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Child Abuse and Exploitation

Investigative Techniques

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## Foreword

Children are America's most precious resource. They are our future leaders and our hope for tomorrow. And, as former President Reagan says, they "...should have the right and opportunity to walk our streets, to play and grow without their lives being at risk."

Unfortunately, communities across the Nation are discovering that a tragic number of youth are falling victim to physical and sexual abuse. The number of young victims is far higher than anyone imagined a few years ago. In fact, an estimated 2 million cases of child physical, sexual, or emotional abuse and neglect were reported by the American Humane Association in 1986.

Many youth are sexually abused and exploited by family members as well as strangers. It was once believed that the incidence of incest between fathers and daughters was one case per million population. Researchers now believe that more than 1 million women over the age of 18 have been victims of incest. Law enforcement officials also are discovering an alarming number of cases of child pornography and molestation.

Investigating child abuse cases is difficult and requires sensitivity to ensure that a child is not further victimized by the juvenile justice system. One of the priorities of the Office of Juvenile Justice and Delinquency Prevention (OJJDP) is to help law enforcement personnel improve their skills in investigating cases of abused and sexually exploited children.

With this in mind, OJJDP developed this investigator's manual for use at its training sessions offered through the Federal Law Enforcement Training Center at Glynco, Georgia.

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

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

## Acknowledgments

A number of people contributed to this effort and are richly deserving of special mention. Ron Laney, the program's manager within the Office of Juvenile Justice and Delinquency Prevention, provided the incentive and faith for the project. Sergeant Gary O'Connor of the Lower Gwynedd Township (Pennsylvania) Police Department provided a sense of organization, and Sergeant Nick Battaglia of the San Jose Police Department was most helpful. Phil Flournoy and Patsy Andrew of the Federal Law Enforcement Training Center in Glynco, Georgia, supplied much appreciated technical advice throughout the entire effort. Dwight Price of the National District Attorneys Association and Ben Shapiro of the Office of Juvenile Justice and Delinquency Prevention provided technical advice on the legal issues.

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## Introduction

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

Law enforcement professionals are faced with myriad perspectives when beginning an investigation of suspected or alleged child abuse. If they can view the investigation as a detailed process that has as its beginning an understanding of the dynamics of child abuse, a focused approach to the problem will result. The investigative process involves close cooperation between law enforcement and members of a multidisciplinary team, such as medical professionals, prosecutors, and social services personnel.

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

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

Chapter 2, Child Sexual Abuse, examines all facets of child sexual abuse and exploitation, including incest and pedophilia, and offers investigatory considerations and guidelines for interviewing the victim as well as the suspect. The appendixes include several samples of successful search warrants.

Chapter 3, Missing Children, includes information on the investigator's role in all four categories of missing children cases, and on other resources that are available to aid in searching for missing children, such as the National Crime Information Center.

Chapter 4, Legal Issues and Considerations, provides guidance on how to turn the police investigation into a successful trial presentation, and shares tips for overcoming sometimes frustrating procedural obstacles to building a successful legal case.

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

**Chapter 1**

**Physical Child Abuse**

## Underlying causes

A knowledge of the dynamics of child abuse can be most helpful in investigating an incident of suspected child abuse. Knowing why someone might physically abuse a child gives an investigator a broad understanding of the entire problem that can prove useful. For example, investigators should know that if a parent or caretaker was abused as a child, the potential for abusing his or her children is much greater. Although other factors should, of course, be considered, a family history of abuse is one of the most significant reasons for a child to be abused by a parent.<sup>1</sup> Another factor is the influence of alcohol or other chemical substances on the abuser; substance abuse is a major correlating factor with the emotional and physical abuse of children.<sup>2</sup>

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

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

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

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

- o Is hyperactive, aggressive, or disobedient.
- o Is inept, awkward, timid, or weak.
- o Is sickly, unwanted, or unattractive.
- o Has a poor appetite, or a speech difficulty.

It has been clearly established for many years that a crisis usually precedes and precipitates an abusive incident.<sup>3</sup> This crisis might be referred to as a "trigger mechanism," which may cause the parent or caretaker to become overwhelmed and to overreact to a situation while interacting with the child.

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

#### Assessing the incident

Because children under the age of 6 are at the greatest risk of being abused,<sup>5</sup> an investigation into allegations of child abuse must be coupled with information about age and developmental characteristics of children. Since it is frequently the youngest child in a family who is abused, an investigator will be better prepared if he or she has a working knowledge of what a normally developed child should be capable of doing. Knowing when a child begins to crawl, stand, or walk is a part of the child abuse assessment process. The New York State Police has developed a chart depicting the social, emotional, and physical developmental characteristics of children from birth to age 12. This chart has been reproduced as Appendix B of this chapter.<sup>6</sup>

How the injury allegedly occurred should be supported by a reasonable explanation from the parent or caretaker. An inability to offer any explanation for a child's injury, or a contradictory or unconvincing reason, can offer clues to whether it was caused by abuse. The explanation, location, and severity of the injury should all relate.

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

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

80% No injury.

18% Single bruise, lump, or cut.

1% Simple linear skull fracture.

1% Fresh fracture on collarbone or upper arm.<sup>7</sup>

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The most important finding in this study was that none of the children sustained a subdural hematoma (see page 47 for a description) or any life-threatening injury.

Children can be injured seriously by violently shaking them. The rationale parents give for shaking an infant are:

- o As a means of resuscitation.

- o Breathing difficulty.
- o Irritability.
- o Lethargy.
- o Decreased appetite.
- o Vomiting.
- o Crying.

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

One has the impression that a good shaking is felt to be socially more acceptable and physically less dangerous than a blow on top of the head or elsewhere.<sup>8</sup>

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

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

- o Fear of punitive legal action.

- o Feelings of guilt or remorse.
- o A desire to shield a spouse or loved one.
- o A need to avoid the social stigma.<sup>9</sup>

It can be helpful to the case for investigators of any incident of suspected abuse to ask themselves the following questions early in the assessment process:

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

When child abuse is suspected and is not properly addressed through effective intervention, research has shown that 5 percent of children returned to their parents are killed and 35 percent are reinjured.<sup>10</sup> Further, the probability of serious injury is compounded when the victim is so young as to be nonverbal and nonambulatory. In these cases, not only age and developmental characteristics should be evaluated, but additional attention should be focused on the nature of the injuries.

Appendix C of this chapter outlines the medical protocol that is often followed by medical professionals when the child is taken for examination.

Investigators should cooperate with medical staff to implement the procedures.

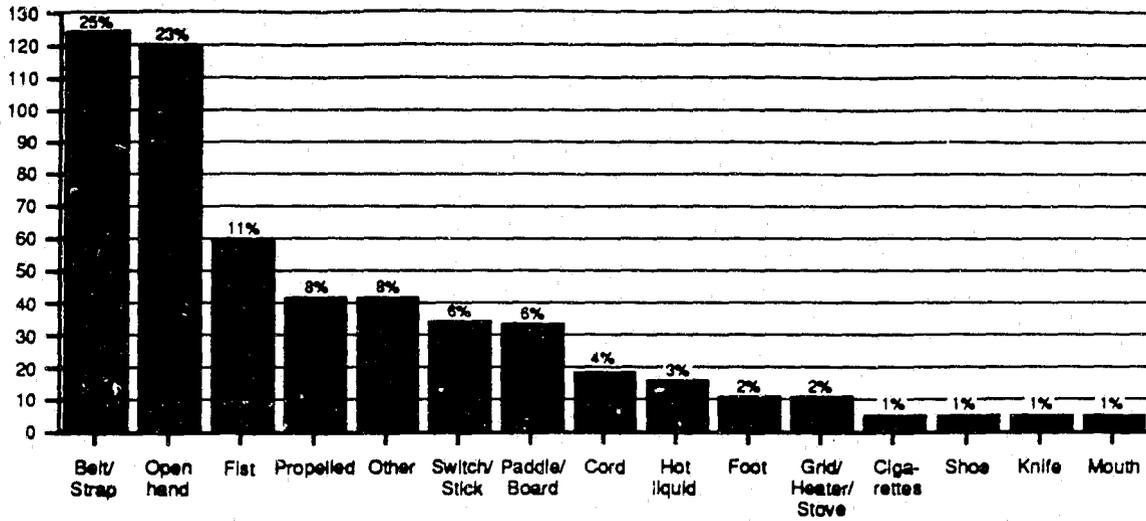
#### Investigating the injuries

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

(Insert--Causes of injury on children<sup>11</sup>)

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

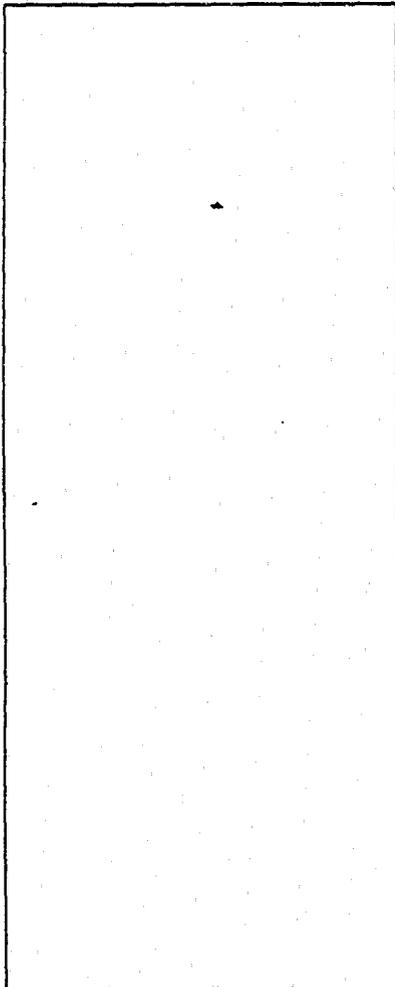
# Causes of injury on children<sup>11</sup>



Open hand: Choked, grabbed, pinched, slapped.

Propelled: Thrown, dropped, pushed, pulled, dragged.

Other: Hit by toy, telephone, kitchen fork, bottle, household item, etc.; shot w/gun; dunked in ice water, etc.



objects into two major categories: rigid or flexible. The injury pattern on the child will suggest in which category the weapon belongs.

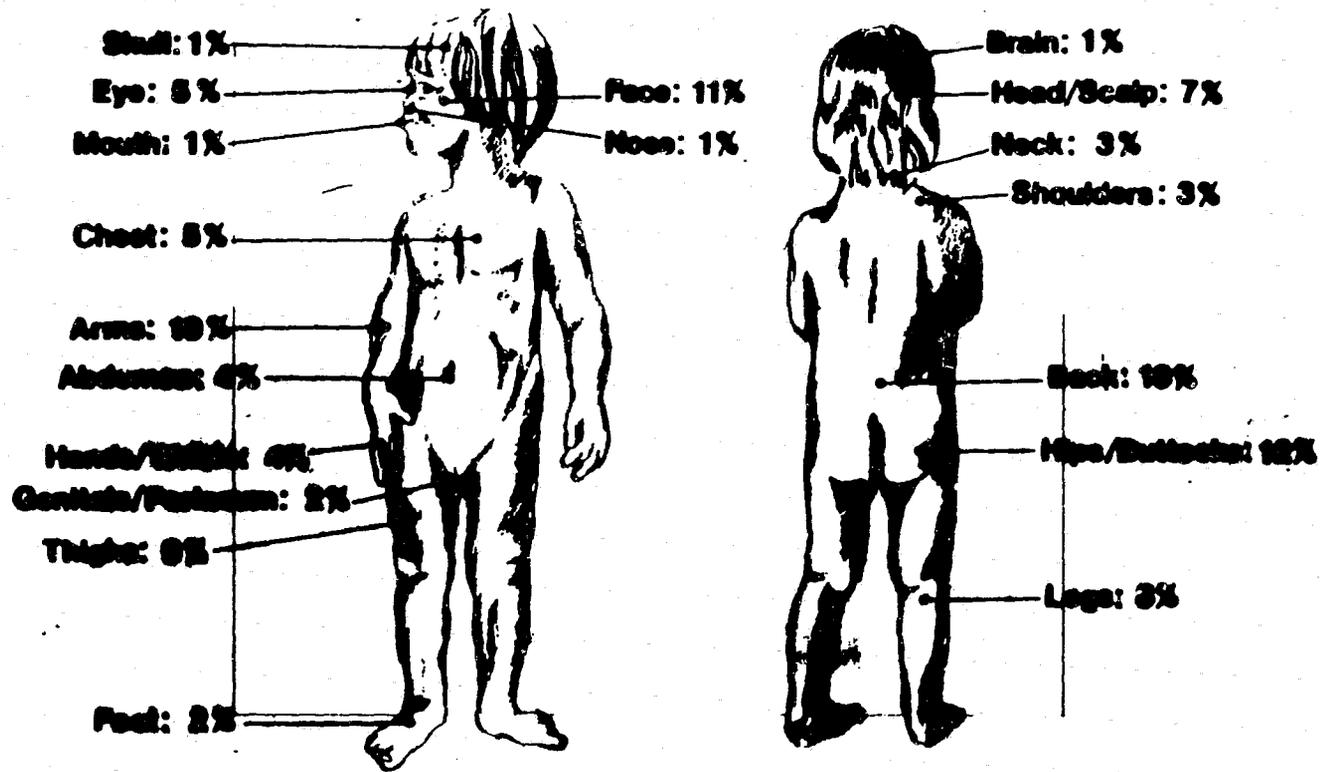
Rigid objects such as paddles, sticks, boards, or hairbrushes are weighty and incapable of bending around the child's body. The natural contours and folds of the body should be carefully considered in relation to the configuration of the injury pattern. If the pattern does not "bend around the corners"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

In regard to the location of the injuries, Johnson and Showers studied 616 physical abuse cases and found that a number of locations on a child's body are targeted for abuse. They are presented in graphic form in Figure 1.

(Insert--Location of injuries<sup>12</sup>)

Knowledge of where on the child's body the suspected abuse occurred can provide insight into how the child may have been positioned at the time of the attack. This information is of potential value in establishing the angle of attack. Where the adult was positioned in relation to the position of the child at the time of the assault will substantiate whether the parent or caretaker is providing accurate information about the incident. Knowledge about the angle of attack will also assist the investigator in developing strategies for questioning the adult and child.

Figure 1. Location of injuries <sup>12</sup>



Each location represents the percentage of time a specific point of the body was injured, based on 616 cases of physical child abuse.

Important to the investigation of physical child abuse is documentation of the level of violence to which the child was exposed<sup>13</sup>. Measures that can be taken during the investigative process include the recognition of defense wounds and control-type injuries. Investigators should request that medical personnel carefully document these types of injuries.

Defense wounds represent the child's attempt to block blows from hands or objects with the use of his or her hands, arms, or legs. The child who is able to protect his or her body from pain will often do so during the assault. The resulting damage frequently manifests itself in soft tissue injuries, or worse.

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

Control-type injuries can be missed if areas like the undersides of the arms are not carefully examined by medical personnel during interaction with the child. During babies' crying episodes, it is not unusual for an out-of-control parent to grab the infant around the torso, producing small circular bruises on the rib cage and back.

Although any child suspected of being injured should receive a medical examination immediately even if no injury is apparent, some injuries may be obvious to the investigator. The following sections contain some tips for

investigating specific injuries. Descriptions of different types of injuries appear in the "Typology of injuries" section.

### Bruises

Soft tissue injuries, such as bruises, will be found primarily on the child's back beginning at the neck and continuing down to the back of the knees. This area includes the shoulders as well as the entire length of the child's arms. The back and buttocks represent the largest region and are frequently targeted for assaultive behavior; this is often attributed to a parent's or caretaker's attempt at corporal punishment. This entire area has been referred to as the child's "primary target zone,"<sup>14</sup> and bruises in this area should be considered suspicious.

The distribution of soft-tissue injuries on a child's body can show when and how frequently the alleged abuse may have occurred. The following chart should be useful in determining how recently bruises were caused.

(Insert--Investigating bruises<sup>15, 16, 17</sup>)

Technically, the investigator should look for evidence of multiple resolving injuries--injuries that have occurred at different times and are in various stages of healing. It must be stressed that in the assessment process the issues of location, configuration, and distribution should be considered jointly.

## Investigating bruises

### Age-dating bruises<sup>15</sup>

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

### Age-dating abrasions<sup>16</sup>

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

### Photographing bruises<sup>17</sup>

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

Accidental bruises on the average preschooler can be expected along what are called **bony prominences**, areas on the child's body where the skeletal structure is close to the surface of the skin, such as knees or elbows. An accidental fall or incident will usually produce injuries along a single edge or surface of the body, depending on how the child was positioned at the time of the accident.

Contrast this against what occurs when the family crisis or trigger mechanism produces an out-of-control adult who strikes out at a child until the adult's rage is sufficiently quelled. The resulting injury pattern frequently involves numerous body planes or edges, dissimilar to what is expected from a normal fall or accident. Therefore, the injury pattern is considered to be an important investigative lead.

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

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#### **Mongolian spots--incidence**

95% Black babies.

81% Oriental/American Indian babies.

70% Hispanic babies.

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

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

### Burns

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

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

More than 70 percent of childhood burns occur in the home during the more stressful times of the day and more difficult months of the year:

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

Burn injuries to children are often classified as accidents when abuse was the real cause. The indicators in the following suspicion index can be useful in determining if abuse may have been a factor in the burn incident.

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#### Suspicion index

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

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The most common abusive scald burn occurs when the child is dunked or immersed into a container of hot fluid. The resulting injury pattern on the child's body will help the investigator reconstruct how the child was positioned in the container in which the injury is thought to have occurred. The first

consideration should be whether the injury pattern appears consistent with the caretaker's version of what happened. Next, if a line of immersion is present, it represents the areas of the child's body that were beneath the surface of the fluid contrasted against those areas that did not come into contact with the fluid.

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

The location and extent of the burn are not as important as the injury pattern in determining the possibility of abuse.<sup>25</sup> Well formed or sharp lines of immersion that appear symmetrical on either the ankles or wrists are suspicious. Whenever both of a child's feet have been burned and there is no evidence that the child tried to get out of the liquid, abuse should be considered. A child entering a tub of water may place one foot into the tub with no idea that the water is scalding, but once the painful effects of the water are felt, a child would not place the other foot into the scalding water.

When a child accidentally pulls a container of hot liquid from a counter or tabletop, the injury pattern should appear more severe at the point of contact, with lesser degrees of burning on areas where the liquid made contact while descending. The child reaching up to grasp a container of hot liquid will usually be burned on the head, face, neck, upper chest, and arms.<sup>26</sup>

Liquids such as hot tea, coffee, or water will produce injury patterns similar

to those in bathtub incidents except the head, face, and shoulders are usually the points of contact. Splash burns caused by a liquid pulled from above can be difficult to distinguish from those caused by deliberate throwing of liquid. This is especially true if the liquid first strikes the top of the head, face, chest, or abdomen, as would happen when an adult throws liquid down at a child. An absence of burns under the chin or within the armpit areas might support a suspicion of deliberate throwing.

A potential problem in identifying burns is the presence of a bacterial infection known as scalded skin syndrome. As its name implies, this infection looks like scalded skin and is found on children from infancy to age 10. The infection should not be confused with burning, even though it may resemble skin that has been scalded. It has also been confused with impetigo, a skin infection characterized by small blisters that gradually crust and erode. The examining physician should be informed if the parent or caregiver suggests that the child is suffering from an infection.<sup>27</sup> Investigators often report that medical examinations are inconclusive about cigarette burns due to impetigo setting in after the burn has taken place.

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

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

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

It is important to check the hot water heater during a scald investigation. Investigative procedures should include noting whether the heater appears to be in good working order, and recording the type of water heater and temperature setting on the heater. On gas hot water heaters the thermostat is near the base of the heater.

Electric hot water heaters usually have two thermostats; one is located behind a panel (that would need to be removed to read the setting) on the upper level, and one should be in plain view on the lower element. The gallon capacity of the heater should be recorded and photographed (this should appear on the front of the heater), and the hot water temperature should be measured, using a candy or meat thermometer. An accurate reading is achieved by holding

the thermometer in the hot water for 6 to 10 minutes, reading the temperature, waiting 1 minute, and repeating the process five or six times.

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

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

#### Head injuries

Unlike with bruises or burns, head injuries may have occurred without any symptoms being obvious to the investigator. This makes it particularly important to have the child examined by a physician. For a description of possible injuries, see page 44 under "Typology of injuries."

For an investigator of a case involving an infant with head injuries, it is advisable to completely photograph and measure the room and piece of furniture from which the child allegedly fell. It should be noted if carpeting, a rug,

or other soft surface would have cushioned the infant's fall, and the height of the bed or crib from the floor should be recorded.

Skull fractures are discussed below under "Fractures."

#### Abdominal injuries

Abdominal injuries are a common cause of death in battered children. This type of injury is usually caused by a kick or a punch from an adult. As with head injuries, the investigator may not immediately know the extent of the injury. Therefore, a medical report is essential to the investigation. See page 49 for a description of possible abdominal injuries.

#### Fractures

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

- o Red, warm, swollen joint or limb (most frequent clinical finding).
- o Indications of pain.
- o Local tenderness, irritability.
- o Unwillingness to move the limb.<sup>28</sup>

Occasionally small bruises are present with a skeletal injury; however, some children may not have any symptoms. Although any bone may be involved in an

abusive incident, the more common sites to suspect for fractures or damage include:

- o Ribs.
- o Skull.
- o Upper arm at the shoulder.
- o Upper leg at the knee.
- o Hands.
- o Feet.<sup>29</sup>

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

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

- o A direct blow.
- o A twisting force.
- o Shaking.
- o Squeezing.<sup>30</sup>

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

An additional issue to consider in a rib fracture case is the allegation that the damage occurred during efforts to resuscitate the child. A recent study in the State of Washington concluded that unexplained rib fractures were specifically caused by abuse and that no child in the study had ribs fractured by cardiopulmonary resuscitation (CPR). The study stated that ribs are rarely, if ever, fractured by resuscitation, but occur frequently in child abuse cases.<sup>31</sup>

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

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

## Typology of injuries

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

### Soft tissue injuries

The largest percentage of physical child abuse incidents cause soft tissue injuries, which are bruises, welts, lacerations, abrasions, and burns.

Investigators should review medical reports for the location, configuration, and distribution of these injuries.

---

### Soft-tissue injuries

<b>Bruises</b>	Intradermal hemorrhage or bleeding within the skin.
<b>Petechiae</b>	Very small bruises caused by broken capillaries.
<b>Purpura</b>	Small bruises occurring in groups or a single small bruise (up to 1 cm.).
<b>Ecchymosis</b>	Larger bruise.

<b>Welts</b>	Raised ridge or lump on the skin.
<b>Lacerations</b>	Jagged cut or wound.
<b>Abrasions</b>	Body surface denuded of skin by a scrape.
<b>Burns</b>	Effects of thermal energy on the skin.

