should try to gradually involve the withdrawn youth in activities where they can interact with others and participate in the total program.

4. **Manipulator**—Do not allow the youth to manipulate you into repeating a pattern of abuse. Abuse is equated with attention, however negative. It also is a means of absolving guilt. Staff should avoid reacting by abusive tactics even when provoked by the youth.
5. **Sexual Victim**—Youth who have been sexually abused have a double burden—dealing with the abuse and the damage to their sexual identity. They may be sensitive to revealing themselves in the group or to staff. It is important to be nonjudgmental and assure the youth that they are not responsible. Specialized counseling for the sexual victim is particularly needed.

Staff are encouraged to seek out resources that exist in the counties to provide services to these youth when they are released. Resources should specialize in therapy for abused/molested youth which may be beyond the skills of the average counselor or officer. Program or contacts with the abuse/molest specialty which exist in most counties include:

Child Abuse Councils
Sexual Assault Hotlines
Parents United Chapters
Parents Anonymous Chapters
Private Therapists used by State Department of Social Services
Incest Survivors' Groups
Women's Support Groups
Victim/Witness Referral Resources
Parenting Classes

HAVE ANY PROBATION DEPARTMENTS DEVELOPED SPECIAL PROGRAMS FOR THESE YOUTH?

COUNTY/CONTACT

Santa Clara

Robert Carroll
Supervising Probation Officer
840 Guadalupe Pkwy.
San Jose, CA 95110
408-299-2334

Probation Intake
408-299-2511

408-280-5055
408-279-1957
(hotline)

San Bernardino

Dr. Paul Boccumini, Director
Clinical Services
900 E. Gilbert St.
San Bernardino, CA 92404
714-383-2876

Riverside

Clarence Kirchoff, Assistant Director
Support Services Division
P.O. Box 833
Riverside, CA 92502
714-787-2611

Ray Liles
714-682-7844

Ray Liles
714-682-7844

PROGRAM DESCRIPTION

Young Male Offenders' Program

The program is designed to provide treatment for adolescent sexual offenders. They provide individual, family and group counseling.

The group counseling often deals with the offender's own history of abuse. Developing effective social skills and appropriate sexual behavior is also a goal. They currently receive approximately 10 referrals a month.

Parents United, Child Sexual Abuse Program, Daughters and Sons United, Child Abuse Unit

This is a coordinated treatment approach aimed at intrafamily sexual abuse. The family is usually treated as a unit, but the program also has groups for the victims offering mutual support and self-help. Those treated include the offender, the spouse, close family members, and the victim. They also work with adults molested as children.

Parents United and Daughters United

The Department uses these two programs for incest offenders and victims.

Probation Department Clinical Services Department

A team of psychologists work with the San Bernardino Mental Health Department on delinquents with a history of abuse. They have done some work with juvenile fire setters and found a history of abuse to be a persistent variable. The team also coordinates with their Family Crisis Center.

Kuiper Youth Center

This in-custody facility has a counseling group for males called "specialized needs group" which focuses on their own history of abuse.

Riverside Interagency Sexual Abuse Council (R.I.S.A.C.)

This program provides treatment services to incest offenders and to the nonoffending parent figure.

Back in Control and Parents in Control

These parent training courses provide instruction for controlling children's behavior and setting proper behavior limits for them.

Daughters United

This program provides treatment to the victims of incest, to the nonoffending parent and to the offender.

Juvenile Offenders' Group

This program will be working with juvenile offenders who have been involved in incestuous behavior.

Fresno

Joe Walden, Director
Juvenile Services
890 S. 10th St.
Fresno, CA 93702
209-488-3570

Fresno County Interagency Committee

This group meets weekly to analyze the needs of sexually abused minors, including adolescents. A subcommittee comprised of representatives from Mental Health, Social Services, Law Enforcement, and Probation attempts to coordinate service efforts.

Probation Department Training

The Department currently provides special training and support services to one of their local group homes which has become specialized in dealing with sexually abusive adolescent males.

A number of other departments responded to the request for names and descriptions of resources they use. Most of them use Parents United or some branch of Parents United such as Sons and Daughters United or Women Molested as Children. Los Angeles County has specialized caseloads for adult offenders who have abused or neglected a child under 18 years of age.

CONCLUSION

We hope this document will encourage agencies to reconsider their role with abused adolescents, to develop new programs to serve this group of youths, and to explore new ways to provide quality services to victimizers who, too often, are also victims.

APPENDIX A

CHILD ABUSE REPORTING

Penal Code Article 2.5.

(Added by Stats. 1980, Ch. 1071)

P.C. 11165. Definitions. As used in this article:

(a) "Child" means a person under the age of 18 years.

(b) "Sexual assault" means conduct in violation of the following sections of the Penal Code: Sections 261 (rape), 264.1 (rape in concert), 285 (incest), 286 (sodomy), subdivisions (a) and (b) of Section 288 (lewd or lascivious acts upon a child under 14 years of age), and Sections 288a (oral copulation), 289 (penetration of a genital or anal opening by a foreign object), and 647a (child molestation).

(c) "Neglect" means the negligent treatment or the maltreatment of a child by a person responsible for the child's welfare under circumstances indicating harm or threatened harm to the child's health or welfare. The term includes both acts and omissions on the part of the responsible person.

(1) "Severe neglect" means the negligent failure of a person having the care or custody of a child to protect the child from severe malnutrition or medically diagnosed nonorganic failure to thrive. "Severe neglect" also means those situations of neglect where any person having the care or custody of a child willfully causes or permits the person or health of the child to be placed in a situation such that his or her person or health is endangered, as proscribed by subdivision (d), including the intentional failure to provide adequate food, clothing, or shelter.

(2) "General neglect" means the negligent failure of a person having the care or custody of a child to provide adequate food, clothing, shelter, or supervision where no physical injury to the child has occurred.

(d) "Willful cruelty or unjustifiable punishment of a child" means a situation where any person willfully causes or permits any child to suffer, or inflicts thereon, unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of the child to be placed in a situation such that his or her person or health is endangered.

(e) "Corporal punishment or injury" means a situation where any person willfully inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition.

(f) "Abuse in out-of-home care" means situations of physical injury on a child which is inflicted by other than accidental means, or of sexual assault or neglect or the

willful cruelty or unjustifiable punishment of a child, as defined in this article, where the person responsible for the child's welfare is a foster parent or the administrator or an employee of a public or private residential home, school, or other institution or agency.

(g) "Child abuse" means a physical injury which is inflicted by other than accidental means on a child by another person. "Child abuse" also means the sexual assault of a child or any act or omission proscribed by Section 273a (willful cruelty or unjustifiable punishment of a child) or 273d (corporal punishment or injury). "Child abuse" also means the neglect of a child or abuse in out-of-home care, as defined in this article.

(h) "Child care custodian" means a teacher, administrative officer, supervisor of child welfare and attendance, or certified pupil personnel employee of any public or private school; an administrator of a public or private day camp; a licensed day care worker; an administrator of a community care facility licensed to care for children; headstart teacher; a licensing worker or licensing evaluator; public assistance worker; employee of a child care institution including, but not limited to, foster parents, group home personnel and personnel of residential care facilities; a social worker or a probation officer.

(i) "Medical practitioner" means a physician and surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, or any other person who is currently licensed under Division 2 (commencing with Section 500) of the Business and Professions Code.

(j) "Nonmedical practitioner" means a State or County public health employee who treats a minor for venereal disease or any other condition; a coroner; a paramedic; a marriage, family, or child counselor; or a religious practitioner who diagnoses, examines, or treats children.

(k) "Child protective agency" means a police or sheriff's department, a county probation department, or a county welfare department.

(1) "Commercial film and photographic print processor" means any person who develops exposed photographic film into negatives, slides, or prints, or who makes prints from negatives or slides, for compensation. The term includes any employee of such a person; it does not include a person who develops film or makes prints for a public agency.

(Amended by Stats. 1981, Ch. 435; effective 9/12/81; amended by Stats. 1982, Ch. 905).

APPENDIX B**P.C. 11166. Child abuse reporting.**

(a) Except as provided in subdivision (b), any child care custodian, medical practitioner, nonmedical practitioner, or employee of a child protective agency who has knowledge of or observes a child in his or her professional capacity or within the scope of his or her employment whom he or she knows or reasonably suspects has been the victim of child abuse shall report the known or suspected instance of child abuse to a child protective agency immediately or as soon as practically possible by telephone and shall prepare and send a written report thereof within 36 hours of receiving the information concerning the incident. For the purposes of this article, "reasonable suspicion" means that it is objectively reasonable for a person to entertain such a suspicion, based upon facts that could cause a reasonable person in a like position, drawing when appropriate on his or her training and experience, to suspect child abuse.

(b) Any child care custodian, medical practitioner, nonmedical practitioner, or employee of a child protective agency who has knowledge of or who reasonably suspects that mental suffering has been inflicted on a child or his or her emotional well-being is endangered in any other way, may report such known or suspected instance of child abuse to a child protective agency.

(c) Any commercial film and photographic print processor who has knowledge of or observes, within the scope of his or her professional capacity or employment, any film, photograph, video tape, negative or slide depicting a child under the age of 14 years engaged in an act of sexual conduct, shall report such instance of suspected child abuse to the law enforcement agency having jurisdiction over the case immediately or as soon as practically possible by telephone and shall prepare and send a written report of it with a copy of the film, photograph, video tape, negative or slide attached within 36 hours of receiving the information concerning the incident. As used in this subdivision, "sexual conduct" means any of the following:

- (1) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex or between humans and animals.
- (2) Penetration of the vagina or rectum by any object.
- (3) Masturbation, for the purpose of sexual stimulation of the viewer.
- (4) Sadomasochistic abuse for the purpose of sexual stimulation of the viewer.
- (5) Exhibition of the genitals, pubic or rectal areas of any person for the purpose of sexual stimulation of the viewer.

(d) Any other person who has knowledge of or observes a child whom he or she knows or reasonably suspects has been a victim of child abuse may report the known or suspected instance of child abuse to a child protective agency.

(e) When two or more persons who are required to report are present and jointly have knowledge of a known or suspected instance of child abuse, and when there is agreement among them, the telephone report may be made by a member of the team selected member of the reporting team. Any member who has knowledge that the member designated to report has failed to do so, shall thereafter make the report.

(f) The reporting duties under this section are individual, and no supervisor or administrator may impede or inhibit the reporting duties and no person making such a report shall be subject to any sanction for making the report. However, internal procedures to facilitate reporting and apprise supervisors and administrators of reports may be established provided that they are not inconsistent with the provisions of this article.