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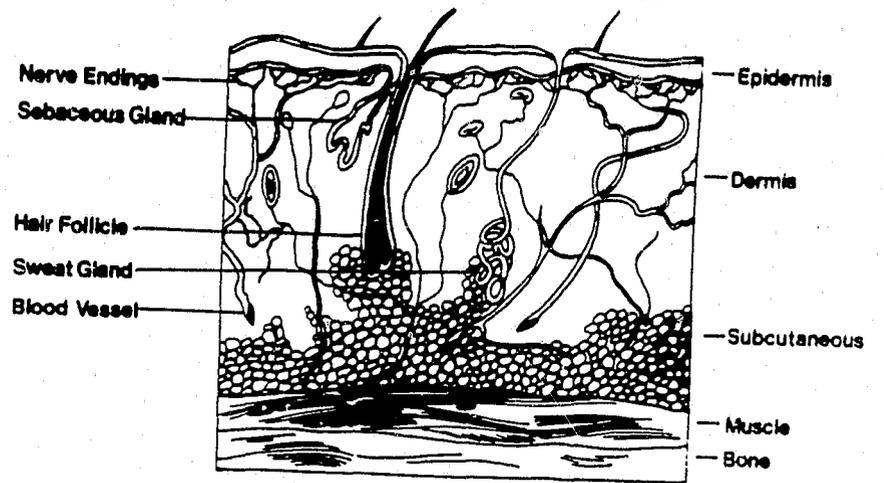
The most frequently observed soft tissue injury is the bruise. A bruise is an escape of blood into the tissues of a living or recently deceased person following the breakage of capillaries by blunt force.<sup>32</sup> An investigator should be aware of the possibility of a delay in the appearance of the bruise. Hours or even days may elapse before the blood finds its way to the surface of the skin.<sup>33</sup>

Burns result from the effect of thermal energy on the skin. The skin, the body's largest organ, is divided into two layers, epidermis and dermis. The epidermis is the thinner of the two and rests on the outside of the body, serving as a protective cover. The dermis makes up the bulk of the skin and is located between the epidermal layer and a subcutaneous area of muscle and bone. The nerve endings that transmit pain, temperature, and sensation are located only within the dermal layer of skin<sup>34</sup> (see Figure 1).

(Insert--Anatomy of skin)

The most commonly used classification of burns is first, second, or third degree, the most serious being third degree. This type of classification only provides for a visual characteristic of the wound and is not actually

Figure 2. Anatomy of skin



descriptive of the injury. The preferred classification of burns used by most physicians is "partial" or "full" thickness burning.

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

**Full thickness burn** All the skin is destroyed. May include destruction of muscle and bone. This wound cannot heal by itself and requires medical treatment.<sup>35</sup>

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

Only an experienced medical practitioner can make the difficult determination of how deep a burn the child has sustained. However, there are several distinguishing features of partial thickness and full thickness burns observable immediately after the incident. Patches of reddened skin that blanch when touched and refill are shallow, partial thickness burns. Blisters usually indicate a deeper partial thickness burning, especially if the blisters increase in size after the burn occurs.<sup>36</sup>

A leathery surface with a color of white, tan, brown, red, or black represents a full thickness burn. The child will feel no pain due to the complete

destruction of nerve endings. Small blisters may be present but will not increase in size.<sup>37</sup>

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

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Thicker skinned areas

Palms of hands

Soles of feet

Back

Scalp

Back of neck

---

Thinner skinned areas

Front trunk

Inner thighs

Bottom of forearms

Inner arm area

A relatively small burn on a young child is likely to produce a more severe injury than on an adult because more body surface per pound is affected. A lower temperature and shorter duration of time in contact with the source of heat are two other factors associated with the thinner skin of young children.

Burns can be categorized into two general types. They are known as wet burns and dry burns. Each type has its own set of characteristics. A wet burn is characterized by a splattering effect combined with sloughing and peeling of skin. There will also be varying degrees of burns in close proximity. Conversely, a dry burn will lack the former characteristics and will have a well-shaped branding type of margin around the injury. Scabbing will begin

around the edges of the burn and the odor of burned skin is sometimes present. This type of burn will also have a general dry nature or appearance at the burn site.<sup>38</sup>

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

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

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

- o Folds in the stomach.
- o Calf against the back of the thigh.
- o Arms tightened and held firmly against the body, or folded against the body.
- o Thighs against the abdomen.
- o Head against the shoulder.
- o Legs crossed, and held together tightly.

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

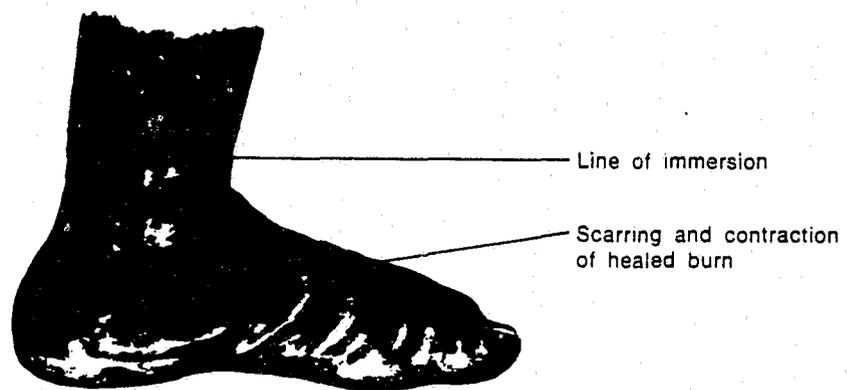
Other common areas for immersion burns are a child's feet and hands. When any of these appendages are immersed in hot liquid, the resulting injury pattern is known as a "stocking" burn or a "glove" burn (see Figure 7).

(Insert--Stocking burn)

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

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

Figure 3. Stocking burn



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

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

The likelihood of a deep partial thickness to full thickness burn increases drastically when the water temperature is above 127 °F. The incidence of major injury to a child is much less at water temperatures below 120 °F. For an adult, even a temperature of 110 °F. would take 6 or 7 hours to cause a full thickness burn.<sup>39</sup> The chart below provides the temperature and length of exposure required before a full thickness burn would be produced on an adult. Again, a child's skin burns more rapidly.

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**Full thickness burns on an adult<sup>40</sup>**

Temperature of liquid	Duration of exposure
111 °F.	6-7 hours
120 °F.	10 minutes
125 °F.	2 minutes
127 °F.	1 minute
130 °F.	30 seconds

136 °F.	10 seconds
140 °F.	5 seconds
149 °F.	2 seconds
158 °F.	1 second

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

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

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

Deliberate burning by a cigarette will produce small circular burns approximately 1/4 inch in diameter. The wounds will vary from a blister to a crater type of injury depending on the length of contact.<sup>41</sup> The healing process will involve the formation of a scab in the center of the wound which will then move toward the surrounding edges. Healed cigarette burns will appear similar in size. The depth of the scar will be related to the depth of the burn (see Figure 8).

**(Insert--Cigarette burn)**

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

Various other forms of contact burns leave symmetrical and deep imprints with crisp margins along the entire burned surface. This suggests a prolonged firm contact with a portion of the hot surface (see Figure 9). Comparatively, the accidental scenario would involve a briefer, glancing contact against the object. This latter form of contact would involve a smaller area of skin with slurred margins, which would lack the full branding effect of the surface. One edge of the accidental contact burn is usually deeper and more serious in nature.<sup>42</sup>

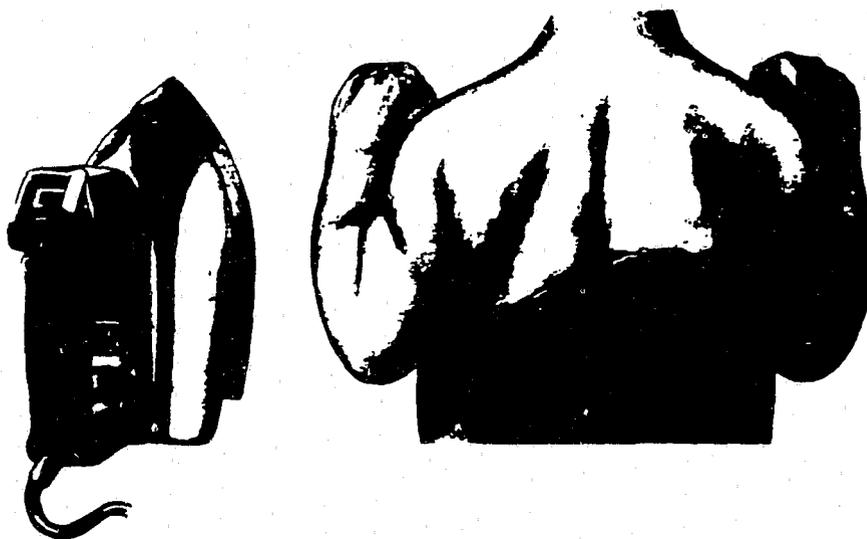
**(Insert--Contact burn)**

Figure 4. Cigarette burn



Cigarette burns are usually inflicted on palms, soles of feet, and buttocks.

Figure 5. Contact burn



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

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**Accidental vs. deliberate contact burns**

<b>Accidental</b>	<b>Deliberate</b>
Brief glancing contact	Prolonged steady contact
Small area of skin affected	Symmetrical deep imprints
Slurred margins	Crisp overall margins
Deeper burn on one edge	Suspicious areas on body; e.g., buttocks, perineum
Leading edges of body	Bizarre shape

---

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

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

## Head injuries

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

If an assault to the head is suspected, a child must immediately receive medical attention, even if injuries are not apparent to the investigator. Swelling or damage can be covered by a child's hair, or the injury can be internal.

Eyes. The child with a black eye may have received the injury accidentally; when a child has two black eyes, it is more logical to assume that assaultive behavior was involved. The possibility of bilateral black eyes, or "raccoon eyes" as they are more commonly known, should be considered. Bilateral black eyes occur when blood seeps down from an injury on the head into the eyelids. Thus a single blow, produced either accidentally or deliberately, could cause both eyes to blacken. Several ways to distinguish raccoon eyes are:

- o Only a small amount of lid swelling.
- o No lid tenderness.
- o Several days delay in discoloration.
- o "Mirrored image"--both lids look the same.

Another eye injury is retinal hemorrhages; these are present in more than 50 percent of children with subdural hematomas (described below under "Brain injuries") and are difficult for even an experienced physician to diagnose. Another form of injury is produced by moderate, habitual shaking (see page 48 for a discussion of shaken baby syndrome) that may cause a small amount of bleeding that gradually affects vision and hearing and may lead to learning difficulties, mental retardation, and cerebral palsy.<sup>43</sup>

Ears. Ear damage can also be caused by shaking a child. Some types of ear damage, caused by repeatedly hitting or pulling on the ears (resulting in "cauliflower ears") can be hidden by hair covering the child's external ear areas. More serious is inner ear damage that would be all but impossible for anyone other than a medical practitioner to diagnose. Ruptures and tears produced by blows to the ears could leave the child permanently deaf or with seriously diminished hearing.

Mouth. Inside the mouth are several small folds of skin known as frenula. These are attached to the upper lip, lower lip, and underside of the tongue. When an out-of-control adult attempts to force any type of object into an infant's mouth, those strips of skin can be damaged. Direct blows can also cause injury to the frenula. Ordinarily, an infant's frenula are well protected and should not become damaged unless this area has been deliberately assaulted. However, frenula tears in an older child can be accidental.

Teeth. A child's teeth can be damaged in a number of ways. Listed below are the types of tooth damage that should be looked for if the child has been hit on the face or mouth:

**Luxations**        Teeth that are loosened, but have not fallen out.  
**Intrusions**      Teeth that have been forced into the gum/bone line.  
**Avulsions**        Teeth that are knocked out of the socket.  
**Fractures**        Teeth that are broken or chipped.

Nose. Any swelling around the nose or dried blood in the nostrils may indicate the child has a broken nose or deviated septum, which occurs when the wall between the two nostrils becomes damaged.

Brain. Concussion, contusions, and lacerations are common types of brain injuries.

**Concussion**      A jostling of the brain's soft matter, often leaving one dazed or unconscious. Recovery is complete, leaving only a cut or bruise on the scalp.

**Contusion**        More serious bruising of the brain, often involving unconsciousness for days or weeks.

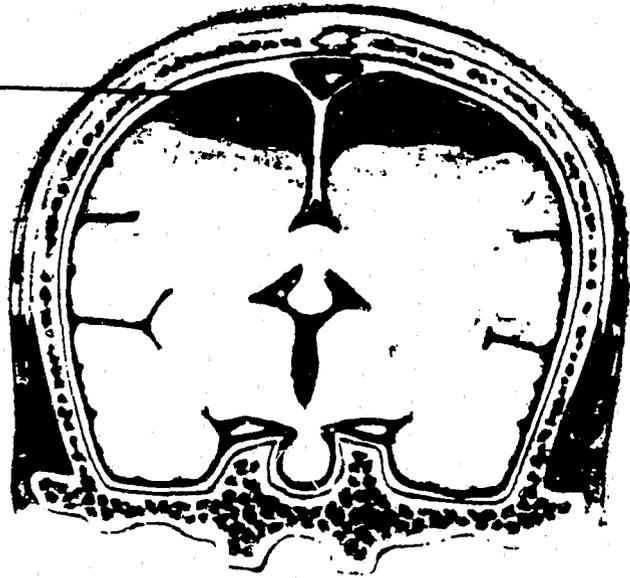
**Laceration**        A tear in the brain substance, bruising and torn blood vessels often leading to subdural hematoma.

(Insert--Subdural hematoma)

A subdural hematoma is a common head injury in child abuse cases. It is a collection of blood within the outer covering of the brain often produced by a blow to the head or violent shaking (see Figure 7). This form of abuse is life

Figure 6. Subdural hematoma

Subdural  
hematoma



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

threatening and frequently leads to disabling permanent damage, such as vision loss, blindness, motor deficits, seizures, developmental delays, and cerebral palsy.<sup>44, 45</sup>

**(Insert--Blow to head)**

Symptoms of a subdural hematoma would include:

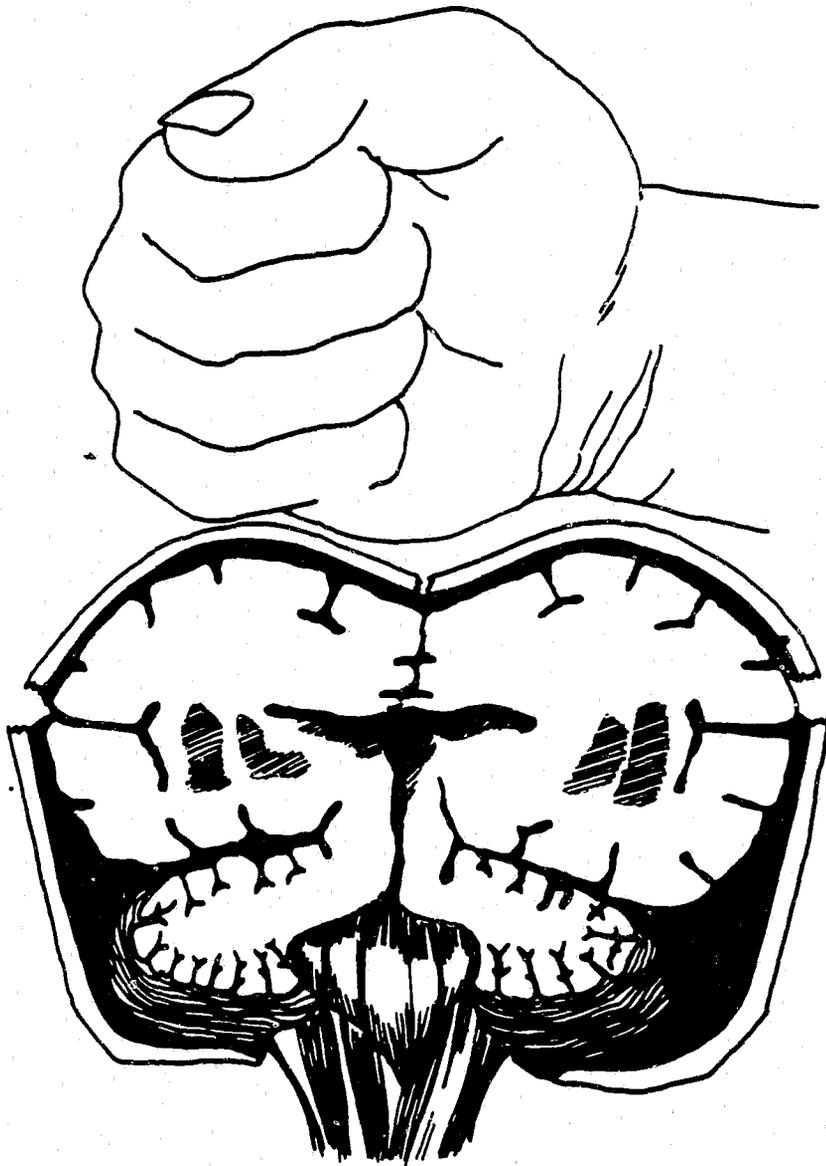
- o Irritability and vomiting.
- o Decreased level of consciousness or increased lethargy.
- o Breathing difficulty.
- o Bulging forehead (fontanelle).
- o Convulsions.
- o Inability to focus and track movement with his or her eyes.
- o Unequal size of pupils, or bloodshot eyes.
- o Inability to lift head.

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

- o A heavy moving object striking the head.
- o A moving head striking a heavy, stationary object.
- o A rapid acceleration/deceleration of an infant's head during shaking.<sup>46</sup>

These actions often also cause a skull fracture (see page 54 under "Fractures" for more information).

Figure 7. Blow to head



Shaken baby syndrome. More than 50 percent of children with subdural hematomas have no associated skull fracture, bruising, or swelling over the site of the injury because of the whiplash shaken infant syndrome or, more commonly, the shaken baby syndrome.

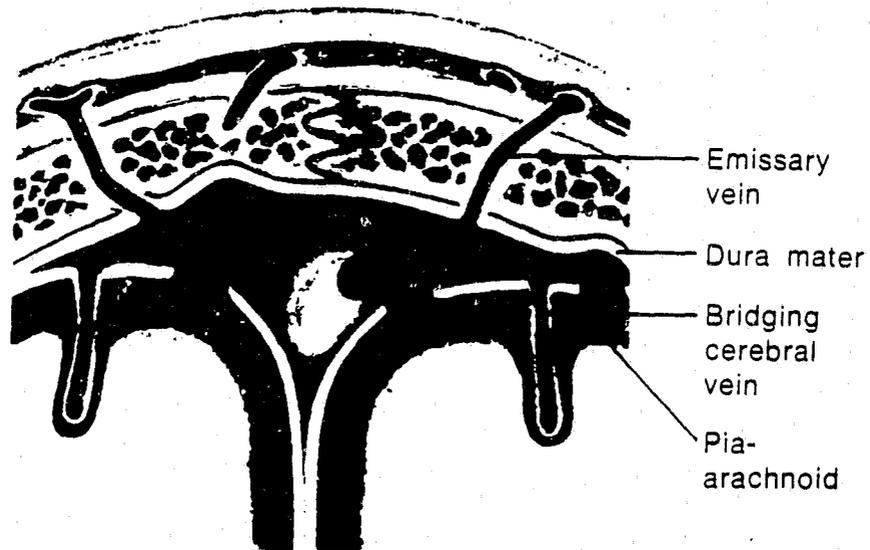
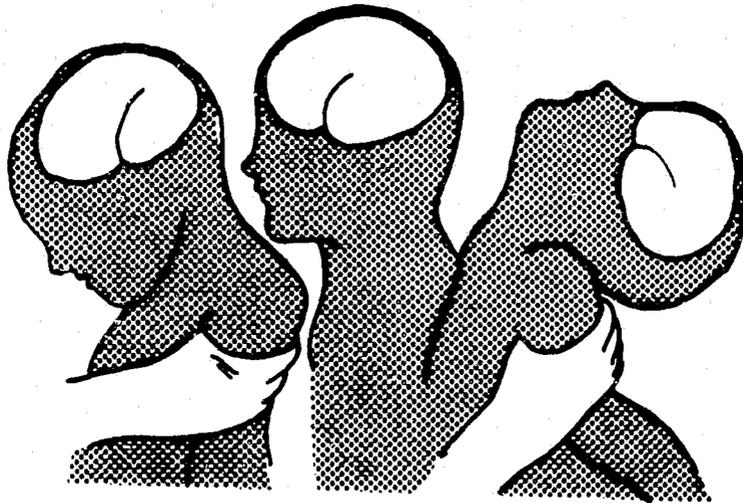
The shaken baby syndrome was first documented by Dr. John Caffey in 1974 and was described as "the vigorous manual shaking of infants by the extremities or shoulders with whiplash-induced intracranial bleeding, but with no external signs of head trauma."<sup>47</sup> Infants are especially susceptible to this type of injury during the first 24 months of life because of these developmental characteristics:

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

The two-phase cycle of acceleration and deceleration causes a flexing of the head during which the chin strikes the chest, followed by the extension of the head back into the spine (see Figure 8). Case history and research in this area support the fact that infants are usually subjected to numerous shaking episodes prior to the discovery of the injury. The shaking could take place over a period of days, weeks, or even months.

(Insert--Shaking)

Figure 8. Shaking



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

Confirmation of the diagnosis of shaken baby syndrome has become easier for medical practitioners since the introduction of the CT scan, which is superior to the skull x-ray in diagnosing depressed skull fractures.<sup>48</sup>

#### Abdominal injuries

Three common consequences of abdominal injury are:

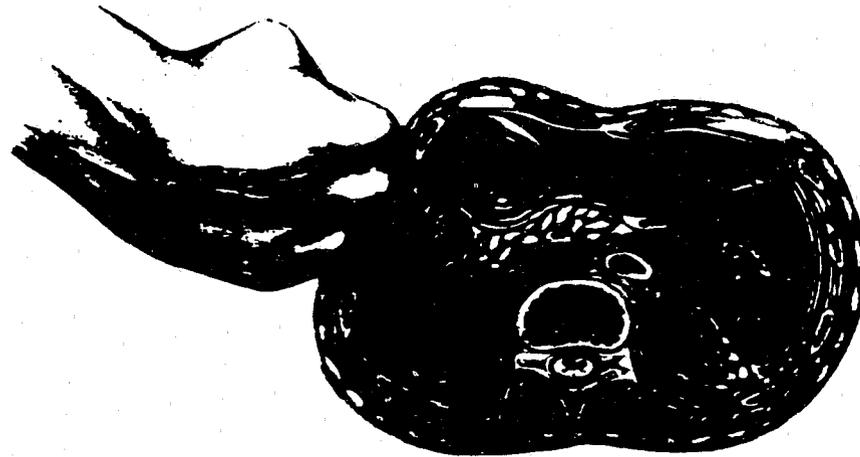
- Compressing      Punch or kick to abdomen ruptures stomach or colon.
- Crushing          Organ is compressed against lower rib cage/vertebral column  
damaging kidney, pancreas, spleen, or liver.
- Accelerating      Child is propelled after being struck or thrown, causing a  
shearing effect on organs.<sup>49</sup>

(Insert--Abdominal injuries)

This form of injury has at least a 50 percent mortality rate.<sup>50</sup> An abdominal injury may not be obvious to an investigator because more than half of the children with abdominal injuries do not have any visible marks or bruises on the stomach area. The energy from the blow is absorbed by the internal organs.<sup>51</sup> The internal organs most commonly injured are the kidney, spleen, intestine, liver, and pancreas. When multiple organ damage occurs, it usually involves the spleen and left kidney.

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

Figure 9. Abdominal injuries



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

- o Vomiting (greenish material or blood).
- o Fever.
- o Shock (caused by internal bleeding).
- o Bloody urine.
- o Complaints from the child of stomach ache or pain.