(g) A county probation or welfare department shall immediately or as soon as practically possible report by telephone to the law enforcement agency having jurisdiction over the case, and to the agency given the responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code, every known or suspected instance of child abuse as defined in Section 11165, except acts or omissions coming within the provisions of paragraph (2) of subdivision (c) of Section 11165, which shall only be reported to the county welfare department. A county probation or welfare department shall also send a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it is required to make a telephone report under this subdivision.

A law enforcement agency shall immediately or as soon as practically possible report by telephone to the county welfare department and the agency given responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code, every known or suspected instance of child abuse reported to it, except acts or omissions coming within the provisions of paragraph (2) of subdivision (c) of Section 11165, which shall only be reported to the county welfare department. A law enforcement agency shall also send a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it is required to make a telephone report under this subdivision.

(Amended by Stats. 1981, Ch. 435, effective 9/12/81; by Stats. 1982, Ch. 905.)

P.C. 11167. Contents of report.

(a) A telephone report of a known or suspected instance of child abuse shall include the name of the person making the report, the name of the child, the present location of the child, the nature and extent of the injury, and any other information, including information that led such person to suspect child abuse, requested by the child protective agency.

(b) Information relevant to the incident of child abuse may also be given to an investigator from a child protective agency who is investigating the known or suspected case of child abuse.

(c) The identity of all persons who report under this article shall be confidential and disclosed only between child protective agencies, or to counsel representing a child protective agency, or to the district attorney in a criminal prosecution or in an action initiated under Section 602 of the Welfare and Institutions Code arising from alleged child abuse, or to counsel appointed pursuant to Section 318 of the Welfare and Institutions Code, or to the county counsel or district attorney in an action initiated under Section 232 of the Civil Code or Section 300 of the Welfare and Institutions Code, or when those persons waive confidentiality, or by court order.

(d) Persons who may report pursuant to subdivision (c) of Section 11166 are not required to include their names.

(Amended by Stats. 1981, Ch. 435, effective 9/12/81; amended by Stats. 1982, Ch. 162, effective 4/26/82.)

P.C. 11168. Report forms.

The written reports required by Section 11166 shall be submitted on forms adopted by the Department of Justice

after consultation with representatives of the various professional medical associations and hospital associations and county probation or welfare departments. Such forms shall be distributed by the child protective agencies.

P.C. 11169. Written reports—Department of Justice.

A child protective agency shall forward to the Department of Justice a preliminary report in writing of every case of known or suspected child abuse which it investigates, other than cases coming within the provisions of paragraph (2) of subdivision (c) of Section 11165, whether or not any formal action is taken in the case. However, if after investigation the case proves to be unfounded no report shall be retained by the Department of Justice. If a report has previously been filed which has proved unfounded the Department of Justice shall be notified of that fact. The report shall be in a form approved by the Department of Justice. A child protective agency receiving a written report from another child protective agency shall not send such report to the Department of Justice.

(Amended by Stats. 1981, Ch. 435, effective 9/12/81.)

APPENDIX C

P.C. 11172. No Liability.

(a) No child care custodian, medical practitioner, nonmedical practitioner, or employee of a child protective agency who reports a known or suspected instance of child abuse shall be civilly or criminally liable for any report required or authorized by this article. Any other person reporting a known or suspected instance of child abuse shall not incur civil or criminal liability as a result of any report authorized by this article unless it can be proven that a false report was made and the person knew that the report was false. No person required to make a report pursuant to this article, nor any person taking photographs at his or her direction, shall incur any civil or criminal liability for taking photographs of a suspected victim of child abuse, or causing photographs to be taken of a suspected victim of child abuse, without parental

consent, or for disseminating the photographs with the reports required by this article. However, the provisions of this section shall not be construed to grant immunity from such liability with respect to any other use of the photographs.

(b) Any person who fails to report an instance of child abuse which he or she knows to exist or reasonably should know to exist, as required by this article, is guilty of a misdemeanor and is punishable by confinement in the county jail for a term not to exceed six months or by a fine of not more than five hundred dollars (\$500) or by both.

(Amended by Stats. 1981, Ch. 135; amended by Stats. 1981, Ch. 435, effective 9/12/81.)

APPENDIX D

Mandated reporters may be subject to civil damage suits if they fail to report. In the case of *Landeros vs. Flood* (1976) 17 Cal. 3d 399, an infant, Gina, was brought into a hospital with injuries, treated and released back to her mother. Subsequently, she was treated for new and more serious injuries by a second doctor who reported the injuries as suspected child abuse. The child was made a ward of the court and a guardian ad litem was appointed. The guardian ad litem then instituted a suit on behalf of the child against the first doctor for failure to report as required by law. The California Supreme Court reversed a lower court decision which dismissed the complaint and held that the complaint stated a cause of action based on a failure to perform the statutorily imposed duty to report raises a presumption that a defendant doctor failed to exercise due care. The Supreme Court sent the case back to the lower court for trial. The plaintiffs in this case sued the doctor for \$2 million, plus costs. A decision for the plaintiffs would obviously have been serious for

the doctor involved. In spite of the ultimate outcome of this case (the charges could not be substantiated), it is clear that medical practitioners and other persons who have a statutory duty to report may be held civilly as well as criminally liable when they fail to report suspected cases as required by law.