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

### Fractures

There is no exact figure for the number of bones in any one person's body. For example, one person may be born with an additional rib or vertebra. However, it is generally accepted that there are approximately 206 bones in the human skeletal system.<sup>52</sup>

Bones are a form of living tissue and are in a constant state of flux throughout the life of a person. In a child the process of bone development, known as ossification, begins at approximately 5 months of age. The changes that take place involve the formation of bone from bony substances, cartilage, and membranes. This process in the child's skeletal system begins in the collarbones, skull, and spine, and finally leads to the long bones of the arms and legs.<sup>53</sup>

In order to understand skeletal injuries, investigators need a knowledge of the components of a bone and some technical terminology (see Figure 10). The basic parts of a bone are:

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

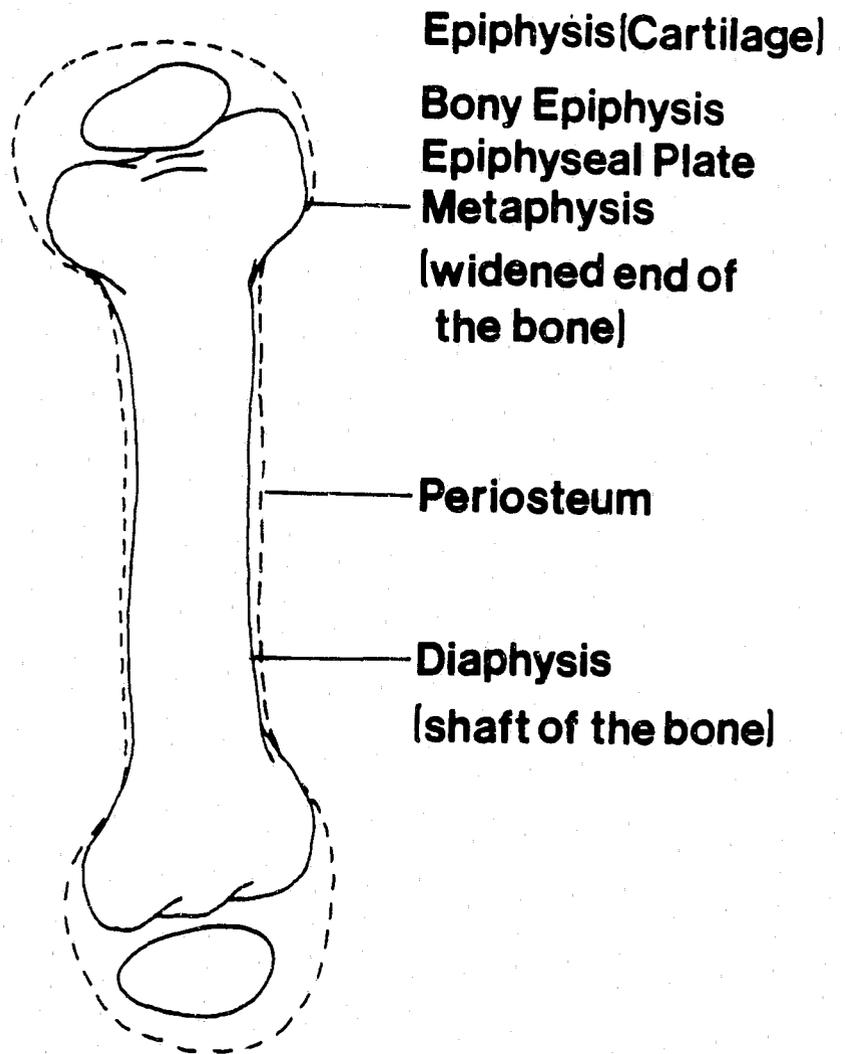
(Insert--Parts of bone)

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

Long bones	Tubular bones in the arms, legs, ribs, and collarbones.
Short bones	Tubular bones in the hands and feet.
Flat bones	Nontubular bones in the skull, breastbone, shoulder blades, and pelvis.

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

Figure 10. Parts of bone



The most common skeletal injuries found in a young child or infant are at the widened end of a bone (metaphysis) and within the cartilage area at the end of a bone (epiphysis). Injury to the metaphysis is frequently caused by a parent or caregiver grabbing an infant by an arm or leg and violently shaking, jerking, twisting, or swinging the child.<sup>54</sup> This type of injury is often produced on the lower limbs while the child is on his or her back in a crib or bed, making the leg easy to grab. The injury pattern produced might include a metaphyseal infraction (see Figure 11) or an avulsion of the metaphyseal tips (see Figure 12). This type of injury can occur on any of the long or short bones. Additional types of injuries to this area of bone include squaring of the metaphysis and bucket handle fractures.

**(Insert--Metaphyseal infraction and Avulsion of the metaphyseal tips)**

A metaphyseal infraction is an incomplete fracture of the widened end of the bone (metaphysis). An avulsion of the metaphyseal tips involves the breaking off of the corners of the metaphysis. After an avulsion has taken place, deposits of new calcium and bone form around the resulting bone chips and reunite the chips firmly to the parent bone. This gives the injured end of a long bone a "squared" appearance.<sup>55</sup> A bucket handle fracture gets its name from the resemblance of the new bone, developed around the end of the metaphysis after an injury, to a bucket handle.

A greenstick fracture is a break near the middle of the bone shaft (diaphysis) causing the bone to bend and break (see Figure 13). This type of injury happens when an infant or child is grabbed by the arm or leg creating leverage between the weight of the child's body and the limb.

Figure 11. Metaphyseal infraction

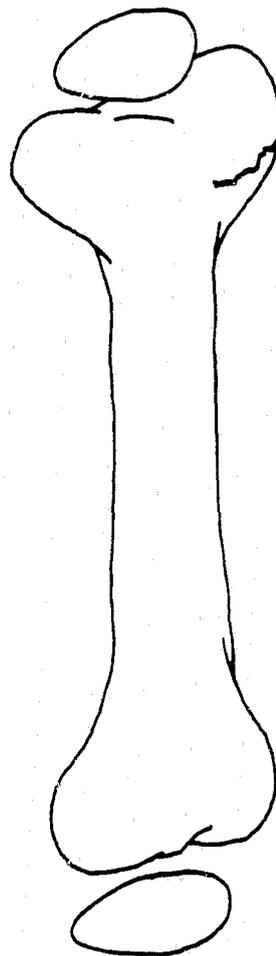
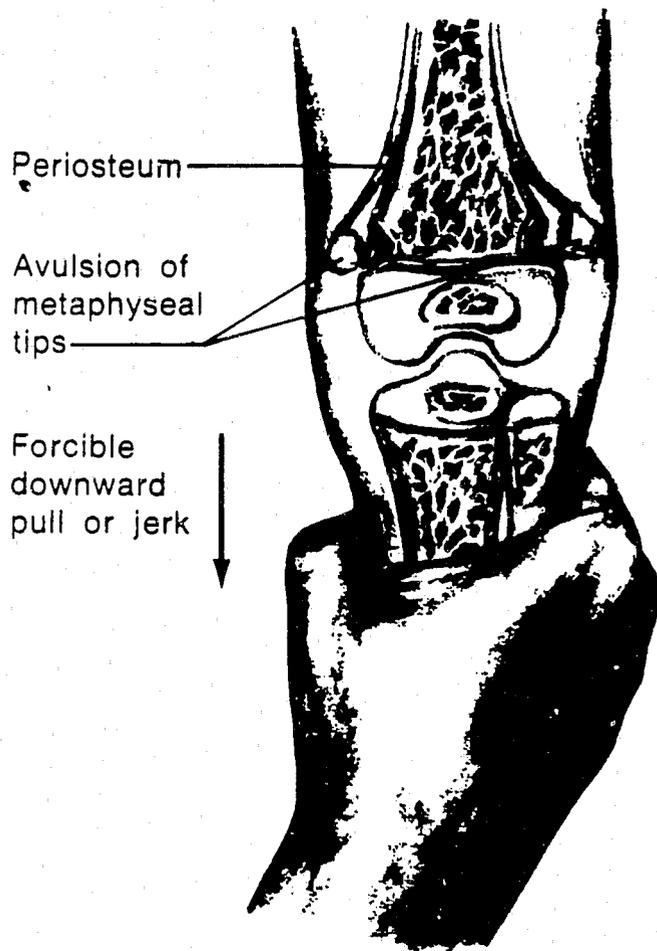


Figure 12. Avulsion of metaphyseal tips



Avulsion of metaphyseal tips by tight periosteal attachments.

(Insert--Greenstick fracture)

Spiral and transverse fractures occur on the upper leg bone (femur), the lower leg bone (tibia), and the upper arm (humerus). An abusive spiral fracture happens when twisting or wrenching forces are applied to the limb (see Figure 14). Abusive transverse fractures result from either a direct blow or by grabbing a child by the elbows or wrists and violently jerking in an upward and forward motion.

(Insert--Spiral fracture)

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

The periosteum is a thin layer of connective tissue containing blood vessels covering the shaft of a long bone (diaphysis). The periosteum of young, growing bones is rich with blood vessels. Whenever any violent trauma such as a direct blow, twisting, or shaking takes place, the blood vessels within the periosteum can separate from the bone and hemorrhage. Bleeding then develops beneath the periosteum (subperiosteal bleeding) along the shaft of the bone. The effect of this bleeding leads to a pocketing of blood forcing the periosteum away from the bone (see Figure 15). The outward sign of this damage is a swollen and tender injury site. Initial x-rays may not show the injury until approximately 3 to 4 weeks after it has occurred. Note that the periosteum of young infants is attached more loosely to the bone than to that

Figure 13. Greenstick fracture

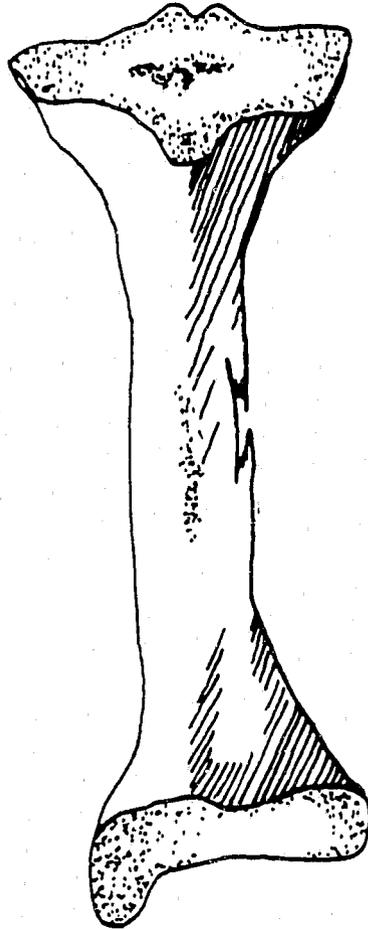
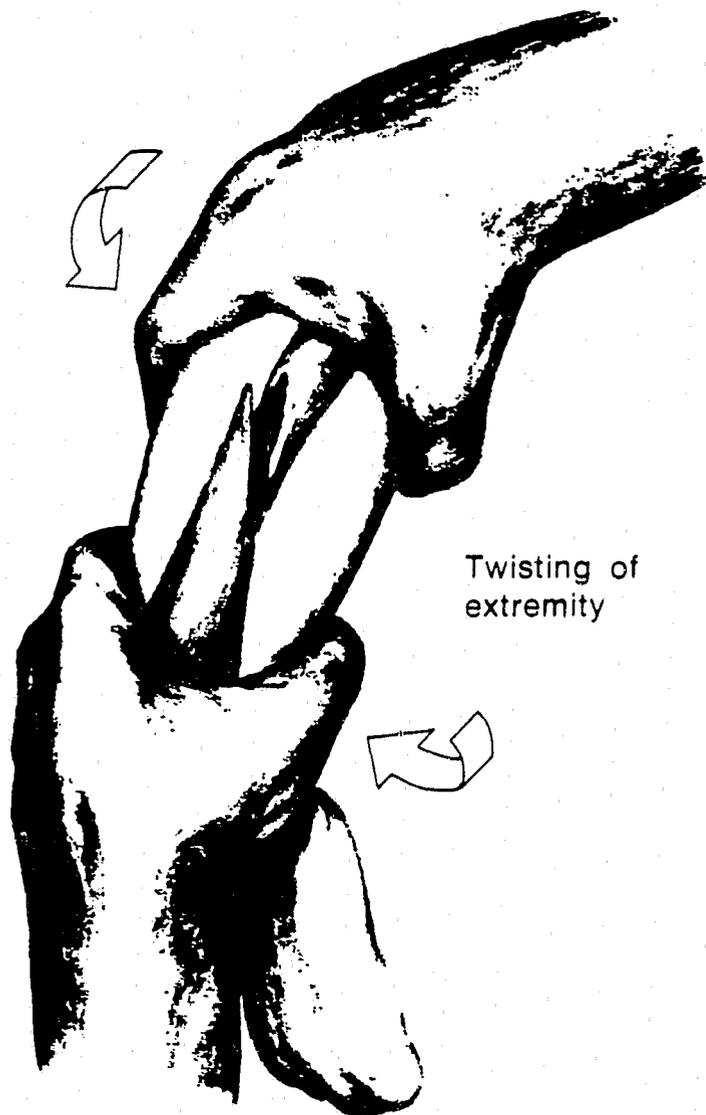


Figure 14. Spiral fracture



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

of an adult. It, therefore, will separate more easily when direct force is applied.

**(Insert--Periosteum)**

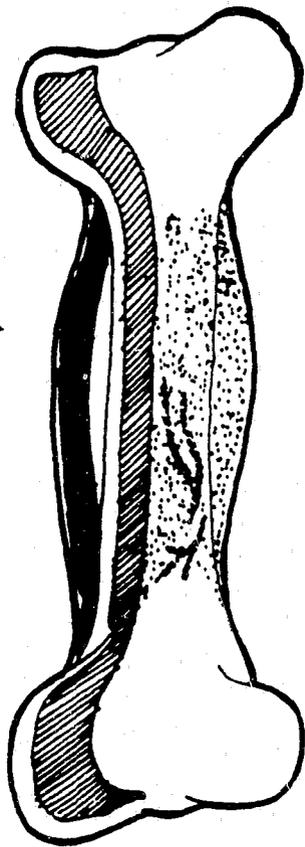
When an infant is dropped or falls, the most common skeletal injury is a skull fracture on the side of the back of the child's head. The use of a hard sharp object against the skull tends to produce a localized, bony depression that might serve as an investigative lead. X-rays will show a skull fracture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

**Conclusion**

A knowledge of the underlying causes of child abuse can be most helpful to an investigator of an incident of suspected child abuse. It will enable the investigator to be alert for such factors as drug or alcohol abuse by the caretaker, family isolation, unrealistic parental expectations, marital strife, inadequate financial resources, or a crisis triggered by an everyday occurrence in the life of a child that overwhelms the caretaker.

During an initial assessment of the incident, the investigator should check that the explanation by the caretaker relates to the location and severity of the injury. Once the child receives medical attention and the full extent of the injuries is determined and documented by medical professionals, the investigator can begin the process of finding out the exact cause and person

Figure 15. Periosteum



responsible for the child's injuries. Some basic medical information on different types of injuries and the various ways in which these injuries can be inflicted on a child can be invaluable to an investigation.

Note: The following words will be placed in a narrow left-hand column and lined up with the same words highlighted in the text.

Family history of abuse

Physical and social isolation

Stress

Unrealistic expectations

Poverty

Unemployment

Marital strife

Targeted children

Handicaps

Crisis

Trigger mechanisms

Lost job, illness, death

Crying

Toilet training

Everyday happenings

Children under 6 at greatest risk

Age and developmental characteristics

Social, emotional, and physical development

Reasonable explanation

Fall from a bed or crib

Violent shaking

Conceal injuries

Hospital shopping

Questions

Nonverbal and nonambulatory  
Medical protocol  
Hands are weapons  
Common household instruments  
Assault objects  
Rigid objects  
Flexible objects  
Angle of attack  
Level of violence  
Defense wounds  
Control type injuries  
Fingertip bruises  
Small circular bruises  
Soft tissue injuries  
Primary target zone  
Multiple resolving injuries  
Bony prominences  
Numerous body planes or edges  
Skin conditions  
Mongolian spots  
Unexplained bluish spots  
Under 24 months  
Stressful times  
Suspicion index  
Scald burn  
Line of immersion  
Symmetrical lines

Injury pattern

Splash burns

Scalded skin syndrome

Impetigo

Measurements

Number of rotations

Record the height of the child

Strength and dexterity

Natural sounds

Hot water heater

Thermostat

Gallon capacity

Hot water temperature

Dry device

Photographs

Measurements

A kick or a punch

Skeletal damage

Common sites

X-ray

Medical professional

Cause of skeletal damage

Rib fractures

Efforts to resuscitate

Basal skull fracture

Jagged lines

Basic medical information

Location, configuration, and distribution

Bruise

Two layers

Classification of burns

Depth of a burn

Distinguishing features

Complete destruction

Wet and dry burns

Flexed position

Doughnut burn

Examples of flexion

Zebra burn

Stocking or glove burn

Intentional dipping

Gravitational flow

Amount of heat

Above 127 °F

A child's skin burns more rapidly

Contact burns

Cigarettes

Deliberate cigarette burns

Accidental cigarette burns

Contact burns

Small hot objects

Light ray burns

Brush burns

Chemical burns

**Head**

**Medical attention**

**Black eye**

**Raccoon eyes**

**Ear damage**

**Mouth**

**Teeth**

**Subdural hematoma**

**Skull fracture**

**Shaken baby syndrome**

**Acceleration and deceleration**

**CT Scan**

**No visible marks**

**Indicators**

**Human skeletal system**

**Ossification**

**Battered child syndrome**

**Metaphysis**

**Squaring of the metaphysis**

**Bucket handle fractures**

**Greenstick fracture**

**Spiral and transverse fractures**

**Breastbone fractures**

**Periosteum**

**Skull fractures**

## Chapter 1

### Physical Child Abuse

#### Appendixes

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

## Incest

Investigation of incest (or any other form of child sexual abuse) can be made more difficult in cases where there is a lack of physical evidence to substantiate a child's allegations. Some children will not have physical signs of sexual contact because of the amount of time that has passed before they disclose the contact or because of the type of sexual contact, such as fondling the child's breasts.

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

Male incest cases can be more difficult than female cases to investigate. A number of factors need to be considered when an incest investigation indicates that a male child or children were targeted. The first issue to overcome will be the male child's lack of cooperation. If he was abused by a male, he may question his own sexuality.<sup>16</sup> He probably will not report the assault because he feels a loss of masculinity. He also fears being labeled a "sissy" or a "queer" by his peers. All these factors should be considered, along with the child's fear of not being believed.

A younger child may view incest as being a natural part of life. Very young children have been known to be primed by the father figure. This process involves a sequence of events including physical closeness and touching; over a period of time the sexual acts become more overt. The sexual contact may even be perceived as pleasant by the younger child; however, these sensations are accompanied by curiosity, puzzlement, and fear.

#### Sexual exploitation/pedophilia

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

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

The investigator, through roll-call training, should educate the officers in the department about pedophilic activity. During routine investigations, radio calls, or traffic stops, officers should remain alert for plain view

evidence of child pornography. Possession of commercial child pornography itself is not necessarily illegal, but it may provide a lead to illegal activities. If the child pornography appears to be noncommercial (e.g., Polaroid photographs) there may be sufficient probable cause from this observation to justify a search warrant.

Search warrants are extremely important during the investigation of child sexual exploitation cases. Evidence seized will corroborate statements made by the victim or victims. Other victims may be identified from the evidence and other suspects involved in child molestation and/or distribution of child pornography may be identified through correspondence. A collection of search warrants and descriptions of items that should be seized appear in Appendixes D through I of this chapter. A considerable amount of detail should be included in the affidavit of the search warrant to ensure a thorough and valid search.

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

suspects. Samples of test letters are reproduced as attachments to Appendixes D and E of this chapter.

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

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

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

1. Establish a venue for the crime.

2. Detail all items in the photographs.
3. Apply appropriate sex crimes violations.
4. Determine the age of the victim (use a physician).
5. Note commercial techniques (e.g., quality of lighting or special effects, backdrops, etc.).
6. Watch actions or expressions of the victim and note the victim's attire.
7. Record the presence of sexual aids.
8. List the number of photographs or videotapes.

Commonly, investigators are unable to identify children in the materials.

Techniques for identifying victims should include:

1. Reviewing school yearbooks.
2. Contacting the following (with photographs):
  - (a) Schools.
  - (b) Day-care centers.
  - (c) Social service agencies.
  - (d) Public health nurses.
  - (e) Pediatricians, dentists.

- (f) Recreation departments.
- (g) Media (as a last resort).

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

At the Federal level, the U.S. Postal and Customs Services are excellent resources. Both agencies have specially trained agents and inspectors who are part of a national network of professionals currently working with State and local law enforcement investigators of child sexual exploitation cases. Detailed information about mail covers and other services is available through these agencies. Before beginning any child pornography investigation, consider contacting the closest regional postal and customs representatives to save time and better coordinate the effort.

The use of home computers and telephone modems by pedophiles is becoming more common as the cost of hardware decreases. Pedophiles use them to store information about victims, catalog their pornographic collection, and make contact with others who share their interests. Some hardware allows the pedophile to electronically transfer child pornography.

An investigator, discovering a computer system in the course of an investigation, should be aware of pitfalls that may be incorporated into a pedophile's system. "Booby traps" may be programmed into it that will automatically erase stored material if the computer is unplugged or tampered with. Code words may be necessary to extract the required information. It is advisable to have a computer expert available to extract the information prior to making any attempts to move the computer.

#### Interviewing child sexual abuse victims

Interviewing sexually abused children is not easy. The investigator is a stranger, and the nature of the matter to be discussed is sensitive and embarrassing. Knowing what to say or when and how to talk about the sexual abuse requires a number of skills. The formula for good interviewing techniques begins with patience and understanding.

#### Understanding children<sup>17</sup>

Investigators need to understand how children think and how their thoughts translate into verbal statements or reactions. They respond better to gentle, soothing vocal tones than to loud, authoritative voices. Children are also very visual. For example, between the ages of 2 and 7, they reason on the basis of what they see.<sup>18</sup> Therefore, it is important to stress the role of facial expressions during the interviewing process. A happy face gives positive reinforcement, while a frowning or angry face means something is wrong.

Children have short attention spans and cannot remain still or interested in a discussion for very long. Also, they are only capable of absorbing short, simple questions asked one at a time, and they need an appropriate interval to answer. Questions beginning with "who," "what," "when," or "where" elicit clearer responses than those starting with "why," "if," or "then." "Why" questions tend to accuse children or place them in a position of responsibility for the sexual abuse. "If" or "then" questions are confusing and hard to answer.

Time and space concepts are difficult for children to grasp. The average child usually cannot tell time accurately until about the second grade. An effective approach when questioning children under the age of 7 is to relate the incident to special times of the day: breakfast, lunch, or dinner times. Or ask a child if the incident happened during the spring, summer, fall or winter.

Children also remember events relative to what is important or interesting to them. Relating the event to special holidays like Christmas, Halloween, or birthdays will assist their ability to remember. Even something as negative as trips to the hospital, or times when they were hurt or ill, can help to jog children's memories of the incident.

Vocabulary is a core issue in interviewing children. Most adults do not make the necessary adjustments in their word selection. A child may not understand what the interviewer is saying because of not knowing the meaning of a word. If the interviewer wants to determine if a child has understood a word, it is best to ask the child to describe what the word means. If a child does not

understand a question, it should be rephrased, not repeated. The child will think he or she has given a wrong answer if the question is simply repeated.

The chronological order of events is difficult for children to repeat without getting confused. They are not lying about what took place, but simply have trouble placing events into perfect sequence. Paralleling this, children will make up responses if they do not know the answers to questions, because they want to please and help.

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

The remainder of this chapter provides a framework for interviewing children safely and without leading them.

#### Preinterview considerations

Before attempting to talk to a child about sexual abuse, the investigator should consider a number of actions. To fully prepare for the interview, it is useful to talk to parents, teachers, friends, and siblings to obtain background information. However, before discussing the incident with anyone, the investigator should reflect on who is suspected of sexually abusing the child.

Obviously, if the suspect is a family member, there may not be a nonabusing parent to rely on for accurate information.

Teachers can be an excellent resource to document changes in a child's behavior, for specific comments made directly to them supporting the child's allegations, and to obtain general background information, including the names of the child's friends. A child may disclose details of the sexual abuse to friends or siblings.

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

Preparing to interview a child also means assessing parents' reactions to the sexual abuse. Parental reactions will range from denial to threats of vigilante tactics against the accused. It helps to develop a level of acceptance and trust by the parents; they may find the subject just as difficult to discuss openly as the child-victim. Some things to tell parents when first talking with them include:

1. Why a police investigator is there.
2. What the investigator does professionally.

3. What crime has been committed.

4. What to expect.

During the process of obtaining information about the incident and talking with parents, it is particularly important to find out about any handicaps the child may have, including emotional problems, extreme shyness, or delays in development. Any serious handicap will present a more difficult communication situation and a potentially negative prosecution response. Traditionally, children under the age of 5 and handicapped children have been harder to get through the criminal justice system than older children.