Welfare and Institutions Code Section 318 gives the child's counsel the right to investigate all records of reported child abuse to see if mandated reports complied with the child abuse reporting laws. The child's counsel also has the duty to recommend to the court that a civil action on behalf of the child be initiated against any mandated reporter which did not comply with the child abuse reporting laws if the child sustains any further injury.

Taken from Child Abuse Prevention Handbook, Crime Prevention Center, California Department of Justice, 1982.

APPENDIX E

P.C. 11174. Guidelines.

The Department of Justice, in cooperation with the State Department of Social Services, shall prescribe by regulation guidelines for the investigation of child abuse, as defined in subdivision (f) of Section 11165, in group homes or institutions and shall ensure that the investiga-

tion is conducted in accordance with the regulations and guidelines.

(Amended by Stats. 1981, Ch. 435, effective 9/12/81; amended by Stats. 1982, Ch. 162, effective 4/26/72.)

APPENDIX F

Orange County Policies and Procedures

Child Abuse Reporting and Investigation Responsibilities of the Probation Officer

AUTHORITY:

PC 11165-11174
Resolution of the Orange County Board of Supervisors
Regulations of the California Attorney General
Memorandum of Understanding between Orange County Probation Department and Social Services Agency (November 1983)

RESCINDS:

Manual Item 2-1-004 dated 6-2-82
Manual Item 3-1-112 dated 1-5-82

FORMS:

Suspected Child Abuse Report SS 8572
Suspected Child Abuse Preliminary Investigation Report SS 8573
Unfounded Child Abuse Report SS 8574

PURPOSE:

1. To establish uniform reporting procedures for all known or suspected instances of child abuse.
2. To establish investigating procedures for those cases of known or suspected child abuse in which an active juvenile case is the victim.

PROCEDURE:

I. GENERAL INFORMATION

A. Mandatory Reporting and Investigation—Overview

1. Who must report:

- a. All employees of the Probation Department who, in their professional capacity, discover known or suspected child abuse are required to report.
- b. There is no liability for reporting.
- c. There may be civil liability and/or criminal liability personally for failure to report.

2. Summary of Reporting Suspected Child Abuse:

- a. Telephone the Child Abuse Registry of the Social Services Agency at 834-5353, immediately.
- b. Complete the Suspected Child Abuse Report (Form SS 8672) in writing and route to Child Abuse Registry by County messenger within 36 hours (details on how to complete the form are found in Section II.B.).
- c. Make added notifications:
 - (1) If discovered in the community; if there is an immediate threat to the child's safety, evidence to collect, a criminal investigation to conduct for

potential prosecution, notify local law enforcement immediately.

- (2) If discovered in placement or out-of-home care, notify local law enforcement, the licensing agency for the facility and the facility operator.
 - (3) If discovered in a Probation Department operated facility or if the suspected abuser is on-duty staff, notify the Chief Probation Officer via the chain of command immediately. The Chief Probation Officer or delegate will then request the District Attorney to conduct an independent criminal investigation.
- d. Act to ensure the child's immediate safety. Examples of this include, but are not limited to, having law enforcement take the minor into protective custody, removal from a placement facility by the placement officer or law enforcement, removal from or changing units within a county facility.
3. Summary of Preliminary Investigation Procedure:
- a. An investigation is conducted by the Probation Department
- If the subject of the abuse is:
- (1) A ward of the Juvenile Court (601 or 602 W&I).
 - (2) An active probation case in the intake, investigation, diversion or other supervision processes per Sections 628, 628.1, 636, 653, 654, 702, 707, 725a, 725b, or 736 of the Welfare and Institutions Code (see Section III for details).
- b. The "Preliminary Investigation Report" will be completed by the Social Services Agency on all cases in which the Probation Department has no active legal relationship to the subject of child abuse.
 - c. If confusion exists regarding which agency is to complete the "Preliminary Investigation Report," the individual making the initial report or someone assigned from their department will complete the investigation.
 - d. The DPO making the "Suspected Child Abuse Report" will conduct a preliminary investigation and complete the "Preliminary Investigation Report" (Form SS 8573).
 - e. If the reporting party is not a DPO (e.g., PNC, DPC, SPC, Clerical, Transportation

Officer, etc.), the reporting party shall advise the supervisor of the assigned DPO of the report, its circumstances and request that the DPO conduct the preliminary investigation. Should there be any uncertainty as to who the assigned DPO is, the Child Abuse Coordinator is to be advised and will finalize the DPO assignment.

II. PROCESS TO COMPLETE "SUSPECTED CHILD ABUSE REPORT" (FORM SS 8572)

A. What to Report (Form SS 8672)

1. The victim is a person under 18 years of age.
2. The action, whether the perpetrator is an adult or juvenile, is:

a. Sexual Assault Pursuant to:

- (1) PC 261 (rape)
- (2) PC 264.1 (rape in concert)
- (3) PC 285 (incest)
- (4) PC 286 (sodomy)
- (5) PC 288(a)(b) (lewd and lascivious acts upon child under 14)
- (6) PC 288a (oral copulation)
- (7) PC 289 (penetration of a genital or anal opening by a foreign object)
- (8) PC 647a (child molest)

b. Physical Punishment or Cruelty Pursuant to:

- (1) PC 273c (willful cruelty or unjustifiable punishment of a child).
- (2) PC 273d (corporal punishment or injury).