The investigator should also consider the child's reactions to the sexual abuse. The molester may be the child's best friend, and it is possible that the sexual abuse may have given the victim some pleasurable sensations.

Through the child's eyes, talking about the incident betrays a trusted friend. Other reactions range from denial to fear of retaliation. Assess the relationship of the perpetrator to the child. If the suspect is the child's father, a host of issues may surface. The child may believe he or she is destroying the family or ruining the life of a loved one, and these feelings may be reinforced by other family members' reactions to the disclosure. For this reason, it is helpful for officers to have a list of counselors and support group referrals that can be given to the family during the difficult time following disclosure of child sexual abuse.

The span of time over which the abuse occurred is important. Generally the longer the sexual abuse has been occurring, the harder it is for the child to

report it. Combine the duration with secrecy, coercion, or violence and it becomes clear why so many children are afraid to disclose abuse.

While the child may be confused about the sexual abuse, usually he or she fears not being believed or being blamed for the abuse. This is particularly true for a younger victim who has been told by the suspect that no one will believe his or her story and that the child is equally responsible for what happened. Guilt and anxiety will increase if the victim accepts more responsibility for his or her role in the abuse. Specifically, the child fears parental reaction and becomes unsure of whether support and acceptance will be withheld upon disclosure. Finally, an investigator should never rule out the possibility that the child has otherwise been physically assaulted or threatened with horrible consequences if he or she tells anyone.

#### Interview setting

A neutral and private location for the interview is best. While children will adapt to a variety of physical surroundings, it is advisable to find a location within the community where interviews can be conducted in a nonthreatening manner. Police departments are not generally appropriate environments in which to interview children. However, increasingly, law enforcement practitioners are finding space within their agencies and are remodeling rooms for the sole purpose of interviewing children. Short of this, use a "team concept" in locating an acceptable facility--social service, educational, religious, and recreational agencies can help.

The amount of room needed is not great. Approximately 100 to 150 square feet of room is sufficient, unless videotaping is anticipated. The room should be pleasantly decorated and have a natural, nondistracting light source. Avoid rooms exposed to outside traffic noise and located in congested areas.

An interview room designed with children's needs in mind will be furnished comfortably. Thick carpeting, beanbag chairs, and child-sized tables and chairs are preferred over traditional adult-sized furniture. Some interview rooms have even been equipped with giant stuffed animals on which children can recline, sit, or play during the interview. When adult furniture is used, overstuffed chairs and couches are more appealing to children than a standard chair. When ideal types of furniture are unavailable, the floor is a reasonable alternative. When teenagers are being interviewed, traditional furniture is appropriate.

The child's home is usually an unacceptable location for an interview, even if a specially equipped interview room is unavailable or nonexistent. The main problem with this setting is that the abuse may have occurred there, making the details more difficult for the child to discuss.

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

The interviewer may have to consider a wide range of facilities in order to choose the best place for the interview. However, if an emphasis is placed on the child's comfort level and an attempt is made to minimize interruptions and distractions, some of the fundamental ingredients for a successful interview will have been met.

### Beginning the interview

Introductions are just as important to children as to adults. The investigator needs to explain who he or she is and why the interview is necessary. The child should be allowed to move about the room freely and, in general, be made to feel at ease. Talk can center on friends, family, activities, interests, school, pets, favorite television shows--anything that will make the child feel comfortable. This introductory talk provides an excellent opportunity to get to know the child better.

The goal of the interview is to encourage a supportive relationship with the child. It is important not to talk down to or beyond the child's level of comprehension, and to stress that the child is not to blame for the abuse, nor has the child done anything wrong. Trust building is essential before proceeding.

The time necessary to accomplish a relaxed atmosphere will vary with the age and developmental skills of each child. Some children may be immediately ready to talk about the sexual abuse. However, it is advisable to use approximately 10 to 15 minutes in an unstructured way to set the stage for the actual

interview; this helps the investigator develop a better sense of how the child is feeling. Fear or nervousness can be reduced during this period.

If the child is feeling frightened at the initial stages of the interview, later attempts to foster discussion about the sexual abuse may fail. At the beginning of an interview, the investigator is still a stranger and the child may not discuss something as sensitive as sexual abuse with someone he or she does not know; in fact, many children are reluctant to admit sexual abuse to anyone. A gradual approach is more likely to succeed.

#### Talking about the sexual abuse

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

Any drawing the child has produced can be used by asking the child to explain what is happening or to tell a story about it. If picture drawing is used during the interview, the child can be asked to draw something specific and then tell a story about it.

Anatomically correct dolls or puppets can also be used to allow a young child to tell about the sexual abuse. By using a doll that looks somewhat like the child, the interviewer can make statements like: "This little girl (or boy) is

very upset (worried, angry, or confused). Maybe she (or he) has a problem." The doll or puppet can also be used with which to ask questions. For example, using a puppet, the interviewer might ask: "Did you hear what happened to Jane?"<sup>19</sup>

The interviewer should look for any obvious sexual or fearful themes in the child's use of dolls, drawings, or play. Patterns to look for in doll play include:

- o Undressing dolls repeatedly.
- o Peering between legs.
- o Making sexual comments.
- o Placing in bed in sexual positions.
- o Dolls touching one another's private parts.
- o Touching the dolls in sexual ways.
- o Attempting to make the dolls engage in sexual intercourse or other sexual activity.<sup>20</sup>

Anatomically correct dolls should not be used as the first toys the child encounters in the interview. Before these dolls are used, they should be introduced to the child as special and different. The interviewer could then

have the child label different body parts, such as the eyes, nose, and hair, and undress the doll while the child continues to label the body parts.

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

The child who has been sexually abused may react negatively toward the dolls. The sight of the dolls might be frightening and upset the child, and he or she may refuse to go near them, saying they are bad, or denying ever having seen the intimate parts of a person. On the other hand, some children respond by immediately acting out sexual activity with the dolls or making statements about the abuse.<sup>21</sup>

The number of dolls needed for an interview will vary. Dolls are usually available in sets of four representing a mother, father, brother, and sister, and in different skin colors. A good method for selecting the dolls to be used is to lay several dolls in front of the child and ask the child to choose the one that most looks like him or her. The skin color of the child dolls should be that of the child being interviewed, and skin colors of the other dolls varied, to allow for situations where the skin color of the abuser is unknown. The child should then be asked to select the doll that most looks like the

abuser. The value of this approach is that it is less leading, and the investigator is less likely to be accused of staging a situation for the child.

The general appearance of the dolls should be as friendly as possible while retaining some sense of realism in facial features and detailed body parts. Dolls should have a complete set of fingers and toes. The adult dolls should incorporate simulated body hair in the appropriate places along with slightly enlarged breasts on the adult female doll and slightly enlarged genitals on the adult male doll.

The overall size of the dolls will be such that a child can easily handle-- usually between 15 and 20 inches in height. The clothing on each doll should be designed for easy removal and dressing, and should be detailed and realistic enough to represent the differences between the adult and child dolls. They should have body openings, including mouth, anus, and vagina. Male and female dolls should have nipples, and wig hair is preferred over painted-on hair or yarn.

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

Another popular aid in interviewing children is showing anatomical drawings to the child. The bodies can range from Caucasian and black preschool children to adults, with front and back views of each, and full anatomical features. The child selects the drawing that most resembles him or her, as well as the

drawing that most accurately depicts the abuser. The interviewer and the child then discuss what happened, using the drawings for guidance. By pointing, drawing, or coloring on the appropriate drawing, the child can reveal critical information, which would be admissible in court. Other techniques include cutting out the figures, storytelling, and determining whether, and under what conditions, the child has seen similar pictures. This approach is useful in child pornography investigations.

Once the child begins to describe the sexual abuse in some detail, and the interviewer has learned the terms the child uses for sexual activity or organs, the interviewer should continue to use those terms. Only when the child is unable to provide a label for a body part or activity should the correct name be suggested.

If the child has difficulty talking about what happened, the interviewer should gently impress upon the child the importance of discussing the incident. Allow the child to share his or her fears about disclosure and reaffirm that what happened was not his or her fault. As mentioned before, one of the child's primary fears is of not being believed by an adult; another major fear is of reprisal. Further, children do not understand the investigative process and are afraid of the consequences of their disclosure.

Every effort must be made to ask short, open-ended questions and to use open-ended statements. The questions should be direct and followed up with more specific questions. For example:

**Open-ended question:** "Where did he touch you?"

**Close-ended question:** "Did he touch your breast?"

The interviewer should avoid confusing words or phrases like "penetration," "method of operation," or "ejaculation." As much as possible try to obtain the child's version of the incident in chronological sequence. However, the child should not be interrupted except to bring him or her back to the subject if the child begins to ramble.

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

#### Ending the interview

No matter what the results of the interview are, the child should be thanked and praised for cooperating. Statements such as that the child did a good job with a difficult subject can make a child feel better, and your concern and willingness to help can be reaffirmed. Once again, the child should know he or she is not to blame. While you can provide the child with some idea of what will happen in the near future, you should not discuss long-term issues unless the child raises them. Finally, encourage the child to ask any questions he or she might have, or to express any concerns, by asking if the child wants to talk about anything else.

## Competency of child witnesses

The major difference between a therapeutic interview and one conducted by criminal justice practitioners is that information obtained in the latter is designed to be used in court (although the results of the therapeutic interview may also be reported in court by an expert witness). Therefore, an important aspect of an investigator's job is to assess the child's competency as a witness. (See Chapter 4 for a detailed discussion of the legal aspects of competency.)

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

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

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

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

The child's ability to distinguish between truth and lies will be a major issue if the case goes to court. The investigator is encouraged to invest some time in developing a game or line of questioning to assess that ability level in the child (see Chapter 4 for sample questions).

#### Interviewing the suspect

Because of the nature of the crime, it is difficult not to have negative feelings about a suspect in a child abuse case. However, experience shows that more cooperation will be gained during the interview if the suspect's comfort level is addressed and an understanding is reached between the investigator and the suspect. The investigator might begin by giving his or her professional background and experience and then ask the accused to do the same. To as great an extent as possible, a relaxed atmosphere should be achieved. Opening questions might focus on work experience, family, hobbies, education, or religion.

A strong denial by the accused is probable and the interviewer should avoid any value judgments or negative statements to keep lines of communication open. If the suspect does begin his or her statements with **strong denials**, ask what the suspect thinks the child's motives for lying might be.

The timing of an interview with the suspect is also important. Investigators have reported success when the suspect is interviewed as soon as possible after information indicates a certain person or persons are responsible for the abuse. If a polygraph examiner can be available during this phase of the interview, partial and even full admissions often occur. As a general rule, if the interview can occur within 24 hours from the time of disclosure, the suspect will have less time to prepare emotionally to challenge the accusations.

Expect the child abuser to frequently offer **additional information** concerning other abusers, rings, or victims in an effort to "aid" law enforcement once a confession is made. The accused believes cooperation will enhance his or her plea-bargaining position.

#### Issues for the interviewer

It is important for an investigator to avoid getting enmeshed in the emotionality of a case and to maintain his or her **objectivity**. Overidentifying with the child victim can cause an investigator to lose perspective. Fatigue and burnout may arise and this possibility should prompt the investigator to do an attitude check of himself or herself periodically. Consider rotating out of

this type of work when personal reactions to sexual abuse and subsequent actions are in conflict with the objective.

The goal in interviewing a sexually abused child is to conduct the interview in a safe and nonleading manner. If the investigator has a good understanding of children, this goal can be favorably accomplished. Preinterview considerations and knowing how to begin an interview should be coupled with a knowledge of how to talk to a child about sexual abuse. Ending the interview and assessing the child's competency as a witness round out the interviewing process.

Note: The following words will be placed in a narrow left-hand column and lined up with the same words highlighted in the text:

Ancient times

Customs

Child sexual abuse

Child sexual exploitation

National definition

Sexual exploitation

Estimates of sexual abuse

Frequency of crime

Factors

8 to 12-year-olds

Sibling incest

Family characteristics

Pedophilia

Rarely reported

Widespread misconception

Stranger-molester

Incestuous molester

Pedophile

Effects on the victims

Emotional impact

Behavioral indicators

Pornographic material

Pedophiles take photographs

Single-parent family  
Develop relationships  
Regularly communicate  
Clinical findings  
Red flag indicators  
Toddler or preschooler  
Other behaviors  
School-age children  
Lack of physical evidence  
Strong emotional ties  
Feelings of guilt  
Male incest cases  
Primed by the father  
Surveillance  
Safety of the child  
Search warrants  
Investigating the pedophile  
Photo laboratories  
Sexually explicit material  
Identifying victims  
Youth activities  
U.S. Postal and Customs Services  
Home computer use  
Patience  
Trust  
Vocal tones

Facial expressions

Attention spans

Questions

Time and space concepts

Important events

Vocabulary

Order of events

Background information

Teachers

Agency professionals

Parents' reactions

Handicaps

Child's reactions

Counselors

Span of time

Fear of not being believed

Guilt and anxiety

Fears of parental reaction

Physical assault or threats

Neutral location

Amount of room

Children's needs

Child's home

School

Child abuse reporting laws

Introductions

Talk  
Supportive relationship  
Trust building  
Relaxed atmosphere  
Frightened feelings  
Frequency of abuse  
Degree of trauma  
Drawings  
Dolls or puppets  
Different reactions  
Number of dolls  
Appearance of dolls  
Clothing  
Critics  
Anatomical drawings  
Court use  
Descriptive terms  
Difficulty talking  
Open-ended questions  
Confusing words  
Duration of sexual activity  
Thanks and praise  
Future concerns  
Child's competency  
Corroboration  
Lies

Custody battles

Revenge

Incest victims

Small children

Consistency

Truth and lies

Negative feelings

Comfort level

Opening questions

Strong denial

Motives for lying

Timing

Polygraph

Additional information

Cooperation

Objectivity

Fatigue and burnout

Nonleading manner

**Chapter 2**  
**Child Sexual Abuse**  
**Appendixes**

- A. Notes
- B. Investigator's checklist
- C. Affidavit for a search warrant
- D. Warrant based on correspondence
- E. Warrant based on a crime report and a supplemental warrant
- F. Warrant based on probable cause--staleness not an issue
- G. Warrant to obtain photographs from a film laboratory
- H. Federal search warrant for controlled delivery

## Appendix A: Notes

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19. Faller, K. 1984. Multidisciplinary Team Training. Ann Arbor, Mich: University of Michigan, p. 10.
20. Ibid., p. 12.
21. Ibid., p. 14.

Appendix B: Investigator's checklist

1. What crime has been committed?
2. What is the relationship of the perpetrator to the victim?
3. What has been the duration of the sexual abuse or exploitation?
4. What types of behavioral characteristics is the victim demonstrating?
5. Have there been any threats of violence or coercion directed at the child?
6. Are there any other forms of child abuse present (e.g., neglect, physical abuse)?
7. Are there any physical indicators of sexual contact?
8. Is the child describing sexual activities that he or she ordinarily would not have knowledge about?
9. Is the child's story consistent with what he or she has told others?
10. Has the child been exposed to any form of pornography?
11. Has the child participated in any form of child pornography?

12. Have you collected sufficient background information from teachers, neighbors, siblings, friends, or others with whom the child may have shared information?
13. If the allegations involve incest, is there a "safe parent"?
14. Has the child participated in a physical examination?
15. Before talking to the child, do you feel you know enough about the child?
16. Have you considered vocabulary, parental reactions, and unstructured play techniques?
17. What words does the child use to describe sexual activities or body parts?
18. Does the child have any handicaps that might restrict communication?
19. Where is the child going to be interviewed?
20. Is the interview going to be audio- or videotaped?
21. Has the investigation been coordinated with other agency professionals (e.g., protective services, mental health, and prosecutor's office)?

**Appendix C: Affidavit for a search warrant**

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

AFFIDAVIT FOR SEARCH WARRANT

United States District Court

CENTRAL DISTRICT OF CALIFORNIA

United States of America

vs.

One single family residence  
4722 West 191st Street  
Torrance, CA 90503

Name and address of Judge or U.S. Magistrate

Ralph Geffen  
U.S. Magistrate  
Los Angeles, CA

The undersigned being duly sworn deposes and says: That there is reason to believe that

[ ] on the person of [x] on the premises known as

DISTRICT - CENTRAL DISTRICT OF CALIFORNIA

One single family residence, being more particularly described as the residence of David H. E. Adams, located at 4722 West 191st Street, Torrance, CA.

The following property (or person) is concealed:

See paragraph 22 of affidavit of U.S. Deputy Marshal William H. Dworin, which is incorporated as part of the Affidavit for Search Warrant.

Official title, if any

U.S. Deputy Marshal

Judge or US Magistrate

Ralph Geffen

A F F I D A V I T

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

1. I am a Special U.S. Deputy Marshal assigned to a multi-agency task force charged with the investigations of child sexual exploitation.
  
2. Furthermore, I am a detective for the City of Los Angeles and have been so employed for the past 21 years. For the past 10 years, I have been assigned to the Sexually Exploited Child Unit of Juvenile Division. I have participated in an excess of 1,500 investigations involving the sexual exploitation of minors and children. I have personally conducted in excess of 800 investigations, resulting in felony charges of child molestation and exploitation. I have received extensive training and have read numerous publications dealing with the sexual exploitation on children. I have talked to in excess of 1,200 sexually exploited children and in excess of 1,400 admitted child molesters. I have read and examined in excess of 15,000 letters between pedophiles describing their admitted sexual conduct with children and the manner in which they exploited said children for sexual gratification. I have examined tens of thousands of photographs, magazines, movies and video tapes during these investigations which depict children engaged in sexual activities with themselves, with other children, with animals, and with adults. I have examined and read publications distributed from foreign countries and in the United States which describe in detail sexual activities between adults and children. I am familiar with the manner in which pedophiles entice and encourage children to engage in sexual conduct and the manner in which they exchange

children with each other and make contact with other adults who engage in such conduct. From my training and experience, I am aware that pedophiles have a specific age preference for the juvenile victim and that when the victim surpasses this age, the pedophile, no longer having a sexual interest in her/him, will seek out a younger juvenile victim to take the victim's place sexually. It has been my experience that pedophiles will not stop or remain with one juvenile victim but will constantly seek out new victims, using the same method of seduction that has been successful for him. It has been my personal experience and knowledge of pedophiles from other officers that the pedophile has never stopped with one juvenile victim but has continued to molest juveniles whenever the opportunity arises. From interviewing and speaking with pedophiles, both in an official capacity and during undercover operations, I am aware that pedophiles are the producers, noncommercial distributors, and consumers of child pornography and will seek out sources of this material. I am aware that pedophiles will retain photographs, magazines, movies, video tapes and correspondence and this retention will span many years. This material is displayed to juveniles by the pedophile to lower the juveniles' inhibitions and to encourage them to act out what they observe. The child pornography is also used by the pedophile to justify the belief that having sex with juveniles is acceptable and encourages the pedophile to seek out and molest juveniles. The pedophile will also exchange the child pornography with other pedophiles as a means of acceptance and proof of their involvement with juveniles. From the prior investigations that I have conducted and from talking to other detectives involved in pedophilic investigations worldwide, I am aware of pedophiles retaining their

pedophilic and pornographic material in excess of 20 years, and that this material has been shown to juveniles to lower the victim's inhibitions. I am aware that, depending upon the age of the juvenile victims, pedophiles will often furnish drugs and alcohol to lower victims' inhibitions. A pedophile will frequently seek out employment or volunteer his or her service to be close to children and to victimize them. I have testified as an expert witness in the fields of sexual exploitation of children, child pornography, and pedophilia in municipal and superior courts in California as well as in Federal courts. I have testified as an expert before congressional and Senate committees, as well as testifying before the Attorney General's Commission on Obscenity. I have also assisted the United States Attorney's Office in formulating procedures in the federal prosecution for the importation and noncommercial distribution of child pornography.

3. Your affiant received information from Special Agent Kelly M. S. Wilson, U.S. Customs Service, regarding David Adams. The U.S. Customs Service intercepted an international mail parcel addressed to David Adams at 8671 Hayden Place, Culver City, California. This parcel contained a pornographic magazine, Lolita 51, that depicts pre-adolescence girls in sexually explicit poses.
  
4. Based on the knowledge of the seizure and having conversations with Special Agent Wilson, as well as other U. S. Customs Agents throughout the United States, it is my belief that approximately 10 percent of the materials depicting children engaged in sexually explicit conduct is

seized by Customs upon entry into the United States and that David Adams has received additional child pornographic material from overseas sources and does have a sexual interest in children and is a pedophile.

5. On May 2, 1986, your affiant, using the alias of Gary Leonard, wrote to David Adams at 8671 Hayden Place, Culver City. The purpose of this letter was to ascertain if Adams is sexually involved with juveniles and/or involved in the dissemination of child pornography. The letter states, "Hi, Your name was given to me by a trusted friend. I believe we share a common interest. I am interested in the physical development of children and I hope that you share this interest. If so, I hope to hear from you. Gary Leonard"
6. On May 7, 1986, your affiant received a reply from D. Adams. The envelope was a business envelope from Interactive Motion Control Inc., 8671 Hayden Place, Culver City, California. Above the printed return address and written in red is the name D. Adams. The note, also written in red, was on the letter sent by your affiant. The note stated, "Hi, Please send what information you have available (video VHS?). Please mark Personal and Confidential." The note also had a return address of David Adams, 8671 Hayden Pl., Culver City, CA 90230. (A copy of your affiant's letter and Adams' reply and envelope are attached hereto as Exhibits 1 and 2.) [The envelope is not included in this manual.]
7. On May 7, 1986, your affiant replied to Adam' note, stating, in part, "Hope you didn't misunderstand but I don't sell any of my material. I

would be willing to trade or share. I do have VHS ... I also have movies. All of my material are pre teen. Please let me know your interest. Gary" (Copy of letter is attached hereto as Exhibit 3.)

8. Having not heard from Adams for approximately one month, your affiant again wrote, stating, in part: "Due to a recent arrest for drunk driving, I find myself in need of some funds. I think I told you the type of material that I have. I would be able to sell certain magazines and any videos since I can easily make copies. If you are interested, please let me know exactly what you would like and what age group you would like to see. My collection is extensive. Magazines would sell for \$25 and video for \$60. Gary" (Copy of the letter is attached hereto as Exhibit 4.)
9. Your affiant received a letter from David Adams on June 16, 1986. The return address was 8671 Hayden Pl., Culver City. The letter states, "Hi, Received your letter of June 6th and I want to buy one of your video's (VHS). I would like to see pre-teen boy and girl with adult male or young girl with adult male. I have enclosed \$30.00. Send me a description of the other video's that you have in your collection as well as magazines. Dave Adams. P.S. Just mark all correspondence Personal." (Copy of the letter is attached hereto as Exhibit 5.) Enclosed in the letter was a twenty and ten dollar bill.
10. On June 17, 1986, your affiant responded to Adams' letter, stating, in part: "Received your letter and agree to your terms. Before I send you a

tape, I would like some type of assurance from you. Please sign a statement that you are not a police officer, postal inspector or other law enforcement agent and that you know that the contents of the tape is sexually explicit. Once I receive the note, I'll mail you the tape. It will have 3 different films on it ... Gary." (Copy of the letter is attached hereto as Exhibit 6.)

11. Your affiant determined that the address 8671 Hayden Place, Culver City, is a business in a light industrial/business center. Your affiant checked several of the vehicle license plates through the California Department of Motor Vehicles and identified a 1982 Datsun 280Z, silver in color, California License 1HBW468, registered to David H. E. Adams and Catherine Adams, 4722 W. 191st St., Torrance. No other vehicle in the parking lot was registered to David Adams.
12. Your affiant checked various seized mailing lists of child pornography distributors. Your affiant noted that on the Cathy Wilson mailing list, the name David H. E. Adams, 1121 W. Sepulveda Blvd., Torrance, CA, Apt. I-204, appeared. Notations under the name indicated that seven different child pornographic items were sent to Adams. Prior to Wilson's arrest and conviction, she mainly distributed child pornographic magazines and movies and was beginning to advertise child pornographic videotapes.
13. Your affiant queried the California Department of Motor Vehicles and identified Adams as David Herbert Edward Adams, 4722 W. 191st St., Torrance, CA. DMV showed Adams with an additional address of 1121 W.

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

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

18. Your affiant then obtained permission from the Commanding Officer of Juvenile Division, Los Angeles Police Department, to record a conversation with Detective Dworin, acting in an undercover capacity, and David Adams. On June 23, 1986, your affiant spoke with and recorded the conversation with Adams.
19. On June 23, 1986, at 1330 hours, your affiant called David Adams at his business. This phone number was obtained from the information operator for Interactive Motion Control Inc. Adams identified himself and stated that he was looking forward to viewing the tape. He stated that he doesn't keep the tape at the business, but keeps it in a secure location.
20. Your affiant prepared the video tape for mailing and sent the tape via U.S. Mail. The package will be delivered to Adams' business located at 8671 Hayden Pl., Culver City. A surveillance will commence upon delivery of the package with the intention to follow Adams from his business to his residence to ensure that the child pornographic video tape is retained at his residence.
21. It is your affiant's belief that there is probable cause to believe that David H. E. Adams resides at 4722 W. 191st Street, Torrance, and that David Adams is a pedophile. Further, it is your affiant's belief that Adams will have materials which depict children engaged in sexually explicit conduct at this residence.
22. Based upon your affiant's experience, expertise and training, the

following items are expected to be found at Adams' residence, located at 4722 W. 191st Street, Torrance, which includes, but are not limited to the following items of pedophilic paraphernalia: 1) the video tape purchased by Adams from your affiant; 2) any other video tapes, magazines, books, photographs, films and/or other visual depictions of minors in sexually explicit conduct as those terms that are defined the 18 USC 2256; 3) video players, movie projectors, slide projectors or other devices used to display this material; 4) still camera, video cameras, lighting equipment, photo reproducing and/or development paraphernalia used in photographing or duplicating children engaged in sexually explicit conduct; 5) correspondence from Gary Leonard and/or from other persons relating to the sexual activity of children; 6) books, documents and records reflecting the making, receipt, or acknowledgment of orders to purchase or offers to sell or trade depictions of minors, address books, mailing lists, supplier lists, advertising brochures or materials, and all documents or records pertaining to the preparation, purchase or acquisition of customer or correspondents' names or lists, used in connection with the purchase, sale, or trade of sexually explicit depictions of minors; 7) child erotica as defined as items not sexually explicit but which relates to children and is used by the pedophile to encourage the molestation of children or used by the pedophile to fantasize sexual involvement with children; 8) diaries, notebooks, notations or other writings relating to sexual involvement with juveniles.

23. Your affiant requests the court to make its determination of probable cause based solely on the above information. In order to fully advise the

court, it is the Government's intention to effect a controlled delivery of the video tape which contains sexually explicit depictions of minors as requested by David Adams, and to execute the warrant after the video tape reaches David Adams' residence.

---

WILLIAM H. DWORIN  
United States Deputy Marshal

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

---

UNITED STATES MAGISTRATE

Exhibit 1

May 2, 1986

Hi

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

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

If so, I hope to hear from you.

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

Exhibit 2

May 2, 1986

Hi

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

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

If so, I hope to hear from you.

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

David Adams  
8671 Hayden Pl  
Culver City, CA 90230

Hi,

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

Please--mark PERSONAL & CONFIDENTIAL

Exhibit 3

May 7, 1986

Hi

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

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

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

Gary

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

Exhibit 4

June 6, 1986

Hi

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

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

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

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

Hope to hear from you soon.

Gary Leonard

Exhibit 5

June 12, 1986

Hi

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

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

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

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

Dave Adams

P.S. Just mark all correspondence PERSONAL

Exhibit 6

June 17, 1986

Hi

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

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

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

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

- Lolita 29, 30, 32, 34 & 35.
- Lolita Special 3,4 & 6
- Nymph Lovers 3 & 4

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

Write soon  
Gary

Exhibit 7

Hi

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

Looking forward to receiving the video tape.

David Adams

**Appendix D: Warrant based on correspondence**

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

Search Warrant No.

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

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

proof by affidavit, having been made before me by William H. Dworin, 12122 that there is probable cause to believe that the property described herein may be found at the locations set forth herein and that it is lawfully sizable pursuant to Penal Code Section 1524 as indicated below by "x"(s) in that it:

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

YOU ARE THEREFORE COMMANDED TO SEARCH:

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

FOR THE FOLLOWING PROPERTY:

1. Photographs depicting the juvenile "Eric" and/or other juveniles, dressed, nude, or engaged in sexual activity. 2. Photographs, magazines, videotapes or other visual depictions depicting sexual activity between adults or adults and juveniles used for the purposes of lowering the inhibitions of juvenile victims. 3. Correspondence from Dick Tanous and/or other persons that describes sexual involvement with juveniles. 4. Movie cameras, video cameras, video recorders, cameras or other visual equipment used to take, depict or duplicate movies, videos, or photographs. 5. Telephone books, address books, notations or other writings tending to identify the juvenile

"Eric" and to identify the location in the desert where Eric was molested. 6. The passport of Gerald Dicks to corroborate his statements as to his sexual involvement with juveniles in foreign countries. 7. Typewriter used to type the letter to Dick Tanous.

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

This Search Warrant and Affidavit was sworn to and subscribed before me on April 3, 1981 at 1:19 p.m. Wherefore, I find probable cause for the issuance of this Search Warrant and do issue it.

\_\_\_\_\_  
(Signature of magistrate)

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

NIGHTTIME SERVICE ENDORSEMENT\*

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

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

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

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

Attachment A

Your affiant is William H. Dworin. I am a detective for the City of Los Angeles and have been so employed for the past 21 years. For the past 9 years, I have been assigned to the Sexually Exploited Child Unit of Juvenile Division. I have been assigned to said Juvenile Division for the past 13 years. I have participated in an excess of 1,500 investigations involving the sexual exploitation of minors and children. I have personally conducted in excess of 800 investigations resulting in felony charges of child molestation and exploitation. I have received extensive training and have read numerous publications dealing with the sexual exploitation of children. I have talked to in excess of 1,000 sexually exploited children and in excess of 1,200 admitted child molesters. I have read and examined in excess of 15,000 letters between pedophiles describing their admitted sexual conduct with children and the manner in which they exploited said children for sexual gratification. I have examined tens of thousands of photographs during these investigations which depict children engaged in sexual activities with themselves, with other children, with animals and with adults. I have examined and read publications distributed from foreign countries and in the United States which describe in detail sexual activities between adults and children. I am familiar with the manner in which pedophiles entice and encourage children to engage in sexual conduct and the manner in which they exchange children with each other and make contact with other adults who engage in such conduct. From my training experience, I am aware that pedophiles have a specific age preference for the juvenile victim and that when the victim surpasses this age, the pedophile, no longer having sexual interest in her/him, will seek out a younger juvenile to take the victim's place sexually. It has been my experience that pedophiles

will not stop or remain with one juvenile victim but will constantly seek out new victims, using the same method of seduction that had been successful for him. It has been my personal experience and knowledge of pedophiles from other officers that a pedophile has never stopped with one juvenile victim but has continued to molest juveniles whenever the opportunity arises. From interviewing and speaking with pedophiles, both in an official capacity and during undercover operations, I am aware that pedophiles will retain photographs, magazines, movies and correspondence. This retention will span many years and the material is used by the pedophiles to lower the child's inhibitions and to relive the pedophile's experience. From the prior investigations that I had conducted and from talking to other detectives involved in pedophilic investigations worldwide, I am aware of pedophiles retaining their pedophilic and pornographic material in excess of twenty years, and that this material has been shown to juveniles to lower the victim's inhibitions. I am aware that, depending upon the age of the juvenile victims, that pedophiles will often furnish drugs and alcohol to lower their inhibitions. A pedophile will frequently seek out employment to volunteer his or her service to be close to children and to use the authority over the children and to victimize them. I have testified as an expert in both the Municipal and Superior Courts in the field of the sexually exploited child and have assisted in the federal prosecution for the importation and non-commercial distribution of child pornography.

On January 22, 1986 Eric Jaeger, age 12, and his brother John Clougherty, age 7, were taken into protective custody as victims of child endangering. It was determined that their mother, Sheila Hildenbrand, was out-of-town on a business trip and left her sons with a second adult to be cared for. The children were

not cared for and were living in an endangered environment when taken into custody. When the officers checked the residence to determine the unsafe conditions, they located a letter addressed to Eric and signed Jerry. The letter stated in part, "You are a young man that maybe would like the company of an older man, someone who can help guide you, or someone to talk to . . . . I am an older man, one who enjoys the company of younger people. . . . You and I could do things together, share our secrets, have some fun and may be learn from one another with 'no strings.' . . . Shall we try for Saturday, maybe go to Disneyland or up to the desert to some friends who have a small ranch. . . . You're welcome to come stay at my place over night if you'd like. I have a nice apartment in Glendale, a stereo, Cable TV, a really jazzy van, and a video camera which is kind of fun to play with. . . . My home number is area 818 241-4225. . . . I get kind of lonesome for a young man friend. Lets try and share some time together. Jerry." (Copy of letter incorporated as Attachment 1). The officers, believing that "Jerry" had a sexual interest in the juvenile, Eric Jaeger, notified your affiant and requested further investigation. Your affiant interviewed Eric Jaeger on February 11, 1986. Eric denied being sexually molested by "Jerry." He stated that he spent the night at Jerry's house once or twice. Jerry took him to Disneyland. Jerry has two VCRs in his living room. He never discussed sexual activity with Jerry. Your affiant then interviewed Sheila Hildenbrand. She stated that she had known Jerry for the past two years. She had asked Jerry to talk to her son about sex because she didn't know how to approach the subject with him. She identified Jerry as Jerry Dicks living in Glendale. She did not furnish his address or telephone number.

Your affiant did a background investigation on Jerry Dicks. From a prior

investigation, your affiant had obtained the customer mailing list of "Award Films" a company that distributes photographs and videos relating to child erotica. One video entitled "Robby" depicts two boys romping naked on the beach. They hunt, fish and play uninhibited. Your affiant noted that a Jerry Dicks, 1147 East Broadway Box 384, Glendale, was a customer of "Award Films." Your affiant was aware that this address was a private mail service and interviewed the manager of this service. The manager identified Box 384 as being opened on January 17, 1985 by Gerald Dicks. He furnished a Texas license as identification and supplied his residence address as 1355 Hilda Avenue, #2, Glendale with a residence phone of 818 241-4225 and a business phone as 818 896-6454. Your affiant then checked 1355 Hilda Avenue and found that Dicks' apartment was listed as Apartment 4. Your affiant contacted the mail carrier for Dicks and learned that Dicks had moved from Apartment 2 to Apartment 4. Your affiant also noted that the residence phone number given on the box application was the same given in the letter to Eric. Because Ms. Hildenbrand indicated that she would advise Jerry of the investigation, your affiant contacted him telephonically and explained the reason for Eric being interviewed. Dicks indicated that the reason he contacted Eric was at the request of his mother and that he was just acting as a substitute father to the boy. No discussion of Dicks' involvement with Award Films was mentioned. Your affiant believed that Dicks did have a sexual interest in boys due to his involvement with Award Films and began an undercover investigation of his activities. On March 20, 1986 your affiant wrote to Dicks at his mail service address. Your affiant stated that he was interested in aiding young boys to explore their feelings and assist them in becoming young men. (Copy of the letter incorporated as Attachment 2.) Dicks responded on March 23, 1986 to

your affiant's letter. He stated in part, "Yes, I am quite sure we share a common interest. I have long hoped to meeting someone who also appreciates and shares my point of view. I live in Glendale. I'm home after 6 p.m. every evening. My home phone is 818 241-4225. I live alone. Jerry Dicks" (copy of the letter incorporated as Attachment 3).

Your affiant responded to Dicks' letter stating that he coaches a softball team and the boys are 9-11 years of age. He has a collection of magazines, movies, photos and some videotapes and that there are two boys that he had photographed extensively (copy of the letter incorporated as Attachment 4).

On March 31, 1986 Dicks responded to your affiant's letter by a typed letter which stated in part, "I'm a White male, 53, 6-0, 210 lbs. I have always preferred men and the younger the better. Dick, I have little to offer in our common feelings except feelings. I have had my share of younger men, usually in the 17-25 group. I have only had one real experience with "chicken" and that was rather recently. He's a very diminutive 13-year-old and appears and is physically younger. I have been super cautious in my approach, and I'll be happy to discuss it with you at length but prefer to reserve it until we meet. I am a daily masturbator, love the videos gay novels, films and magazines. To be quite frank about it, I am very oral. I love to suck cock and always have." (Copy of the letter incorporated as Attachment 5.)

On April 2, 1986 your affiant obtained permission to record a telephone conversation between him and Jerry Dicks. At 1945 hours your affiant called Dicks at his home telephone, 818 241-4225 and recorded the conversation. During the conversation Dicks identified a 13-year-old boy with whom he had some sexual involvement. He identified the boy as Eric and described two instances of his involvement with Eric. The first occurred at his apartment.

He described Eric as being like a 9-year-old and has no pubic hair. He stated that Eric climbed into bed with him one morning. He got to touch Eric and got a very tiny little taste (oral copulation) of it. Eric claimed that it tickled and he didn't really care too much about it.

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

Dicks also described his sexual involvement with juveniles in other parts of the world. Dicks stated that he wanted to send your affiant a photograph taken of Eric in the desert but would like it back for his photo album. He stated that there was no sexual activity in the photo but it shows what Eric looked like. Based upon your affiant's experience, expertise and all of the information contained above, your affiant is of the conclusion that the property listed in the warrant will be found at the locations to be searched for the following reasons:

1. that the person listed is a pedophile,
2. that such persons do not destroy photographs and any other reproductions depicting sexual conduct,
3. that such persons retain these materials for the purposes of personal gratification, to gain the acceptance, confidence, and trust of other pedophiles, to exchange such materials from other pedophiles, to receive monetary gains for the furnishing of such material, to ensure protection

from exposure to police authority,

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

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

Attachment 1

Dear Eric:

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

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

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

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

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

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

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

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

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

Best Regards,

Jerry

**Attachment 2**

Mar 20, 1986

Hi

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

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

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

Attachment 3

23 March 1986

Dear Dick:

Your letter of March 20th is acknowledged.

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

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

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

Regards,

Jerry Dicks

Attachment 4

Mar 27 1986

Dear Jerry

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

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

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

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

Dick

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

## Attachment 5

Dear Dick:

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

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

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

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

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

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

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

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

Jerry

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

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

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

William H. Dworin, 12122, being sworn, says that on the basis of the information contained within this Search Warrant and Affidavit and the attached and incorporated Statement of Probable Cause, he/she has probable cause to believe and does believe that the property described below is lawfully seizable pursuant to Penal Code Section 1524, as indicated below, and is now located at the locations set forth below. Wherefore, affiant requests that this Search Warrant be issued.

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

(SEARCH WARRANT)

THE PEOPLE OF THE STATE OF CALIFORNIA TO ANY SHERIFF, POLICEMAN OR PEACE OFFICER IN THE COUNTY OF LOS ANGELES: proof by affidavit having been made before me by William H. Dworin, 12122, that there is probable cause to believe that the property described herein may be found at the locations set forth herein and that it is lawfully seizable pursuant to Penal Code Section 1524 as indicated below by "x"(s) in that it:

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

YOU ARE THEREFORE COMMANDED TO SEARCH:

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

FOR THE FOLLOWING PROPERTY;

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

AND TO SEIZE IT IF FOUND and bring it forthwith before me, or this court, at the courthouse of this court. This Search Warrant and incorporated Affidavit was sworn to and subscribed before me this 14th day of May, 1981, at 3:00 p.m. Wherefore I find probable cause for the issuance of this Search Warrant and do issue it.

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

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

Supplemental Warrant

SW NO. 27523

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

William H. Dworin, 12122, being sworn, says that on the basis of the information contained within this Search Warrant and Affidavit and the attached and incorporated Statement of Probable Cause, he/she has probable cause to believe and does believe that the property described is lawfully seizable pursuant to Penal Code Section 1524, as indicated below, and is now located at the locations set forth below. Wherefore, affiant requests that this Search Warrant be issued.

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

(SEARCH WARRANT)

THE PEOPLE OF THE STATE OF CALIFORNIA TO ANY SHERIFF, POLICEMAN OR PEACE OFFICER IN THE COUNTY OF LOS ANGELES: proof by affidavit having been made before me by William H. Dworin that there is probable cause to believe that the property described herein may be found at the locations set forth herein and that it is lawfully seizable pursuant to Penal Code Section 1524 as indicated below by "x"(s) in that it:

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

YOU ARE THEREFORE COMMANDED TO SEARCH:

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

FOR THE FOLLOWING PROPERTY:

1. Photographs, negatives and/or other visual depictions of the victim Daniel K\_\_\_\_\_ dressed, nude, and/or in sexual activity. K\_\_\_\_\_ is described as a male white, 5-1, 103, blonde hair. 2. Photographs, negatives and/or other visual depictions of juveniles dressed, nude and/or in sexually explicit acts.

3. Videotapes depicting child and/or adult pornography. 4. Camera and video equipment used to photograph victim and to display videotapes. 5. Telephone books, address books, notations, diaries and other writings tending to identify other victims of sexual abuse. 6. Cancelled checks, checkbooks, billings for storage facility where Borts' camper is stored. 7. Utility bills, telephone bills, cancelled mail or other items tending to identify the person or persons in control of the premise.

AND TO SEIZE IT IF FOUND and bring it forthwith before me, or this court, at the courthouse of this court. This Search Warrant and incorporated Affidavit was sworn to and subscribed before me this 22nd day of May, 1981, at 10:45 P.M. Wherefore, I find probable cause for the issuance of this Search Warrant and do issue it.

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

Judge of the Municipal Court, Los Angeles Judicial District

**Appendix F: Warrant based on probable cause--staleness not an issue**

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

Search Warrant No. 20319

STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES

**SEARCH WARRANT**

PEOPLE OF THE STATE OF CALIFORNIA to any sheriff, policemen

or peace officer in the County of Los Angeles:

PROOF, by affidavit, having been made before me by

WILLIAM H. DWORIN, 12122, that there is probable cause to believe

that the property described herein may be found at the locations set forth

herein and that it is seizable pursuant to Penal Code Section 1524 as indicated

below by "x"(s) in that it:

\_\_\_ was stolen or embezzled

\_\_\_ was used as the means of committing a felony

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

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

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

## Appendix A: Notes

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## Appendix B: Developmental characteristics of children\*

### Age

#### Social & emotional abilities

#### Physical abilities

##### 0 to 12 months

1. Cries to protest or make needs known
  2. Conscious and fearful of strange persons and/or settings
  3. Knows familiar persons
  4. Reacts to voice tones, understands some words
  5. Imitates actions with hands and/or face
  6. Cannot play with others
- 
1. Progresses from lifting head to kicking and reaching to sitting
  2. Explores toys and surrounding objects
  3. Stands and then crawls
  4. May begin walking
  5. Begins single word speech
  6. Birth weight
    - Doubles in first 6 months
    - Triples in first 12 months

##### 12 to 24 months

1. Responds to simple questions by pointing and jabbering
  2. Seeks approval/affection/attention
  3. Gives some affection
  4. Plays independently
  5. May resist parents' wishes
  6. Cannot follow household rules
  7. Loves rough-house play and chasing games
  8. Trusts parents--invests in them magical abilities
- 
1. Listens to others speaking; understands more than can speak
  2. Sings
  3. Rapid growth
  4. Progresses through walking, running, jumping
  5. Develops bowel control (toilet training)
  6. Identifies body parts and functions
  7. Finger dexterity improves--zippers
  8. Throws objects

##### 2 to 3 years

1. Follows simple commands
  2. Increasing interest in TV and radio--uses everyday words
  3. Enjoys rhymes and counting
  4. Starting to share and play with others
  5. Separates from parents easily
  6. Uses imagination and dramatic role play
  7. Begins to adhere to safety and health rules
- 
1. Drops baby talk
  2. Can string beads, do buttons

3. Can pedal a tricycle
4. Tumbles, dances, balances
5. Feeds self
6. Draws some shapes and objects

#### 3 to 4 years

1. Begins using complete sentences to indicate needs (verbal skills may imply better comprehension than actually exists)
2. Plays with others, more able to share
3. Can control emotions
4. Shows affection and concern for adults, younger children, and animals

1. Draws simple persons--more identifiable shapes
2. Climbs, tumbles, balances
3. Takes apart and reassembles toys
4. Dresses self

#### 4 to 5 years

1. Participates in group play
2. Accepts some chores and supervision
3. Knows right and wrong
4. Takes some responsibility for self
5. Enjoys being silly and teasing
6. Understands concept of sizes
7. Begins to be curious of the outside world
8. Relates to seasonal changes, weather, and time in a personal manner
9. Accepts connections between events, but does not understand causality

1. Plays sports, accurate with a bat
2. Improved eye-hand coordination
3. Identifies words, pictures and letters
4. Copies letters and numbers, writes down name
5. Develops interests in stories, and TV drama
6. Dresses and bathes self
7. Knows left and right
8. Draws accurately
9. Counts to 20 or more

#### 5 to 6 years

1. Identifies with parent's ideas, goals, and behavior
2. Begins to compete
3. Relates stories and events well
4. States feelings about self and others

1. Clear speech, can carry on conversations
2. Very active physically
3. Begins reading

#### 6 to 8 years

1. Dawdles, easily distracted
2. Uses phone well
3. Boys and girls play together

4. Curious about differences in sex and where babies come from
5. Teachers' opinions are very important
6. A lot of name calling and vulgar language
7. Likes dramatic play--role playing

1. Gets permanent teeth
2. Usually running, jumping, chasing
3. Adds 3 to 5 pounds a year
4. Able to tell time, day of the week, and month

#### 8-9 years

1. Develops modesty due to social pressure
2. Enjoys being in a group, but doesn't engage in real teamwork
3. Recognizes property rights
4. Sense of humor obvious

1. Ability to write progresses
2. Has approximately 10 permanent teeth
3. Likes games of coordination (hitting, catching balls)
4. Can swim, bicycle, and rollerskate
5. Reads funnies and comics
6. Like different people/places (American Indians, jungles, etc.)

#### 9 to 10 years

1. Few fears
2. Sex differences in play obvious
3. Has interests in club/gang activities
4. Spends time away from home--at camp, school, friends

1. Slower, sporadic growth
2. Requires more sleep and rest
3. Reading comprehension increases
4. Interest in how things are made, science, nature and mechanics

#### 10 to 12 years

1. Teamwork begins in organized games, teams, clubs, and groups
2. Privacy is more important
3. Shyness may develop
4. More complicated thinking--interested in facts primarily
5. Plans ahead
6. Criticizes own efforts
7. Understands human reproduction
8. Willing to work to earn money

1. Girls increase in weight
2. Boys increase in physical strength
3. Diligently perfects physical skills
4. Likes hazardous activities

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

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

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

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

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

\*Guidelines for the Hospital and Clinic, Management of Child Abuse and Neglect.

Washington, D.C.: National Center on Child Abuse and Neglect, pp. IV2-IV7.