c. Neglect

Child abuse includes those conditions under which a minor may come under the jurisdiction of the Juvenile Court, such as:

- (1) Negligent treatment of a child by the person responsible for the Child's welfare resulting in harm or threatened harm.
- (2) Failure by that person to protect the child from severe malnutrition or medically diagnosed nonorganic failure to thrive.
- (3) Intentionally or negligently permitting a situation to develop which endangers a child's health including lack of adequate food, clothing or shelter.

d. Cruelty

Child abuse also includes willful cruelty or unjustifiable punishment of a child by any person who causes or permits any child to suffer or inflicts on the child unjustifiable physical pain or mental suffering whether or not the person has responsibility for the case and custody of that child.

e. Punishment

Corporal punishment willfully or cruelly inflicted or resulting in traumatic injury is child abuse.

3. If other circumstances appear to be borderline as to whether or not they should be reported as child abuse, the judgment should be made to report rather than not to report.

4. Note: Even incidents of abuse that have happened in the past that do not appear to pose a present danger to the child and could not result in present prosecution shall be reported.

B. How to Complete "Suspected Child Abuse Report" Form SS 8572

1. Acquire a copy of state Form SS 8572 from the Probation Department forms room or regional forms supply.

2. Type or print all sections with ballpoint pen.
 - a. If imprinting on copies is indistinct, photocopy original for distribution.
 - b. This is necessary to enable DOJ to properly encode all information.

3. Names of victims, siblings, parents and alleged abusers must be filled out with first, middle and last names and dates of births.
 - a. "S" or "Same" causes confusion.

4. "Agency Name" and "Address" must be completed in full:

Orange County Probation Department
Box 10260
Santa Ana, CA 92711

5. This report must be submitted even if it proves to be unfounded during preliminary investigation in order that DOJ can reconcile all concurrent reports submitted by all other mandatory reporters. (See Section IV regarding unfounded reports.)

6. Routing is as follows:

- a. Submit all appropriate copies of SS 8572 to the Child Abuse Registry.
- b. Route the yellow copy to the juvenile case file.
- c. Retain a photocopy for your own records.
- d. Route a photocopy to the Probation Department's Child Abuse Coordinator.

7. Note: Reporting is a personal responsibility and is to be completed by the individual discovering the abuse. Although supervisory assistance may be sought to ensure proper reporting and completion of the report form, no supervisory approval is required for a report to be submitted.

III. PROCESS TO COMPLETE "CHILD ABUSE PRELIMINARY INVESTIGATION REPORT" (FORM SS 8573)

- A. The reporting DPO will conduct the preliminary investigation, unless otherwise assigned and the reporting staff member is relieved of another staff member assigned to complete the investigation per supervisory direction. If the reporting party is not a DPO, a DPO will be assigned to complete the investigation.

- B. Telephone the Child Abuse Registry and confirm the Probation staff will complete the Preliminary

Investigation concerning a child abuse subject who is under probation jurisdiction as noted in Section I.A.3, or that the Social Services Agency will complete the investigation on others.

- C. The investigating staff member should contact local Child Abuse Registry (834-5353) and the State Department of Justice Child Abuse Unit, Box 13417, Sacramento 95813 (916) 739-5109 (after hours X2771, DOJ Command Center) to discover if there are other abuse reports concerning the subject of abuse, siblings or on the alleged perpetrator.

- D. The specific instructions on Form SS 8573 (front and back) are to be followed in completing the report.

- E. The completed "Preliminary Investigation Report" is routed in a confidential envelope by county messenger to the Child Abuse Registry within 5 work days of filing the Suspected Child Abuse Report. A photocopy of the form is entered in the juvenile case file, plus a photocopy of the form is forwarded to the Probation Child Abuse Coordinator.

- F. If after the completion of the investigation the matter is unfounded, complete the report detailed in Section IV.

- G. Note: The function of this investigation is to assist and support the Child Abuse Registry in determining necessary involvement of medical personnel and law enforcement. It is not intended to replace independent law enforcement investigation nor collect evidence, but rather to team with them and act in the capacity of Child Protective Services for any minor with an open juvenile case file.

- H. Responsibility to Notify in Writing of Action Taken Per PC 11170 Concerning Abuse in Foster Home or Private Institution

1. Belongs to investigating agency. When Probation conducts the Preliminary Investigation, the following shall be notified.
 - a. DOJ, Division of Law Enforcement, via the SSA Child Abuse Registry.
 - b. Probation file (if our victim).
 - c. Licensing agency.
 - d. Probation or Welfare Department in the jurisdiction where institution is located.
 - e. Administrator of the institution.

IV. COMPLETING "UNFOUNDED CHILD ABUSE REPORTS" (FORM SS 8574)

- A. If it is determined the abuse allegations are unfounded, Form SS 8574 shall be prepared and forwarded to CAR by the investigating DPO. A photocopy of the form is entered in the juvenile case file and a photocopy is forwarded to the Probation Child Abuse Coordinator.

- B. An unsubstantiated report does not constitute an unfounded report.

1. A case cannot be categorized as "unfounded" unless it is proved to be unfounded.

2. Unfounded reports may arise from the following:

- a. The injuries were result of accident.
- b. The victim falsified report (verified).
- c. There is no evidence to substantiate allegation of an anonymous reporter.
- d. The incident does not qualify as a child abuse.