**Appendix D: Physical child abuse--investigator's checklist**

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

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

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

Chapter 2

Child Sexual Abuse

## History of child sexual abuse

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

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

## Definitions

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

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

Contacts or interactions between a child and an adult when the child is being used for the sexual stimulation of the perpetrator or

another person. Sexual abuse may also be committed by a person under the age of 18 when that person is either significantly older than the victim or when the perpetrator is in a position of power or control over the child.<sup>2</sup>

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

#### Facts about child sexual abuse

A child is sexually abused within the United States every 2 minutes.--

Senator Christopher Dodd

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

To fully appreciate how frequently this type of crime is committed in a community, consider that one out of three girls and one out of six boys will be sexually abused by age 13. In addition, research conducted by Dr. Gene Abel

at the New York State Psychiatric Institute in Manhattan shows the average number of molestations either attempted or completed by child molesters he studied was 68.<sup>6</sup>

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

- o A family history of abuse.
- o The influence of alcohol or other chemical substance on the abuser.
- o Physical and social isolation of the family.
- o Unrealistic expectations of the child.
- o Marital strife.
- o "Targeted" children.

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

### Incest

The actual incidence of incest is unknown, but recent data suggest that incest is not rare and that the majority of perpetrators are male.<sup>8</sup> Another type is

sibling incest, which is thought to occur much more frequently than reported.

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

An even greater incidence of incest would undoubtedly be recorded if it were not for the veil of secrecy surrounding incest. In Ramsey County, Minnesota, a number of such families were studied over a period of several years resulting in the identification of the following family characteristics:

1. The oldest girl was almost always the first victim.
2. In more than half the families, younger sisters were also involved.
3. Concurrent brother-sister incest was frequent.
4. Average age of the victim was 10.
5. The incest was not reported for 2 years.
6. Actual intercourse occurred in more than half the cases.
7. Other forms of sexual abuse included:
  - oral-genital and anal contact
  - penetration with objects
  - fondling of breasts and genitals
  - forced masturbation
  - fellatio on the abuser.<sup>9</sup>

## Sexual exploitation

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

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

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

Child molesters are divided into three classifications and are usually males ranging in age from young adults to elderly persons. Although separate, the classifications may overlap and this overlapping can only be determined through a thorough investigation.

- o The stranger-molester will use force or fear to molest children. As the term implies, the child does not know the molester. This type of molestation is readily reported to authorities because the trauma to the child is apparent. The investigator conducts this type of investigation as in any other sexual abuse case.
  
- o The incestuous or interfamilial molester is usually the adult male (father, stepfather, live-in boyfriend of the mother) who molests the female child or children. Although physical abuse may occur, the molestation is usually secretive and is accomplished through mental duress and threats: that the child would be removed from the family if she did not succumb to his wishes; that she would be blamed for hurting the family if the offender is arrested; or that a sibling would be sexually abused if she did not consent. The molestation occurs over an extended period of time, occasionally entering the victim's adulthood. Through intimidation, the child is made to feel responsible for the molestation and for keeping the acts a secret. This secret is retained between the offender and the victim, or within the immediate family.
  
- o The pedophile takes pride in his sexual interest in children. He sees society as being wrong in condemning sexual activity between an adult and a "consenting" child. However, due to his fear of apprehension, some

pedophiles may never physically molest a child but gain sexual gratification through child pornography and/or child erotica. The pedophile is the producer, consumer, and noncommercial distributor of child pornography, although on occasion he is a commercial distributor. His desire is to have children obey his requests and not inform anyone of the nature of their relationship.

Victims are usually between 6 and 17 years of age and are often underachievers in school and at home. They lack parental supervision, are usually from unstable homes, are often runaways, and lack love and attention. Most spend the majority of their time in public places; e.g., parks, theaters, or arcades. Pedophiles find victims by offering friendship, interest, and a concerned attitude. Children fear telling anyone due to implied or direct threats of physical harm, disbelief by their parents, or exposure to their peer groups.

The effects of sexual exploitation on the victims may be recognizable immediately. However, the signs do not necessarily point to sexual exploitation as the causation. Other social problems may give rise to the same effects. An immediate reaction usually entails emotional and behavioral problems wherein the juvenile has difficulty in relating to family and friends. Most children are not equipped to handle such emotional trauma. If the child's friends learn of the incident, the emotional impact can be devastating.

The long-term effects of sexual exploitation could be even more serious. The victim may have extreme difficulty in relating normally to a sexual partner later in life and, as previously indicated, the victim may actually turn to molesting children himself.

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Characteristics and behavioral indicators of a sexually exploited child

1. Is usually between 6 and 17 years of age.
2. May be unsupervised (at an older age, frequently a runaway).
3. May have poor family ties, broken home, unstable home environment.
4. May underachieve at school and at home.
5. Has abrupt or recent changes in moods, attitude, and behavior.
6. Seeks affection, attention, praise, rewards, and approval.
7. May have more money than normal for a child of comparable age (new toys, new clothing, etc.).
8. Spends more than the normal amount of free time at recreation areas, theaters, or other youth hangouts.
9. May spend an inordinate amount of time with adult(s).
10. May withdraw from family and peer groups or form new peer groups.
11. May "act out" or sexually abuse younger children either inside or outside the home.

12. May use age-inappropriate language or sexually explicit language.
  13. Draws sexual pictures (if prepubescent child).
  14. Begins bedwetting again.
  15. Shows discomfort at being around specific adults.
- 

### Pedophilia

Studies have shown that many pedophiles were themselves sexually abused at an early age.<sup>10</sup> Most pedophiles prefer children of a specific age group or stage of physical development. For example, a pedophile may be sexually attracted only to boys between the ages of 8 and 11, or boys in that stage of physical development. He will foster relationships with children in this age range and sexually exploit them. When the children pass the age of 11, the pedophile will usually terminate these relationships, sometimes passing the children on to another pedophile whose preference might be for children between 11 and 14, or in that stage of physical development.

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

susceptible to the abuse. During this time, pedophiles continually provide encouragement to the victims by telling them there is nothing wrong with the sexual activity: "If they (the children in the pornographic materials) can do it, you can too."

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

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

The method of operation utilized by pedophilic pimps is usually the same as used by the pedophile in encounters where no money is exchanged. They spend time developing relationships with the children they desire to exploit (several cases have disclosed that they may be familiar with one or both of the

children's parents). They take them to a park, a beach, the movies, or an amusement park--wherever the children want to go. In addition, they may buy the children gifts, anything from candy or a toy to an expensive vacation or a car. When a positive rapport has been developed with the children, the suspects usually make sexual advances toward them, and recruit them into prostitution.

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

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#### Characteristics and behavioral indicators of a pedophile

1. Is most often an adult male.
2. Is usually unmarried.
3. Works in a wide range of occupations, from unskilled laborer to corporate executive.
4. Relates better to children than to adults.
5. Socializes with few adults, unless they are pedophiles.
6. Usually prefers children in a specific age group.

7. Usually prefers either males or females, but may be bisexual.
8. May seek employment or volunteer programs involving children of the age and sex of his preference.
9. Pursues children for sexual purposes.
10. Frequently photographs or collects photographs of his victims either dressed, nude, or in sexually explicit acts.
11. Collects child erotica and child-adult pornography:
  - (a) To lower inhibitions of victims.
  - (b) To fantasize when no potential victim is available.
  - (c) To relive the sexual activities.
  - (d) As justification for his activities.
12. May possess and furnish narcotics to his victims for the purpose of lowering their inhibitions.
13. Is usually intelligent enough to recognize that he has a personal problem and understands the severity of it.
14. May go to great lengths to conceal his illicit activities.
15. Often rationalizes his illicit activities, emphasizing his positive impact upon the victim and repressing feelings about the harm he has done.

16. Often portrays the child as the aggressor.
  17. Talks about children in the same manner as one would talk about an adult lover or spouse.
  18. Is often a child molestation victim himself (and frequently seeks out victims at the stage of physical development at which he was molested).
  19. Often seeks out publications and organizations that support his sexual beliefs and practices.
  20. Usually corresponds with other pedophiles and exchanges child pornography as proof of involvement.
  21. Is usually nonviolent and has few problems with the law (pedophiles frequently are respected community members).
- 

#### Investigating the crime

When beginning an investigation into an allegation of child sexual abuse, the investigator should find out the relationship of the suspected abuser to the child. This will assist in determining how to structure interviews, whom to interview first, and whether or not a nonabusing parent exists. The sexual abuser will fall into one of the following categories:

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

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

- o Anal tears.
  - o Genital injuries--lacerations, swelling, or bruises.
  - o Irritated or reddened genitals; itching around genitals or anus.
  - o Vaginal tears.
  - o Injury to the penis.
  - o Vaginal or penile discharge.
  - o Bruising of the perineum.
  - o Chancres, ulcers, or venereal disease.
  - o Urinary infection or difficulty with urination.
  - o Unusual or offensive odors.
  - o Bruises and hickeys on face, neck, abdomen, buttocks, or inner thighs.<sup>11</sup>
- 12 13

As important as physical evidence is in supporting an allegation or suspected incidence of sexual abuse, the various behavioral characteristics that are

usually present in a child who is sexually abused should be watched for. Knowledge of these "red flag indicators" will prove extremely beneficial in the investigation's primary stages.

The child's age will determine the types of behavior that might be exhibited. For example, the toddler or preschooler might regress to excessive crying, bedwetting, fear of the dark, or need to sleep again with an old favorite toy or blanket. The younger child might also display signs of sexual aggression toward peers or toys. Toys will be used in sexually oriented ways, such as placing them in the same position the child was in during the sexual contact. The child's drawings may have scary and/or sexual themes emphasizing enlarged genitals and may be heavily lined and darkly colored.<sup>14</sup>

Other behaviors of a sexually abused child include:

- o Arriving early and leaving late from school
- o Running away.
- o Nervous or disruptive behavior toward adults.
- o Sexual self-consciousness.
- o Sudden drop in school performance.
- o Withdrawal from others.
- o Use of alcohol and drugs.<sup>15</sup>

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

Note: The following words will be placed in a narrow left-hand column and lined up with the same words highlighted in the text:

Dispatch a patrol officer

Unusual circumstances

Immediate action

Investigative steps

Legal custody status

Scene of the disappearance

Names

Complete description

Search should be thorough

Away from the parents

Siblings

NCIC

Master case file

NCIC printout

Field Interview cards

Four kinds of cases

Vital source of information

Flyer or poster

Convey nonjudgmental concern

Truckstops and bus stations

Survival techniques

Resources

Contact the school

Social Security numbers  
Child protective services  
Health care facilities  
Case will remain open  
Noncustodial parent  
Felony offense  
Obtain a pick-up order  
NCIC Wanted File  
Records of the abducting parent  
Last employer  
Tax records  
Felony warrant  
UFAP Warrant  
FBI  
Mail "cover"  
Worldwide Locator Service  
Parental Kidnapping handbook  
FERPA  
Bureau of Vital Statistics  
Unknown individual  
Two considerations  
Away from the home  
Staffing for the CP  
Makes decisions  
Builds the case  
Coordinates

Provides accurate information  
Maintains communications  
Equipment and supplies  
Clerical support  
Activities log  
Nonpolice personnel  
Upon finding the child  
Door-to-door searches  
Routine patrol  
Finding the perpetrator  
Entries in the NCIC file  
Assume the child is in danger  
As soon as possible  
National Center  
Medical and dental information  
Friends and associates  
Federal Parent Locator Service  
Develop a poster  
Follow up on new information  
NCIC computer  
When a child has been found  
LOCATE message  
Programs in the community  
Two actions  
A criminal case must be pursued  
Site for the child's interview

**Physical examination**

**Cause of the disappearance**

## Chapter 3

### Missing Children

#### Appendixes

- A. Notes
- B. Investigator's checklist
- C. Missing person report for NCIC record entry
- D. Unidentified person report for NCIC record entry
- E. National Crime Information Center
- F. Missing child poster

**Appendix A: Notes**

1. Hotaling, G. and Finkelhor, D. 1988. The Sexual Exploration of Missing Children: A Research Review. Washington, D.C.: Government Printing Office, p. 5.
2. Ibid., p. 7.
3. Ibid., p. 1.

## Appendix B: Investigator's checklist

1. Was the missing child report taken personally by an officer?
2. Did the reporting officer check for unusual circumstances?
3. Did the officer check the child's home for the missing child?
4. Was the missing child promptly entered in the NCIC?
5. Were the crime analysis and records sections utilized to provide case enhancement?
6. Have parents been assigned tasks to facilitate the investigation?
7. Have the missing child's friends been interviewed?
8. Is parental kidnapping a possibility?
9. Have Federal authorities been contacted and Unlawful Flight To Avoid Prosecution warrants obtained when appropriate?
10. Are the offender and the missing child cross-referenced in the NCIC?
11. Have school records of the missing child been flagged for law enforcement notification?

12. Has a polygraph been considered for the child's parents?
13. Has the child abuse registry been checked for previous contacts?
14. Has a tip line been established?
15. In long term cases, has NCIC been fully loaded, including medical and dental records?
16. Has the National Center for Missing and Exploited Children been contacted for technical assistance?
17. Has the recovered child been deleted from the NCIC?
18. Has the recovered child been interviewed to determine why the child left, what happened while away, and what can be done to help the child now?
19. Has the investigation been coordinated with other agency professionals?
20. Does the missing child poster follow proper format?

**Appendix C: Missing person report for NCIC record entry**

(Reproduce from the booklet)

Date of Report \_\_\_\_\_

## MISSING PERSON REPORT FOR NCIC RECORD ENTRY

Message Key (see definitions on page 1) <input type="checkbox"/> Deaf/Blind (DBD) <input type="checkbox"/> Endangered (EMD) <input type="checkbox"/> Involuntary (EIM)	<input type="checkbox"/> Juvenile (BJU) <input type="checkbox"/> Victim (BIV) <input type="checkbox"/> Caution	Name (NAME) Sex (SEX) <input type="checkbox"/> Male (M) <input type="checkbox"/> Female (F)	Race (RAC) <input type="checkbox"/> Asian or Pacific Islander (A) <input type="checkbox"/> Black (B) <input type="checkbox"/> American Indian/Alaskan Native (I)
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Place of Birth (POB)	Date of Birth (DOB)	Date of Emancipation (DOE)	Height (HGT)	Weight (WGT)	Eye Color (EYE) <input type="checkbox"/> Black (BLK) <input type="checkbox"/> Blue (BLU) <input type="checkbox"/> Brown (BRN) <input type="checkbox"/> Gray (GRY) <input type="checkbox"/> Green (GRN)
----------------------	---------------------	----------------------------	--------------	--------------	---

Hair Color (HAIR) <input type="checkbox"/> Black (BLK) <input type="checkbox"/> Blond/Strawberry (BLN) <input type="checkbox"/> Brown (BRN) <input type="checkbox"/> Gray/Partially Gray (GRY) <input type="checkbox"/> Red/Auburn (RED) <input type="checkbox"/> Sandy (SDY) <input type="checkbox"/> White (WHI) <input type="checkbox"/> Unknown (XOO)	Hair Description (HAIR) <input type="checkbox"/> Wavy <input type="checkbox"/> Curly <input type="checkbox"/> Straight <input type="checkbox"/> Treated
---	---

Hair Length (HLEN)	Hair Style (HSTR)	Skin Tone (SKIN) <input type="checkbox"/> Albino (ALB) <input type="checkbox"/> Black (BLK) <input type="checkbox"/> Dark (DRK) <input type="checkbox"/> Lt. Brown (LBR) <input type="checkbox"/> Med. Brown (MBR)	Fair (FAIR) <input type="checkbox"/> Light (LGT) <input type="checkbox"/> Lt. Brown (LBR) <input type="checkbox"/> Medium (MED) <input type="checkbox"/> Med. Brown (MBR)
--------------------	-------------------	---	---

Has the missing person ever been fingerprinted? <input type="checkbox"/> No <input type="checkbox"/> Yes If so by whom?	Fingerprint Classification (FPC)	Other Identifying Numbers (MINU)
---	----------------------------------	----------------------------------

Social Security Number (SOC)	Operator's License Number (OLA)	Operator's License State (OLS)	Operator's License Year of Expiration (OLY)	Date of Last Contact
------------------------------	---------------------------------	--------------------------------	---	----------------------

Originating Agency Case Number (OCA)	Blood Type (BLT) <input type="checkbox"/> A Positive (APOB) <input type="checkbox"/> A Negative (ANEG) <input type="checkbox"/> B Positive (BPOB) <input type="checkbox"/> B Negative (BNEG) <input type="checkbox"/> AB Positive (ABPOB) <input type="checkbox"/> AB Negative (ABNEG) <input type="checkbox"/> AB Unknown (ABUNK) <input type="checkbox"/> O Positive (OPOB) <input type="checkbox"/> O Negative (ONEG) <input type="checkbox"/> O Unknown (OUNK)	Has missing person ever donated blood? <input type="checkbox"/> No <input type="checkbox"/> Yes Where?
--------------------------------------	--	---

Has the missing person been circumcised? <input type="checkbox"/> Was circumcised (C) <input type="checkbox"/> Was not circumcised (N) <input type="checkbox"/> Unknown (U)	Are footprints available? (FPA) <input type="checkbox"/> Yes (Y) <input type="checkbox"/> No (N)
--	---

Are body x-rays available? (BXR) <input type="checkbox"/> Full (F) <input type="checkbox"/> Partial (P) <input type="checkbox"/> None (N)	Does the missing person have corrected vision? <input type="checkbox"/> Yes <input type="checkbox"/> No (BMT) Glasses <input type="checkbox"/> Con Lenses	Corrective vision prescription (VRC)
--	--	--------------------------------------

Type of Contact Lenses and Color (BCL) <input type="checkbox"/> Hard <input type="checkbox"/> Longwear <input type="checkbox"/> Blue <input type="checkbox"/> Gray <input type="checkbox"/> Clear <input type="checkbox"/> Soft <input type="checkbox"/> Semi <input type="checkbox"/> Green <input type="checkbox"/> Brown	Jewelry Type (See check list) (JWT)	Jewelry Description (JWD)
---	-------------------------------------	---------------------------

Handedness <input type="checkbox"/> Left <input type="checkbox"/> Right (HND)	Build (BUI) <input type="checkbox"/> Very thin <input type="checkbox"/> Thin <input type="checkbox"/> Medium <input type="checkbox"/> Muscular <input type="checkbox"/> Heavy/Stocky <input type="checkbox"/> Obese
---	---

Any other miscellaneous information (MIS)

Below is a list of clothing and personal effects. Please indicate those items the missing person was last seen wearing. Include style, type, color, condition, labels, or laundry markings. (MIS)

Item	Style/Type	Size	Color	Markings	Item	Style/Type	Size	Color	Markings
Head Gear					Shoes/Boots/Sneakers				
Scarf/Tie/Gloves					Underwear				
Coat/Jacket/Vest					Bra/Girdle/Slip				
Sweater					Stockings/Pantyhose				
Shirt/Blouse					Wallet/Purse				
Pants/Skirt					Money				
Belt/Suspenders					Glasses				
Socks									

**LICENSE PLATE AND VEHICLE INFORMATION**

License Plate Number (LIC)	State	Year Expires (LSE)	License Plate Type (LTY)
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Vehicle Identification # (VIN)	Year (VYR)	Make (VMA)	Model (VMO)	Style (VST)	Color (VCO)
--------------------------------	------------	------------	-------------	-------------	-------------

Address	Reporting Agency	Reporting Officer
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Complainant's Name	Complainant's Address	Complainant's Telephone Number
--------------------	-----------------------	--------------------------------

Relationship of Complainant to Missing Person	Missing Person's Address	Missing Person's Occupation
---	--------------------------	-----------------------------

NCIC # (NIC)	Places missing person frequented (MIS)
--------------	--

Close friends/relatives	Possible destination
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Complainant's Signature	Date
-------------------------	------

- Attach current photo if available.
- If additional space is needed attach additional sheets.
- All dental information should be recorded on the dental report and entered in NCIC as a supplemental record.

**Appendix D: Unidentified person report for NCIC record entry**

(Reproduce from the booklet)

## UNIDENTIFIED PERSON REPORT FOR NCIC RECORD ENTRY

Reporting Agency (ORA)		Reporting Agency's Case Number (OCA)		Agency's Telephone Number		Date																											
Message Key (see definitions on page 1) (MKE) Unidentified Deceased (EUD) Unidentified Living (EUL) Unidentified Disaster Victim (EUV)		Body Parts Status (if incomplete body or skeleton see body diagram for coding corresponding parts) <input type="checkbox"/> Complete Body <input type="checkbox"/> Complete Skeleton		<table border="1" style="width: 100%; text-align: center;"> <tr> <td>2</td><td>3</td><td>4</td><td>5</td><td>6</td><td>7</td><td>8</td><td>9</td><td>10</td><td>11</td><td>12</td><td>13</td><td>14</td> </tr> <tr> <td colspan="4">N-Not Recovered</td> <td colspan="4">R-Recovered</td> <td colspan="5">S-Skeletal</td> </tr> </table>		2	3	4	5	6	7	8	9	10	11	12	13	14	N-Not Recovered				R-Recovered				S-Skeletal					(SPS)	
2	3	4	5	6	7	8	9	10	11	12	13	14																					
N-Not Recovered				R-Recovered				S-Skeletal																									
Sex (SEX) Male (M)      Female (F)      unknown (U)		Race (RAC) Asian/Pacific Islander (A)      American Indian/Alaskan Native (I)      Black (B)      White (W)      Unknown (X)		Estimated Year of Birth (EYB)				(EYB)																									
Estimated Date of Death (EDD)		Date Body Found (DBF)		Approximate Height (HGT)		Approximate Weight (WDT)																											
Eye Color (EYE) Black (BLK)      Brown (BRN)      Hazel (HAZ)      Gray (GRY)      Maroon (MAR)      Green (GRN)      Multicolored (MUL)      Blue (BLU)      Pink (PNK)      Unknown (XXX)		Hair Color (HAI) Black (BLK)      Brown (BRN)      Gray/Partially Gray (GRY)      Sandy (SDY) (MA)      White (WHY)      Red/Auburn (RED)      Unknown (OOO)		Scars, Marks, Tattoos, and Other Characteristics (SMT) (See attached Personal Descriptors check list)				(SMT)																									
Fingerprint Classification (FFC)		Blood Type (BLT) APOS      BPOS      ABPOS      OPOS ANEG      BNEG      ABNEG      ONEG AUNK      BUNK      ABUNK      OUNK		Circumcision (CIRC) <input type="checkbox"/> Was Circumcised (C) <input type="checkbox"/> Was not Circumcised (N) <input type="checkbox"/> Unknown (U)				(CIRC)																									
Fingerprints Available (FFA) Yes (Y)      No (N)		Body X-Rays Available (BXR) Full (F)      Partial (P)      None (N)		Corrective Vision Prescription (VRP)		Manner and Cause of Death (MCD) Accidental (A)      Homicide (H)      Natural Cause (N)      Suicide (S)      Unknown (U)		(MCD)																									
Jewelry Type (See check list) (JWT)		Jewelry Description (JWD)		Glasses or Contact Lenses (GLS) <input type="checkbox"/> Glasses <input type="checkbox"/> Contact Lenses		(GLS)																											
Type of Contact Lenses and Color (MCS) Hard      Longwear      Soft      Semi      Blue      Green      Gray      Clear		Build (MBS) Very Thin      Thin      Medium      Muscular      Heavy/Obese      Obese		Hair Description (MHS) <input type="checkbox"/> Wavy <input type="checkbox"/> Curly <input type="checkbox"/> Straight <input type="checkbox"/> Treated				(MHS)																									
Handedness (MHS) Right      Left      Unknown		Estimated Time of Death (MSE)		Manner of Death (MMD)				(MMD)																									
Weather Conditions at Time of Death (MWS)		Place Body Found (MPS)						(MPS)																									
Additional Miscellaneous Information (MIS)								(MIS)																									
Medical Examiner/Coroner Agency Name and Case Number (MAN)		Medical Examiner/Coroner Locality (MAL)		Medical Examiner/Coroner Telephone Number (MAT)				(MAT)																									
Below is a list of clothing and personal effects. Please indicate those items that have been found with the person or body. Include style, type, size, color, condition, etc. (MCS)								(MCS)																									
Item	Style/Type	Size	Color	Markings	Item	Style/Type	Size	Color	Markings																								
Head Gear					Shoes/Boots/Sneakers																												
Scarves/Gloves					Underwear																												
Coats/Jacket/Vest					Bra/Girdle/Slip																												
Sweater					Stockings/Pantyhose																												
Shirt/Blouse					Waiver/Purse																												
Pants/Skirt					Money																												
Belts/Suspenders					Glasses																												
Socks					Other																												
Other																																	
NCIC Number (NIC)																																	
<p>• If additional space is needed, attach additional sheets.</p> <p>• All dental information should be recorded on the dental form and entered in MCIC as a supplemental record.</p>																																	

## Appendix E: National Crime Information Center

The National Crime Information Center (NCIC) is an automated data base maintained by the Federal Bureau of Investigation. It provides criminal justice and law enforcement information to Federal, State, and local law enforcement agencies throughout this country, Canada, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands. The system operates around the clock every day of the year. In the NCIC, vast amounts of data are stored on wanted persons, stolen property (including automobiles) and documented criminal history information on individuals. This information can be accessed immediately and furnished through any NCIC terminal to any authorized criminal justice agency.

There are two files of particular interest to investigators of missing child cases:

- o Missing Persons File (MPF).
  
- o Unidentified Persons File (UPF).

In the sections that follow are instructions on how to use these files and other NCIC files that will be useful in the investigation of missing child cases.

## Missing Persons File

The MPF of the NCIC system contains information on individuals meeting the following FBI criteria:

Disability. A person of any age who is missing and under proven physical or mental disability or is senile--thereby subjecting himself or herself or others to personal and immediate danger.

Endangered. A person of any age who is missing and in the company of another person under circumstances indicating that his or her physical safety is in danger.

Involuntary. A person of any age who is missing under circumstances indicating that the disappearance was not voluntary--i.e., abduction or kidnapping.

Juvenile. A person of any age who is missing and declared unemancipated as defined by the laws of his or her State of residence and does not meet any of the other criteria for inclusion in the MPF.

Catastrophe. A person of any age who is missing after a disaster.

It is important to note that there is no time delay required for an entry to be accepted into the MPF. In addition, runaways can and should be entered into the system.

Essential information

In order for an entry to be accepted into the MPF, the following information is essential:

- o Message key. This item gives the kind of entry into the file--i.e., disabled, endangered, involuntary, juvenile, or catastrophe.
- o Originating agency identifier (ORI). This code identifies the agency making the entry and provides a responding agency with an address for NLETS (teletype) messages regarding the case. The ORI for the National Center for Missing and Exploited Children is #DC001069W.
- o Name of the child.
- o Sex.
- o Race.
- o Date of birth.
- o Date of emancipation.
- o Height.
- o Weight.

- o Hair color.
  
- o Date missing.
  
- o Originating agency case number.

The entry of the above items will enable the NCIC system to accept the missing child's case. These items do not by any means, however, constitute a complete entry. There is no limit to the number of supplemental information entries that may be made to the Missing Persons File as additional information becomes available. The NCIC missing person report is provided to law enforcement agencies by the State NCIC control terminal agency or by the FBI to use in taking a missing persons report. All this information should be loaded into the system as it becomes available. In addition, there is a packet of forms that family members should be given to obtain medical and dental information. The more complete the information in the file, the more useful it becomes as a tool to aid in the positive identification of the missing person.

#### **Unidentified Persons File**

The Unidentified Persons File (UPF) of the NCIC system provides information on unidentified bodies or parts of bodies that have been found or on individuals who cannot identify themselves due to handicap, amnesia, or age.

The information that should be entered in the UPF parallels the information that is entered on missing persons and thereby enables matches to be made each day by computer comparisons. This system became operational on June 30, 1983, and the number of unidentified persons recorded has increased as more agencies, especially medical examiners, participate in the program. Note: MPF and UPF files are automatically correlated fully every night at FBI headquarters, with possible matches forwarded to both ORI's.

Dental Records. The entry of dental records in both the MPF and the UPF is extremely important in matching identities. For children who have been dead for a long period and whose fingerprints have decomposed, dental records provide the best means of identification. The UPF provides the opportunity to make a computer comparison of dental records and represents a major timesaver. There is room in the file to indicate 256 dental characteristics through the use of an alpha-numeric code.

Entry in the NCIC system. The State laws on investigative authority govern the entry of the information into the NCIC UPF. Entry may be made by the investigator assigned to the case or by the medical examiner's office. The American College of Forensic Pathologists has undertaken a project to enter the backlog of unidentified bodies throughout the country into the system in hopes of resolving identities.

## Other NCIC system files

In addition to the MPF and UPF, the investigator of missing child cases needs to be aware of the existence of other NCIC files.

Wanted File. This file contains identifying information on persons with outstanding arrest warrants. In parental kidnappings, the name of the parent should be entered in this file when a warrant is issued. The child should be entered in the Missing Persons File.

Stolen Vehicle File. If there is a vehicle missing as well as a child, the owner of the vehicle may request that the automobile be listed as stolen so that it may be used to trace the missing child.

### Summary: National Crime Information Center

The NCIC system is a powerful tool for law enforcement agencies to use in the investigation of missing child cases. It is important that the information be entered accurately and completely. The more information that is entered on a missing child and subsequently on an unidentified child, the more likely it is that the system will produce a match.

There are more than 1,000 entries in the Unidentified Persons File--many of whom are juveniles. Somewhere in the country, law enforcement agencies have

these children in their own missing persons files and, until they are properly entered into the system, the cases will remain unsolved.

**Appendix F: Missing child poster**

(Reproduce from the booklet)



**Chapter 4**

**Legal Issues and Considerations**

**By**

**Honorable Paul W. Tressler**

**and**

**Detective/Lieutenant Jack R. Shepherd**

## Introduction

Child abuse, especially sexual abuse, historically has been the most prevalent unreported crime in the United States. And the likelihood of reporting is lessened by parents sometimes being the abuser, the stigma of victimization, parental reluctance to expose their child to the judicial system, and the commonly held belief that such abuses do not occur in our civilized society. As a result, hundreds of thousands of abused children have entered adulthood without benefit of the understanding and counseling necessary to offset the emotional and psychological injuries incurred as a child-victim.

The previous chapters of this manual highlight investigative techniques to be used by all investigators of child abuse cases. The purpose of this chapter is to demonstrate how to turn those investigations into effective trial presentations, hopefully increasing the number of child abuse convictions and the length of the resultant sentences. In doing this, the chapter takes a threefold approach:

1. To promote a spirit of cooperation among all the agencies concerned with child abuse so that a coordinated effort can be made to bring all the benefits available in the legal and social services systems to the child.
2. To highlight the developments and procedures available to accommodate the child as a testifying witness.

3. To discuss the ways in which existing laws and procedures can enhance the likelihood of conviction and appropriate sentencing of child abusers.

#### Judicial process

The Latin term "verdict" means "a true declaration,"<sup>1</sup> and is an appropriate description of the ultimate purpose of our system of justice. Indeed, legal scholars have proposed many modifications toward that aim. These modifications, such as withholding evidence from the jury's consideration because of police errors, or extensive pretrial discovery proceedings, all have a supporting theoretical basis, but nevertheless may seem to protect the rights of the defendant to the extent that the modifications hamper law enforcement personnel in their efforts.

The concept of "one day, one trial" as a basis for impaneling jurors has been introduced as a convenience for the jurors and an attempt to get a broader spectrum of the public involved in the jury process. It has been proposed that an experienced jury is more likely to convict and is therefore a hindrance to a just result. However, a one day, one trial jury would include those who are inexperienced or even reluctant to serve.

Recognizing these and other practical and procedural obstacles confronting a prosecuting effort, it is imperative that all opportunities available to assist the prosecution be utilized, without interfering with the defendant's right to a fair trial. Of equal importance is the necessity for law

enforcement officials and all State agencies, including those in social services, to cooperate. It is also essential that in the prosecution of child abuse cases the efforts of the police, attorneys, and social services workers be coordinated.

Many investigators, whether police or social services based, share the opinion that their responsibilities end with the arrest of the defendant, or the filing of a child abuse petition. In reality many investigations are incomplete at this point. Justice is served and a "true declaration" obtained in a child abuse case only when a perpetrator is convicted and sentenced for his or her actions, or the child is removed from the custody of an offending parent or guardian or otherwise properly protected.

Prosecuting attorneys, on the other hand, are often reluctant to take cases to trial that are not "winners"; child abuse cases can be difficult to prosecute. For one thing, most abuses are committed in private with little or no apparent corroborating evidence. Often the testimony of the victim stands alone against the denial of the defendant. Further, the abuse victim is usually young, easily intimidated by the court system, and unable to communicate or express himself or herself as well as the older defendant.

A successful prosecution team should include a police investigator, an assistant district attorney, a social services member, and a child-victim representative. Each must be aware of the function of the other, as well as the rules and regulations under which each operates. Law enforcement officials

have a special need to familiarize themselves with the laws governing child abuse in the civil arena.

### Civil proceedings

All States have a Juvenile Court Act or one similar that sets forth the procedure to be used when pursuing a civil remedy against a child abuser. Unlike a criminal proceeding where the defendant could be jailed, fined, or both, the civil proceeding enables a child to be separated from an abusive parent, guardian, or other person, and provides other judicial protection. In most jurisdictions these statutes have common characteristics.

First, the rights established by the Miranda decision<sup>2</sup> are not available to a suspected child abuser in a civil proceeding. Social services investigators are not required to give constitutional warnings before questioning unless they are acting as agents for the police. Thus there can be no suppression of evidence under these acts.

Second, an alleged child abuser has no constitutional right to a jury trial in a civil proceeding; the trier of fact is a judge or master rather than a jury. In most instances judges or masters are more experienced than jurors, therefore the issues of potential jury inexperience and the requirement of a unanimous verdict are not present in these proceedings.

Finally, the burden of proof necessary for conviction under these acts is either by "clear and convincing evidence" or by a "preponderance of the

evidence." Both standards of proof are significantly less demanding than proof "beyond a reasonable doubt," the standard in all criminal prosecutions. Not only is a verdict favorable to the victim more likely in a civil proceeding, but a hearing can be held even though the defendant has already been acquitted of the crime in a criminal trial. The constitutional prohibition against "double jeopardy" only applies to prosecuting a defendant for a second time for the same crime in criminal court.

#### Protective services statutes

A second group of laws important in child abuse prosecutions are those statutes available in most States that deal with "protective services." Under these enactments, acts of commission or omission (in which a person either commits an abusive act or neglects to act in a way to protect a child from physical or sexual abuse) must be reported by certain persons who have that knowledge to a State department of social services agency. An example of an act of omission would be failure by a schoolteacher to report suspected abuse of a student to the social services agency. Once a report has been made, the social services agency is required to initiate an investigation within a specified period of time (often 24 hours) and submit a written report within a further specified period of time. Many States also require the social services investigator to notify the appropriate law enforcement agency if abuse has occurred.

Thereafter, State laws vary greatly. Many mandate that x-rays, photographs, or both be taken immediately of the victim by the social services investigator.

In some instances these x-rays, photographs, and agents' reports are made available to the police; other statutes make such information available only under subpoena.

In order to benefit from the foregoing enactments, the investigator must be aware of the content of State laws and regulations governing their social services department. In this way the existence of statements from victims and/or witnesses, as well as other physical evidence generated by the social services investigation, is made known. Finally, the investigator should be sensitive to the possibility of using either or both court procedures in a given situation, and be familiar with the advantages and disadvantages of each system.

#### Child stress

The judicial process can be the most stress-generating aspect of the child abuse incident for both the child and the parents. Repeated interviews, pretrial and trial cross-examination, confrontation of the perpetrator within a confined area, and the courtroom atmosphere itself all present difficulties for the child-victim. Children testifying in sexual abuse trials have reported feelings of "insignificance, hopelessness, and guilt."<sup>3</sup> Many jurisdictions have implemented programs that provide support to child victims.

Appearing in court presents another source of potential crisis to the child because the current legal system sometimes requires child witnesses to comply

with adult standards. For example, the child's reliability and credibility will be challenged on cross-examination as though he or she were an adult. However, there is little evidence that a child's testimony is inherently unreliable, or that children are more susceptible than adults to fabricating false accusations about sexual abuse.<sup>4</sup>

Adding to the child's trauma, the press, judge, and jury are all unknown to the child. Everyone involved must be prepared for inevitable delays, missed days from school, and disruption of family activities.<sup>5</sup> While the process could serve as positive reinforcement and therapy for some children, this is not always true. The potential for trauma and its effect upon the victim must be considered by the prosecuting team.

#### Case preparation

In the legal process the initial consideration usually concerns the venue of the alleged crime. Often a complex and confusing series of events has occurred over a period of time and at various locations. Multiple venues can exist and pose legal questions that should be addressed prior to the institution of proceedings. Under any circumstances, cooperation among all jurisdictions is essential.

The investigator needs a working knowledge of the appropriate State or Federal law to determine what criminal statutes have been broken and which violations are more easily proven in light of individual circumstances. A complete understanding of how the prosecutor's office interprets individual definitions

and sections of the criminal law, and how the department of social services interprets its laws and regulations, is also necessary. It should be ascertained as soon as possible whether sufficient evidence exists to satisfy the elements of a crime. All witness interviews, physical evidence and reports, results of medical examinations, and psychological or psychiatric evaluations should be considered before a determination is made as to whether formal charges should be filed.

Report writing and presentation of case findings must be viewed as a critical phase of the investigative process. Decisions regarding the advisability of prosecution are based quite frequently upon the accuracy, thoroughness, and clarity of these reports. Written reports will always be scrutinized by the defense attorney and if poorly or inaccurately written are an effective tool for destroying an investigator's credibility.

The reports should clearly and accurately follow a logical line of development. An investigator's reports represent his or her experience, knowledge, and professionalism, and sometimes are as important as the investigation itself. Appendix C of this chapter presents report-writing guidelines.

The team or multidisciplinary approach to the prosecution of child abuse cases is essential. Prosecution of these cases should be supervised by an attorney who coordinates the work of all the contributing agencies and is involved in the case from the initial investigation to the final sentence or disposition.

Prosecutors specializing in child abuse cases must be sensitive to the needs of children and the traumatizing potential of the legal system. As with law enforcement investigators, the prosecutor assigned to child abuse cases must be knowledgeable on how to interview children and the expected emotional reactions from both parents and child.

### Interviewing the child

This section will acquaint investigators with considerations of which they should be aware during the interviewing process that would:

1. Aid in favorably deciding legal issues to be encountered at trial (e.g., competency); or
2. Determine whether evidence exists that could strengthen the case at trial, based upon a knowledge of technical legal issues not usually considered by investigators (e.g., hearsay exceptions).

The primary purpose for interviewing the child is to find out as much as possible about the abuse. Prior to beginning the interview, however, the investigator will need to decide whether the initial meeting should be videotaped.

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

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

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

LOCATION TO BE SEARCHED:

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

ITEMS TO BE SEIZED:

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

Attachment A

AFFIDAVIT OF WILLIAM H. DWORIN

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

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

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

the same juvenile in a Winchell's Donut Shop, by himself, and with other adults. One adult is a male White and tattoos can be seen on his chest and on both forearms. The photographs were obtained from Phototron Corp. in Glendale that processes film from various K-Mart stores. The name on the order was R. Hohn and a phone number of 717-6261. Mr. Boff, the manager of the photo lab turned the photographs over to Detective Nicolaisen because of the age of the juvenile and the nature of the photographs.

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

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

Other photographs that were obtained depicts the interior of a residence. On the wall were photographs of males. By the photographs was a television set

that was on. The screen depicted a male from the waist up who was undressed. Your affiant is of the opinion that Ronald Hohn photographed the male juvenile in the sexually explicit poses and that pornographic videotapes were shown to lower the juveniles' inhibitions.

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

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

Your affiant therefore says that there is probable and reasonable cause to

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

Appendix H: Federal search warrant for controlled delivery

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

Search Warrant No.

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

**SEARCH WARRANT**

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

PROOF, by affidavit, having been made before me by

William H. Dworin, 12122, that there is probable cause to believe that the property described herein may be found at the locations set forth herein and that it is seizable pursuant to Penal Code Section 1524 as indicated below by "x"(s) in that it:

\_\_\_\_\_ was stolen or embezzled

  X   was used as the means of committing a felony

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

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

you are therefore COMMANDED to SEARCH 1. 2018 North Vine Street, Hollywood, county of Los Angeles, described as a one story white stucco residence with dark red roof tiles. There is a white wood fence surrounding the front and the numerals "2018" are attached to the fence. 2. Locker 131 located at Technicolor Corporation, 4050 Lankershim Blvd., North Hollywood. 3. WOOD, Timothy L., described as a male Caucasian, 5-11, 190 pounds, blonde hair, date of birth October 14, 1939. 4. Gray VW Rabbit, California license 1DTG713.

for the following property: 1. Photographs, negatives and/or slides depicting juveniles including but not limited to a female juvenile 4-6 years old, blonde hair, blue eyes, 40 pounds, either dressed, nude and/or engaged in sexual activity. 2. Camera equipment including 35mm cameras, lights reflectors, backdrops used in photographing juveniles. 3. Records, notations, diaries, phone and/or address books tending to identify the juveniles depicted in the photographs. 4. Items of identification including but not limited to utility bills, cancelled mail, phone bills tending to identify the person or persons in control of the premise.

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

GIVEN under my hand and dated

this 30th day of September, 1987

at 1:23 p.m.

---

Signature of Magistrate

Judge of the Superior/Municipal Court Judicial District

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**NIGHTTIME SERVICE ENDORSEMENT\***

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

---

Endorsement of Magistrate  
for Nighttime Service

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

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

**AFFIDAVIT FOR SEARCH WARRANT**

William H. Dworin, 12122, being sworn, says that on the basis of the information contained within this affidavit, he has probable cause to believe and does believe that the property described below is seizable pursuant to Penal Code Section 1524 in that it: (CHECK APPROPRIATE BOX OR BOXES)

\_\_\_\_\_ was stolen or embezzled

  X   was used as the means of committing a felony

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

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

and that he has probable cause to believe and does believe that the described property is now located at and will be found at the locations set forth below

and thus requests the issuance of a WARRANT TO SEARCH 1. 2018 North Vine Street, Hollywood, county of Los Angeles, described as a one story white stucco residence with dark red roof tiles. There is a white wood fence surrounding the front and the numerals "2018" are attached to the fence. 2. Locker 131 located at Technicolor Corporation, 4050 Lankershim Blvd., North Hollywood. 3. WOOD, Timothy L., described as a male Caucasian, 5-11, 190 pounds, blonde hair, date of birth October 14, 1939. 4. Gray VW Rabbit, California license 1DTG713.

for the following property: 1. Photographs, negatives and/or slides depicting juveniles including but not limited to a female juvenile 4-6 years old, blonde hair, blue eyes, 40 pounds, either dressed, nude and/or engaged in sexual activity. 2. Camera equipment including 35mm cameras, lights reflectors, backdrops used in photographing juveniles. 3. Records, notations, diaries, phone and/or address books tending to identify the juveniles depicted in the photographs. 4. Items of identification including but not limited to utility bills, cancelled mail, phone bills tending to identify the person or persons in control of the premise.

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

---

Signature of Affiant

Subscribed and sworn to before me  
this 30th day of September 1983

---

Signature of Magistrate

Judge of the Superior/Municipal Court Judicial District

Prepared with the assistance of, or reviewed by:

---

Deputy District Attorney

\*Strike OR NIGHT if not applicable.

Attachment A

Your affiant is William H. Dworin. I am a detective for the City of Los Angeles and have been so employed for the past 18 years. For the past 7 years, I have been assigned to the Sexually Exploited Child Unit of Juvenile Division. I have been assigned to said Juvenile Division for the past 10 years. I have participated in an excess of 800 investigations involving the sexual exploitation of minors and children. I have personally conducted in excess of 400 investigations resulting in felony charges of child molestation and exploitation. I have received extensive training and have read numerous publications dealing with the sexual exploitation of children. I have talked to in excess of 500 sexually exploited children and in excess of 800 admitted child molesters. I have read and examined in excess of 10,000 letters between pedophiles describing their admitted sexual conduct with children and the manner in which they exploited said children for sexual gratification. I have examined in excess of 30,000 photographs during these investigations which depict children engaged in sexual activities with themselves, with other children, with animals and with adults. I have examined and read publications distributed from foreign countries and in the United States which describe in detail sexual activities between adults and children. I am familiar with the manner in which pedophiles entice and encourage children to engage in sexual conduct and the manner in which they exchange children with each other and they make contact with other adults who engage in such conduct. From my training and experience, I am aware that pedophiles have a specific age preference for the juvenile victim and that when the victim surpasses this age, the pedophile, no longer having sexual interest in her/him, will seek out a younger juvenile to take the victim's place sexually. It has been my experience that pedophiles will not stop or remain with one juvenile victim but will constantly seek out

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

On September 29, 1983, your affiant was contacted by Mr. Jack D. Spencer, the manager of RGB photo lab in Hollywood. Mr. Spencer requested that your affiant view photographs that had been developed to determine if there was any state violation. Your affiant viewed a set of developed photographs and found thirty-seven photographs. Ten of the photographs depicted a female juvenile

nude posing for the cameras. These poses included close ups of the vagina, the juvenile laying down with her legs spread, sitting on a counter with her legs spread or standing (copy of these photographs are incorporated as Attachment 1A-1J). [This attachment is not included in this manual.] The remainder of the photographs depicted indoor and outdoor shots of individuals and groups. Some indoor shots depicted a backdrop of clouds and stars and a backdrop of cupids. Based upon the ten photographs of the nude juvenile your affiant formed the opinion that she was being sexually exploited.

Your affiant learned from Mr. Spencer that the person who turned in the roll of film for developing identified himself as T. Wood with a telephone number of 469-5196. Mr. Wood was advised that the photographs would be ready for pick up on September 30, 1983. Your affiant learned that the phone number was published to Freeman-Wood and James D. Freeman, 2018 Vine Street, Hollywood. Your affiant surveilled this location and found it to be a combination residence/office.

On September 30, 1983, your affiant and fellow officers began a surveillance of RGB lab for the purpose of identifying the person who left the film to be developed. At 1030 hours, your affiant observed a male Caucasian, 5-11, 190 pounds, blonde hair, 40-45 years old pick up and pay for the developed film. The suspect supplied the employee of the lab with a receipt for Wood's film. The suspect then went to his vehicle, a gray VW Rabbit, California license 1DTG713, sat in the vehicle and looked at the developed photographs then drove away. He was followed to the Technicolor Corporation located at 4050 Lankershim Blvd., North Hollywood where he parked his vehicle in the employees parking lot and entered the building through the employee entrance. Your affiant then contacted the personnel office and learned that T. Wood was Timothy L. Wood, who has been employed since 1964. Included in the personnel

folder was an old photograph of Wood. Your affiant recognized the suspect who picked up the photographs as the same person in the photograph. Your affiant also learned that Wood listed his current address as 2018 North Vine Street, Hollywood, and his telephone number as 469-5196. The personnel folder also contained a form listing locker number 131 as being used by Timothy Wood. Your affiant then called the phone number 469-5196 and a female answered identifying the phone number as Freeman-Wood management company. Your affiant asked for Tim Wood and the female replied that he wasn't there and that he was expected to go to Utah. She then asked your affiant to wait and after a short delay returned and stated that "Tim's bags were still here so he should return before he leaves." Your affiant asked if Tim lives there also and the female replied "yes."

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

1. that the person listed is a pedophile,
2. that such persons do not destroy photographs and any other reproductions depicting sexual conduct.
3. that such persons retain these materials for the purposes of personal gratification, to gain the acceptance, confidence, and trust of other pedophiles, to exchange such materials from other pedophiles, to receive monetary gains for the furnishing of such material, to ensure protection from exposure to police authority from other persons,
4. that correspondence from other persons is kept with the same full allegiance,
5. that such persons gain a certain pride from the exhibition of such

material,

6. that such materials are kept secure in residence, vehicles, storage facilities and bank deposit boxes to protect themselves against seizure by police authorities, and;
7. that all of the other materials requested for seizure will identify other children being sexually exploited and other adults who are engaging in such exploitation.