V. PROCESS TO DOCUMENT PROBATION CASE FILE AND STATISTICS

- A. At the conclusion of all action concerning a suspected child abuse of a minor who has an open case file, the assigned Deputy Probation Officer shall prepare a memo for the case file summarizing the matter and any future action or case plan. (Sample attached.)

- B. The report shall include:

1. Minor's probation status.
2. Circumstances of abusive incident (include description of injuries, etc.).
3. Minor's statement.
4. Perpetrator's statement (if other than parent).
5. Parent's statement.
6. Witness statement.
7. Medical support if necessary and available.
8. Report of prior history of child abuse.
9. Finding of validity of report.
10. Action taken and any future case plan required.

- C. Monthly Statistics

Enter any Child Abuse Reports, Preliminary Child Abuse Investigations, or Unfounded Reports in the "Other Reports" section of the monthly statistics form by type and number, e.g., "2 Child Abuse Reports, 1 Preliminary Investigation."

SAN MATEO COUNTY

Child Abuse—Policy Statement and Referral Process

Staff working under the auspices of the Probation Department who has knowledge of, or who observes a child whom s/he reasonable suspects ¹ has been a victim of child abuse,² has a legal requirement to report the circumstances in the manner set forth in this policy.

This reporting procedure is not intended to delay or limit action necessary to deal with child abuse when an immediate crisis exists. When the victim is in immediate danger, call the police and/or take whatever steps can reasonably be taken to protect the child.

When two or more persons are required to report are present and jointly have knowledge of a suspected instance of child abuse, and when there is agreement among them, a telephone report to Social Services ³ shall be made by a member of the team selected by mutual agreement and a single report ⁴ shall be made and signed by such selected member of the reporting team. Any member who has knowledge that the member designated to report has failed to do so, shall thereafter make such report.

When two or more persons who are required to report have joint knowledge of a situation involving suspected child abuse, but disagree about the necessity of reporting that suspicion, or when an individual employee reasonably suspects a child abuse situation, that person who has reasonable suspicion should make the telephone contact and submit the signed report previously described.

In all instances, the telephone report should be made promptly and the signed report must be forwarded to

Child Protection Services (Pony #5900) within 36 hours. By law, child abuse situations which meet the "reasonable" measure previously described must be reported. Further, by law, any peer or superior is prohibited from interfering with the reporting process in any way.

One copy of the written report will be submitted by the reporting person to the Probation Department pertinent case file and an additional copy will be submitted to the "Child Abuse Reports File" to be maintained by the Assistant Chief Probation Officer. Reports not related to an existing case file shall be submitted to the "Child Abuse Report File" only.

Social Services, through its Child Protective Services program, will provide the central coordinating authority and repository for such child abuse reports emanating and coming from any agency, individual or professional within the County of San Mateo.

The Child Protective Services workers will determine what additional investigations are necessary and shall elicit the aid of the appropriate local law enforcement agency to conduct such further investigation as may be needed.

The Child Protective Services, upon the conclusion of such investigation or investigations, shall take whatever action is appropriate and necessary and make all reports required by the law to be submitted to the State Attorney General's Office.

Ref: Penal Code Sections 11165-11174.

¹ Reasonable suspicion means that it is objectively reasonable for a person to entertain such a suspicion based upon facts that could cause a reasonable person in a like position, drawing when appropriate on his or her training and experience, to suspect child abuse.

² Child abuse means physical injury other than accidental by another person, sexual assault, willful cruelty, unjustifiable punishment; neglect; mental or emotional well-being is endangered. The last two categories may be reported.

³ Report a summary of the circumstances (including name and location of the victim) to the on-duty Child Protective Services worker in the Social Services Department (24-hour-a-day phone no. 573-2866).

⁴ Department of Justice Form—"Suspected Child Abuse Report 11166 PC."

SUSPECTED CHILD ABUSE REPORT (11166 PC)

TO BE COMPLETED BY REPORTING PARTY

CASE IDENTIFICATION	TO BE COMPLETED BY INVESTIGATING CPA
	VICTIM NAME: _____
	REPORT NO./CASE NAME: _____
	DATE OF REPORT: _____

A REPORTING PARTY	NAME/TITLE _____			
	ADDRESS _____ () _____ PHONE _____ DATE OF REPORT _____ SIGNATURE OF REPORTING PARTY _____			
B REPORT SENT TO	<input type="radio"/> POLICE DEPARTMENT <input type="radio"/> SHERIFF'S OFFICE <input type="radio"/> COUNTY WELFARE <input type="radio"/> COUNTY PROBATION			
	AGENCY _____		ADDRESS _____	
C VICTIM	NAME (LAST, FIRST, MIDDLE) _____		ADDRESS _____	
	PRESENT LOCATION OF CHILD _____		BIRTHDATE SEX RACE _____ () _____ PHONE _____	
D PARENTS	1. _____		4. _____	
	2. _____		5. _____	
E INCIDENT INFORMATION	IF NECESSARY, ATTACH EXTRA SHEET OR OTHER FORM AND CHECK THIS CIRCLE. <input type="radio"/>			
	1. DATE/TIME OF INCIDENT _____ PLACE OF INCIDENT _____		(CHECK ONE) <input type="radio"/> OCCURRED <input type="radio"/> OBSERVED	
IF CHILD WAS IN OUT-OF-HOME CARE AT TIME OF INCIDENT, CHECK TYPE OF CARE:				
<input type="radio"/> GROUP HOME OR INSTITUTION <input type="radio"/> FOSTER CARE <input type="radio"/> OTHER PLACEMENT (SPECIFY _____)				
2. TYPE OF ABUSE: (CHECK ONE OR MORE) <input type="radio"/> PHYSICAL <input type="radio"/> MENTAL <input type="radio"/> SEXUAL ASSAULT <input type="radio"/> NEGLECT <input type="radio"/> OTHER				
3. NARRATIVE DESCRIPTION: _____				
4. SUMMARIZE WHAT THE ABUSED CHILD OR PERSON ACCOMPANYING THE CHILD SAID HAPPENED: _____				
5. EXPLAIN KNOWN HISTORY OF SIMILAR INCIDENT(S) FOR THIS CHILD: _____				

THIS FORM, AS ADOPTED BY DEPARTMENT OF JUSTICE, IS REQUIRED
UNDER PENAL CODE SECTIONS 11166 AND 11168

REPORTING RESPONSIBILITIES

- No child care custodian, medical practitioner or nonmedical practitioner reporting a suspected instance of child abuse shall be civilly or criminally liable for any report required or authorized by this article (California Penal Code Article 2.5). Any other person reporting a suspected instance of child abuse shall not incur civil or criminal liability as a result of any report authorized by this section unless it can be proved that a false report was made and the person knew or should have known that the report was false.
- Any child care custodian, medical practitioner, nonmedical practitioner, or employee of a child protective agency (CPA) who has knowledge of or observes a child in his or her professional capacity or within the scope of his or her employment whom he or she reasonably suspects has been the victim of child abuse shall report such suspected instance of child abuse to a child protective agency immediately or as soon as practically possible by telephone and shall prepare and send a written report thereof *within 36 hours* of receiving the information concerning the incident.
- Any child care custodian, medical practitioner, nonmedical practitioner, or employee of a child protective agency who has knowledge of or who reasonably suspects that mental suffering has been inflicted on a child or its emotional well-being is endangered in any other way, may report such suspected instance of child abuse to a child protective agency. Infliction of willful and unjustifiable mental suffering must be reported.

REPORTING PARTY DEFINITIONS

- "Child care custodian" means a teacher, administrative officer, supervisor of child welfare and attendance, or certificated pupil personnel employee of any public or private school; an administrator of a public or private day camp; a licensed day care worker; an administrator of a community care facility licensed to care for children; headstart teacher; public assistance worker; employee of a child care institution including, but not limited to, foster parents, group home personnel and personnel of residential care facilities; a social worker or a probation officer.
- "Medical practitioner" means a physician and surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, or any other person who is currently licensed under Division 2 (commencing with Section 500) of the Business and Professions Code.
- "Nonmedical practitioner" means a state or county public health employee who treats a minor for venereal disease or any other condition; a coroner; a paramedic; a marriage, family, or child counselor; or a religious practitioner who diagnoses, examines, or treats children.
- "Child protective agency" means a police or sheriff's department, a county probation department, or a county welfare department.

INSTRUCTIONS

- I. CASE IDENTIFICATION (Upper Box) — *To Be Completed by Investigating Child Protective Agency.*
Case Identification: Enter the victim name, report number or case name, and date of report.
- II. SUSPECTED CHILD ABUSE REPORT (11166 PC) — *To Be Completed by Reporting Party.*
 - A. Reporting Party: Enter name/title, address, phone number, and the date of report, and sign.
 - B. Report Sent To: 1) Check the appropriate child protective agency to whom this report is being sent; 2) Enter the name and address of the child protective agency to whom this report is being sent; 3) Enter the name of the official contacted at the child protective agency, phone number, and the date/time contacted.
 - C. Victim: Enter the name, address, physical data, present location, and phone number where victim is located (attach additional sheets if multiple victims).
Siblings: Enter the name and physical data of siblings living in the same household as the victim.
 - D. Parents: Enter the names, physical data, addresses, and phone numbers of father/stepfather and mother/stepmother.
 - E. Incident Information: 1) Enter the date, time, and place the incident occurred or was observed, and check the appropriate circles; 2) Check the type of abuse; 3) Describe injury or sexual assault (where appropriate, attach form DOJ 900, Medical Report — Suspected Child Abuse, form DOJ 923, Medical Report — Suspected Sexual Assault, or any other form desired); 4) Summarize what the child or person accompanying the child said happened; 5) Explain any known prior incidents involving the victim.
- III. DISTRIBUTION
 - A. Reporting Party: Complete form SS 8572, Suspected Child Abuse Report (11166 PC). Retain yellow copy for your records and submit top three copies to a child protective agency.
 - B. Investigating Child Protective Agency: Upon receipt of form SS 8572, Suspected Child Abuse Report (11166 PC), send white copy to police or sheriff and blue copy to county welfare or probation *within 36 hours*. Complete form SS 8573, Suspected Child Abuse Preliminary Investigation Report (11169 PC), attach pink copy to pink copy of SS 8572, and forward to DOJ *immediately*.

SUSPECTED CHILD ABUSE
PRELIMINARY INVESTIGATION REPORT
(11169 PC)

CASE IDENTIFICATION	TO BE COMPLETED BY INVESTIGATING CPA
	VICTIM NAME: _____
	REPORT NO./CASE NAME: _____
	DATE OF REPORT: _____

TO BE COMPLETED BY INVESTIGATING CHILD PROTECTIVE AGENCY

CHILD PROTECTIVE AGENCY	A	AGENCY _____			
	B	ADDRESS _____			
		PHONE () _____	DATE _____	SIGNATURE OF INVESTIGATING PARTY _____	
ALLEGED ABUSER(S)/SUSPECT(S)	B	NAME (LAST, FIRST, MIDDLE) _____		BIRTHDATE/AGE SEX RACE _____	
		ADDRESS _____		PHONE () _____	
		NAME (LAST, FIRST, MIDDLE) _____		BIRTHDATE/AGE SEX RACE _____	
		ADDRESS _____		PHONE () _____	
		IF NECESSARY, ATTACH EXTRA SHEET OR OTHER FORM AND CHECK THIS CIRCLE. <input type="radio"/>			
		1. COMPLETE THE FOLLOWING STATEMENT: <i>The alleged abuser is the _____ of the victim.</i>			
		<i>The alleged abuser is the _____ of the victim.</i> (FATHER, MOTHER, ACQUAINTANCE, ETC.)			
		2. EXPLAIN ANY KNOWN PRIOR ALLEGATION OF CHILD ABUSE MADE AGAINST THE ALLEGED ABUSER(S)/SUSPECT(S). _____			
		3. NARRATIVE (SUMMARIZE ACTIONS AND CONVERSATIONS BY SUSPECTS AND VICTIMS AND OTHER EVENTS NOT PREVIOUSLY COVERED). _____			

THIS FORM, AS ADOPTED BY DEPARTMENT OF JUSTICE, IS REQUIRED
UNDER PENAL CODE SECTIONS 11168 AND 11169

REPORTING RESPONSIBILITIES

- A county probation or welfare department shall immediately or as soon as practically possible report by telephone every instance of suspected child abuse as defined in Section 11165 reported to it to the law enforcement agency having jurisdiction over the case, and to the agency given responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code, and shall send a written report thereof *within 36 hours* of receiving the information concerning the incident to that agency.
- A law enforcement agency shall immediately or as soon as practically possible report by telephone every instance of suspected child abuse reported to it to county social services and the agency given responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code, and shall send a written report thereof *within 36 hours* of receiving the information concerning the incident to such agency.
- A child protective agency shall forward to the Department of Justice (DOJ) a preliminary report in writing of every case of suspected child abuse which it investigates, whether or not any formal action is taken in the case. However, if after investigation the case *proves* to be unfounded, no report shall be retained by DOJ. If a report has previously been filed which investigation has *proved* unfounded, DOJ shall be notified of that fact and the reason(s) unfounded. The report shall be in a form approved by DOJ. A child protective agency receiving a written report from another child protective agency shall not send such report to DOJ.

INSTRUCTIONS

I. CASE IDENTIFICATION (Upper Box) — *To Be Completed by Investigating Child Protective Agency.*

Case Identification: Enter the victim name, report number or case name, and date of report.

II. SUSPECTED CHILD ABUSE PRELIMINARY INVESTIGATION REPORT (11169 PC) — *To Be Completed by Investigating Child Protective Agency.*

Immediately complete this report upon receipt of form SS 8572, Suspected Child Abuse Report (11166 PC), and forward to DOJ.

A. Child Protective Agency: Enter your agency name, address, phone number, date of report, and sign.

B. Alleged Abuser(s)/Suspect(s): Enter name, physical data, address, and phone number of alleged suspect(s). 1) Enter the relationship of suspect(s) to victim (father, mother, acquaintance, etc.); 2) Explain any known prior allegations of child abuse made against the abuser(s)/suspect(s) (include child protective agency, case number/case name, and date of prior, if known); 3) Explain results of investigation or events not previously covered.

III. DISTRIBUTION

A. Upon receipt of form SS 8572, Suspected Child Abuse Report (11166 PC), from the reporting party, send white copy of form SS 8572 to the police or sheriff and blue copy to county welfare or probation *within 36 hours*.

B. Upon completion of form SS 8572 and form SS 8573, attach pink copies together and *immediately* send to DOJ. Distribute other copies of form SS 8572 and form SS 8573 as follows:

Police or Sheriff — White Copy
County Welfare or Probation — Blue Copy

C. If the child abuse incident is *proven* unfounded by the preliminary investigation prior to sending the form SS 8572 and form SS 8573 to DOJ, attach the completed pink copy of the form SS 8574 to the completed pink copies of the form SS 8572 and form SS 8573 and send to DOJ.

IV. MAILING

Send the attached pink copies of form SS 8572, Suspected Child Abuse Report (11166 PC), and form SS 8573, Suspected Child Abuse Preliminary Investigation Report (11169 PC), and, when appropriate, form SS 8574, Unfounded Child Abuse Report (11169 PC), to:

Department of Justice
Bureau of Criminal Statistics and Special Services
P. O. Box 13417
Sacramento, CA 95813

Attention: Child Abuse Program

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- Fourth National Conference on Child Abuse and Neglect, Panel II, "Innovative Services for Abused and Neglected Adolescents," Los Angeles, 1979.
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- Health, Education and Welfare, "Preventing Child Abuse and Neglect: A Guide for Staff in Residential Institutions," Contract #105-77-1050, 1980.
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