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

**Chapter 3**

**Missing Children**

## Introduction

The problem of missing children continues to be a pressing concern nationwide. While the exact number continues to escape us, research indicates that missing children are at a high risk of psychological trauma, physical harm, and in some cases, sexual exploitation.

This chapter examines four categories of missing children: voluntary missing or runaways; victims of parental kidnapping; children abducted by unknown individuals; and unknown missing child cases (in which the only known fact is that the child is missing). The chapter provides information on the investigator's role, as well as a checklist of steps that should be taken when investigating these cases.

### Phase one: Initial response

Any missing child case should be viewed as involving a potential crime against a person, therefore requiring a preliminary investigation to clarify the facts of the case and to structure the remainder of the investigation. A patrol officer should be dispatched to take the initial report and to conduct a preliminary investigation.

There are several reasons why patrol officers should be involved in the dynamics of missing child cases. Patrol officers, along with firefighters and emergency medical personnel, are the most widely available professionals in the

community. The uniformed patrol officer is the person most likely to be available on a 24-hour, 7-day-a-week basis, and the most likely to be familiar with the neighborhood. The following procedures require that the patrol officer make direct contact with the parents--not only because the parents need assistance at this time but also because valuable information needs to be collected for investigative purposes.

#### Unusual circumstances

If, during the preliminary investigation, the patrol officer determines or suspects that any of the following unusual circumstances exist, the police agency must be prepared to mobilize its available resources and take immediate action.

1. The missing youth is 13 years of age or younger. This age is established in the Federal Missing Children Assistance Act because children of this age group are elementary school students, have not established independence from parental control, and do not have the survival skills necessary to protect themselves from exploitation in the streets.
2. The missing youth is believed to be out of the zone of safety for his or her age and developmental stage. The zone of safety will vary depending on the age of the child and his or her developmental stage. For an infant, the zone of safety will be the immediate presence of an adult custodian or the crib, stroller, or baby carriage in which the infant was placed. For a school-age child, the zone of safety might be the immediate

neighborhood or the route between home and school.

3. The missing youth is mentally incapacitated. If the child is developmentally disabled or emotionally disturbed, he or she may have difficulty communicating with others about needs, identity, or address. The disability places this child in extreme danger of exploitation.
4. The missing youth is drug dependent (including prescribed medication or addictive narcotics). Any drug dependency, whether on a prescription medication such as insulin for diabetes, or an addictive narcotic, puts the missing child in an "at risk" category. The diabetic or epileptic child requires medication or his or her condition may become critical (life threatening), resulting in coma or seizures. The drug abuser, on the other hand, may resort to crime or become the victim of exploitation in order to satisfy the habit.
5. The missing youth is a potential victim of foul play or sexual exploitation, or is in a dangerous environment. Whenever a youth is missing and there are indications of possible abduction, such as violence at the scene of the abduction, the child is considered to be in a "dangerous environment" and immediate mobilization of the police department is essential. "Dangerous environment" is a relative term that depends on the age and development of the child--it could be a busy highway for a toddler; it could be an all-night truck stop for a teenager.
6. The missing youth has been absent from home for more than 24 hours before

being reported missing to the police. If a parent fails to report a missing child for 24 hours, there may be possible neglect or abuse in the family. This time lapse allows hours to pass that could be crucial in recovering the child. If this occurs, the police department should take immediate action to compensate for lost time.

7. The missing youth is believed to be with adults who endanger the welfare of the minor. Whenever there is an indication that the child may be with an adult who would exploit or otherwise place the child at risk, immediate intervention is essential. A missing child is not simply in danger of potential sexual exploitation, but may become involved in criminal activity, such as burglary, shoplifting, or robbery.
  
8. The absence is a significant deviation from established patterns of behavior and cannot be explained. Most children have an established routine that is, within reasonable bounds, predictable. A major deviation from that routine is cause for concern. This is not to say that if a child is a few minutes late from school, an all-points bulletin should be issued. However, a child missing for several hours should trigger a response from the investigating agency.

Any of the above criteria in a missing child case signal the need for immediate action to minimize the danger to the child and promote a timely recovery. Such action will vary from department to department and from case to case. In the following sections, the investigative steps for the initial response are discussed.

### Initial response

Interview parents. Upon arriving at the scene, the patrol officer should interview the child's parents (both, if possible) to find out if the child has been abducted by a stranger or the other parent, or has left home voluntarily. The officer should always determine the legal custody status of the child. The officer should ask the parents if they know who saw the child last and should obtain the names and addresses of the child's friends. Great care should be taken to ensure the correct spelling of the missing child's full name and any nicknames (AKA's), the exact date of birth, sex, and race. This information is vital for query into the National Crime Information Center (NCIC) Missing Persons File (MPF). (See Appendix E for information on the NCIC.)

It is important to get the names and telephone numbers of individuals who were present at the actual scene of the disappearance. This process may be as simple as requesting those individuals' business cards or names and telephone numbers so that they can be contacted later.

Note everyone present at the scene. It is useful for the first officer arriving at the scene or at the child's home to write down the names of everyone present, as well as those who have joined the search. These names may provide leads to the identity of the abductor if subsequent investigation determines that an abduction took place. Often, the abductor returns to volunteer assistance in the search, by which he or she can monitor the progress being made.

Physical description/photograph. A complete description of the child should be obtained from the parents, including the clothing the child was wearing, and any handicaps, scars, or other identifying features of the child (such as braces on the teeth or pierced ears). This information should be broadcast in a "Be on the Lookout" bulletin. In addition, the patrol officer should ask for several recent photographs of the child and find out if the child has been fingerprinted and if dental charts and medical records are available.

Search the home. The patrol officer responding to a missing child report should request permission to search the home. The search should be thorough--including closets and piles of clothes, under beds, in crawl spaces, attics, and other storage spaces, in large boxes, and old refrigerators--in short, anywhere a child could crawl into or hide and possibly be asleep or not able to get out. While conducting the search, the officer should be alert for other clues that may indicate foul play or possible reasons for the child's disappearance.

If the initial circumstances indicate that a child has disappeared at a particular site and the possibility of an abduction exists, the police officer should also conduct the search for the child as if the child were kidnapped.

Talk with family members. Other family members living in the home may provide valuable insight into the circumstances surrounding a child's being missing. If possible, interview family members individually and away from the parents, so that they may speak freely. For example, a sibling of an abused child who

has run away may not feel safe revealing such information in the presence of an abusing parent.

Brothers and sisters may know of friends of the child who are unknown to the parents. Family members should be asked if the child spoke of running away or of suicide and may know the last time the child was seen. Siblings may be able to indicate the existence of physical or sexual abuse within the family.

However, investigators are cautioned that in exploring the possibility of abuse with other members of the family, the officer should exercise the utmost tact. During the interviews with the parents and with other family members, it is important that neither false hopes nor false fears be imparted by the officer.

File report with the NCIC. Assuming the child was not recovered during the investigation related to the initial response, the investigating agency should immediately file a report with the NCIC. This report should be filed in all missing child cases upon confirmation that there is a missing child. All missing children, including runaways, can and should be entered in the NCIC system without any waiting period. (See Appendix C for a sample missing person report for NCIC record entry and Appendix D for a sample unidentified person report for NCIC record entry.)

Detailed descriptions of the NCIC Missing Persons File (MPF) and the NCIC Unidentified Persons File (UPF) can be found in Appendix E to this chapter, National Crime Information Center.

Develop a case file. All information developed as part of the preliminary investigation, as well as supplemental information, should be placed in the master case file. This file should include the missing persons report taken by the patrol officer who was dispatched to the home or scene of the disappearance; pictures of the child, or a memorandum indicating that none was available; a hard copy of the NCIC entry in the MPF; and supplemental reports with statements of witnesses, family, and friends. It is critical to the management of a missing child case to have this information in a central repository. As additional information is gathered, it should be added to the master file. When supplemental information is entered into the NCIC, a copy of the NCIC printout should be placed in the file.

#### Crime analysis unit

The crime analysis unit should be involved in preparing case review information on the missing child. They can find out if the youth had been identified on Field Interview (FI) cards with other youths or adults, or had been involved with drugs or activities that could lead to information sources.

The crime analysis unit should also be involved in searching for previous missing-youth patterns in the area where the youth lived or was last seen. A person-pattern analysis should be made on the missing youth and known offenders in the area to determine if there are any cross patterns that could provide clues for investigative activity.

The unit should establish a tip file as a management tool to check information sources and substance with police records, and to prevent duplication of tip investigation by different shift investigators.

In addition, the crime analysis unit should produce case enhancement information. This should include a victim file, a school incidents file, field interrogatories information, a suspicious vehicle file, a suspicious persons file, and a tip file. The crime analysis unit should act as the broker of information exchanges relevant to the missing child case.

Summary: Initial response

The initial response to a missing child should be to dispatch an officer to the child's home or to the scene of the disappearance. The purpose of the preliminary investigation is to sort out the facts of the case as they become known and to use them to structure the remainder of the investigation. The investigating officer should be alert to the presence of any unusual circumstances that would warrant an immediate, intensive response to protect the child.

Upon arriving at the scene, the officer should interview the parents and obtain a description to be broadcast as a "Be on the Lookout" bulletin. In addition, the officer should obtain a recent photograph of the missing child, interview other family members, and search the child's home. If these steps do not recover the child, a report of the missing child should immediately be

entered in the NCIC Missing Persons File and a master case file established. The initial response should be the same for all missing child cases.

#### **Phase two: Intensive investigation**

Once the initial report has been taken and it has been determined that the child is missing, the case enters the second phase. During this phase, the responsibility for the ongoing investigation is assigned to another investigator or to the officer who made the initial report. Every missing child case requires that a law enforcement officer be assigned to lead the investigation, coordinate the search, follow up on leads, and be held accountable for the active investigation of the case.

The nature of the missing child case will dictate the proper response and degree of mobilization of law enforcement resources. The case will fall into one of the four kinds of missing child cases: voluntary missing child cases, parental kidnappings, abductions, and unknown missing child cases. The following sections suggest investigative responses for investigators of each of the four kinds of missing child cases.

#### Voluntary missing child cases

The majority of missing child cases fall into this category. Another name for this child is a runaway, a youth under the age of 17 who has been absent from the home without parental permission at least overnight<sup>1</sup>. Fortunately, most of

these cases resolve themselves in a short period of time. This by no means absolves the law enforcement agency from conducting an investigation, filing an NCIC missing persons report, or actively pursuing the recovery of the child, however.

Family involvement. Family members are a vital source of information that may assist law enforcement agencies in identifying the runaway youth if he or she is found. Parents should provide the medical and dental information to be entered into the NCIC MPF. Parents should be asked also to notify out-of-town relatives who may be contacted by the youth. Parents should have a flyer or poster of the missing youth printed and distributed to truckstops, youth-oriented businesses, other law enforcement agencies, and youth services agencies--focusing on where the child is likely to go. Appendix F to this chapter contains a missing child poster format with information that should be included. Law enforcement agencies should assist in the preparation of these flyers.

It is most important to instruct family members to contact the police department immediately if the child returns home, and to relay any new information to the investigator assigned to the case.

Interview friends. During the initial response phase, parents and other family members were asked to provide lists of the child's friends. These people need to be asked if the missing child is staying with one of them or if the friends know the whereabouts of the youth. When interviewing the friends of a missing child, it is important to convey nonjudgmental concern for the welfare of the

child. Any perceived hostility may result in deceptive and evasive responses. The investigator should question friends about any problems the runaway may have been facing, either at home or at school, including personal relationships and possible drug or alcohol abuse.

Asking the question "Do you think (name) is safe?" may generate a response that indicates more knowledge than admitted to previously. Friends also may be able to identify "hangouts" of which the parents are not aware.

Patrol searches. If the parents provided a photograph of the runaway, it should be reproduced and distributed to patrol units. Patrol officers assigned to areas with shopping malls, electronic game arcades, or other gathering places for young people, should check these areas and find out if the youth has been seen or if his or her whereabouts are known. Places known to have been frequented by the youth should be checked regularly by patrol officers. Truckstops and bus stations should be checked and photographs of the missing youth, as well as the telephone number of the investigating agency, should be distributed to ticket agents and other staff.

Develop investigative leads. The investigator should learn as much about the missing youth as possible by gathering information about his or her lifestyle, schooling, employment, hobbies, and anything that may give an indication of the survival techniques of the youth. A runaway child needs food to eat, a place to sleep, and means to sustain himself or herself.

It is important to know the resources that the youth has available. Does he or she have a bank account? Where? How much money is in it? Have there been withdrawals or has the account been closed out recently? Are other sources of money available to the youth? What are they? Have these been used? Was any money taken from the house when the child left? Did the child take more clothes or belongings than he or she would normally take on any given day? Does it appear that the youth planned to run away for a period of time, or was it on the spur of the moment? The answers to each of these questions can be an important clue in analyzing the mental state of the youth and probable actions subsequent to leaving home.

It is important for the investigator to effectively interact with other units in the department. It is particularly important that vice and intelligence officers be made aware of the case and be given photographs of the youth. As previously stated, runaways and other missing children are prime targets for sexual exploitation.

If the youth is school aged, the investigator should contact the school and ask officials to notify the investigator--not the parents--if the youth returns to school. School authorities and the police may be able to open the student's lockers and examine the contents, with parental permission. Notebooks and textbooks should be searched for names, addresses, and telephone numbers. School papers or books at home should be checked also. A search warrant may be necessary.

Teachers and other school personnel should be interviewed to discover any unusual school problems that could indicate a motive for running away. They should be questioned about behavior, indications of drug usage, attendance patterns, and identity of peers. If the child had been absent frequently, a check on the attendance of friends should be requested. Followup investigation is warranted if any patterns emerge. It is important to find out if the youth and a friend were together when the absences occurred and if so, where they may have been and what they were doing. If they "played hooky" together, they may have a secret hiding place that the runaway is using.

While Federal law prohibits the use of Social Security data to locate a missing person, Social Security numbers have become commonplace as numbers for motor vehicle operators' licenses and student identification numbers, and also are necessary to receive public assistance.

You should contact the child protective services' child abuse registry to find out if the child has been reported as a suspected victim of child abuse. Physician records should be checked also for indications of child abuse. An NCIC and local criminal history check on the parents should be made to determine if their past includes indications of child abuse or of molestation.

Hospitals and other health care facilities should be contacted, provided with a copy of the youth's photograph, and asked to notify the police if the youth seeks medical assistance. If the youth is a postpubescent female, the possibility of pregnancy and abortion should be considered, and planned parenthood facilities or other similar services contacted. The longer a youth

remains a runaway, the more likely he or she will be sexually exploited and exposed to sexually transmitted diseases. Clinics for sexually transmitted diseases should be notified routinely of the identity of runaway youths. Such facilities may not be able to contact the parents or the police due to the confidential nature of the services they provide, but they may counsel the youth to make such a contact. Their clinics should also be informed of their responsibility to report child abuse--if they have reason to believe that an adult was responsible for sexual abuse of the minor.

Summary. The runaway is a child at risk of being exploited or becoming involved in crime and therefore is a legitimate law enforcement responsibility. Just as in any other kind of investigation, the voluntary missing child case should be assigned to investigation and followup. The department's patrol officers and special units, such as vice or intelligence, should be informed of and involved in the investigative process. Parents should be utilized fully to gather much of the information necessary for completing the NCIC file on the case. Friends and school officials should be interviewed in an attempt to determine the mental state of the youth, the possible motives for running away, and possible whereabouts. Health care facilities and clinics should be contacted and asked to get in touch with the investigator if their services are sought by the youth. The investigator should also consider the skills and resources the youth has for surviving and what implications these may have for the investigation.

Until the missing child has been located (or the body recovered), the case will remain open and active.

## Parental kidnappings

The second most common missing child case is a parental kidnapping<sup>2</sup>. This kind of case involves the abduction of a child by a noncustodial parent, or the concealment of a child after the end of a legal visitation period. Many law enforcement agencies underestimate the seriousness of parental kidnappings, claiming that the problem is basically one of intrafamilial conflict. The fact is that parental kidnappings can put the abducted child at risk. In addition to being uprooted from a home and being deprived of the other parent, the child is forced to spend a life on the run--often under circumstances that constitute willful neglect.

Most States have recognized the seriousness of parental kidnapping by enacting legislation that makes this crime a felony offense. As State laws vary regarding the process required to bring charges against abductor parents, it is extremely important that each police department and sheriff's office establish policies with the prosecutor's office on handling these cases.

Verifying custody. Parental kidnappings are complex emotional situations requiring the investigating officer to know the State statute and sort through court records in order to determine if, in fact, a crime was committed. A good starting place is the verification of the custody arrangements ordered by the court--if a custody decree has been filed. The court clerk in which the custody decree was entered can confirm any changes in custody. It is possible that a temporary change in custody was ordered ex parte without the searching parent's knowledge, which would preclude a charge of parental kidnapping in

some jurisdictions. Another source for confirming custody arrangements is the attorney of the searching parent.

Many parental kidnappings occur prior to the filing of a custody decree, and therefore the answer is not always clear-cut. In these cases, the police agency should be guided by its policies and procedures and the decisions of the prosecutor's office. Actually, some State statutes legislate that a crime is committed even if there is no custody order filed.

Interview the abductor parent. Whenever there is an accusation of parental kidnapping or concealment, the accused parent should be located, if possible, and interviewed by a police officer. The purpose of the interview is to determine if the accused parent has physical custody of the child and to find out the child's condition if he or she has custody. Until the location of the child has been confirmed and the safety of the child ascertained directly by the officer, the child should be considered missing and at risk. Even if the accused parent has the child, the validity of the complaint may still be at issue under statute or court order. The officer should obtain a pick-up order prior to the interview in case the abductor flees.

NCIC reporting. Once a parental kidnapping report has been made, the law enforcement agency has the responsibility to investigate the report, determine if the facts uncovered indicate a violation of the law, and recover the child. If a felony warrant is issued for the arrest of the abducting parent, it should be entered in the NCIC Wanted File. The child should be listed in the NCIC Missing Persons File, not the Wanted file. The entry of the warrant

information into the NCIC system should cross-reference the missing persons report, and vice versa. Another officer from a different department may query the NCIC on the parent or on the child. Cross-referencing lets that officer know to look for two individuals, not just the one presently being queried.

Records examination. As quickly as possible after the complaint has been filed, the police should ask the prosecutor to obtain a subpoena or search warrant to examine various records of the abducting parent, including telephone statements, bank accounts, credit cards, automobile registration, insurance, colleges, professional licenses, forwarding addresses, etc., as well as the telephone records of friends or relatives thought to be in contact with the abductor. The examination of these records can lead to the location of the parent and often assists in the solution of parental kidnapping cases.

Depending on the occupation of the abducting parent, union records can provide a good lead. If the occupation requires the use of an intermediary or agent, examination of his or her records pertaining to the abductor is warranted. The last employer of the abductor should be contacted and an attempt made to trace the abductor through records of reference requests or from the mailing address of tax records, such as the W-2 form.

Other Federal assistance. Assistance in locating and recovering the child may be obtained from the Federal Bureau of Investigation, the U.S. Postal Service, the U.S. Department of State, and the U.S. Department of Defense.

If there is reason to believe that the abductor has crossed State lines, and there has been a felony warrant issued, the U.S. Attorney can issue a Federal Unlawful Flight To Avoid Prosecution (UFAP) warrant. In order to facilitate the issuance of this warrant, local authorities must write a letter that states an intention to extradite the abductor, and should enclose a certified copy of the felony warrant. Thus, in the event that the officer has discretion in determining the degree of the crime charged, it would be more advantageous to file a felony charge because it would permit a UFAP warrant to be issued.

Once the UFAP warrant has been issued, the FBI is permitted to assist in the search for the abductor, make the arrest, and turn the abductor over to State authorities for extradition and prosecution. Parents should be made aware that the FBI will not pick up and return a child to the searching parent. If the parent cannot pick up the child, he or she should make arrangements for a relative or other adult to take the child temporarily. Parents may also consider having protective services take temporary custody of the child. A UFAP warrant will not be issued if the abductor's whereabouts are known, since extradition can be accomplished without the assistance of the FBI.

If law enforcement authorities have reason to believe that friends or relatives are maintaining contact with the abductor by mail, the U.S. Postal Service, through the postal inspectors, may request that a "cover" be placed on the mail being sent to the friends' or relatives' addresses. The Postal Service will record the return addresses of mail being received by the friends or relatives before the mail is delivered. The person receiving the mail would be unaware of the interception for a specified period of time. Postal

inspectors may be able to provide information from change-of-address forms as well.

The U.S. Department of State can conduct a "welfare and whereabouts" search to locate a child and determine the physical condition of the child if he or she has been taken from the country. Such requests should be made to the Office of Citizen Consular Services, Room 4811, U.S. Department of State, Washington, DC 20520, or by telephone at 1-202-632-3444. They do not have authority to help recover the child, however,

If the abductor is a member of or employed by the military, the branch of the military service employing the abductor should be asked to provide, through the Worldwide Locator Service, the most recent duty assignment. They will need the abductor's full name, Social Security number, date of birth, and last known duty assignment. Following are the addresses and telephone numbers of the military locator services:

**U.S. Army**

Worldwide Locator Service

U.S. Army Personnel Service Support Center

Fort Benjamin Harrison, IN 46249

1-317-542-4211

**U.S. Air Force**

Air Force Military Personnel Center

Attn: Worldwide Locator Service

Randolph AFB

San Antonio, TX 78150

1-512-652-5774

1-512-652-5775

**U.S. Navy**

Navy Locator Service

No. 21 (if inquiry is from a private party)

No. 36 (if inquiry is from a military source or governmental agency)

No. 36C (if inquiry pertains to a Navy retiree)

Washington, DC 20370

1-202-694-3155

**U.S. Marine Corps**

Commandant of the Marine Corps

Headquarters, Marine Corps

Attn: Locator Service

Washington, DC 20380

1-202-694-1624 (A through E)

1-202-694-1861 (F through L)

1-202-694-1610 (M through R)

1-202-694-1913 (S through Z)

**U.S. Coast Guard**

Coast Guard Locator Service

Room 4502 (if inquiry pertains to enlisted personnel)

Room 4208 (if inquiry pertains to officers)

2100 2nd Street SW.  
Washington, DC 20593  
1-202-426-8898

If the abductor is a retired military or civil service employee who receives a retirement check, a court order should be obtained for examination of the records of the Office of Personnel Management, 1900 E Street NW., Washington, DC 20415, to find a current address.

Parental Kidnapping handbook. The National Center for Missing and Exploited Children has available, at no cost, copies of a handbook entitled Parental Kidnapping. This manual is designed to provide step-by-step guidance in resolving parental kidnapping cases in both the criminal and civil justice systems. This manual is appropriate for law enforcement personnel and for searching parents. Write to the National Center at 2101 Wilson Boulevard, Suite 550, Arlington, VA 22201 to request a copy.

Records of the child. If the child is of school age, there may be requests from the abductor parent for school records. This records transfer should not be blocked because it may provide information on the child's whereabouts. Under the Family Educational Rights and Privacy Act (FERPA), the school must inform the parents--upon request--where records have been sent and the name of the requesting school. As this law relates to the rights of the family to receive information, the searching parent should be encouraged to use the FERPA provisions.

If the child is younger than school age, it may be necessary to confirm inoculations for childhood diseases in order to enter a day-care program. The medical records of the child should be flagged so that any request for the records will trigger a notification to the authorities. If the child is being taken out of the country or if the child is enrolling in school, the birth certificate may be needed. The Bureau of Vital Statistics or other record repositories should be notified to contact the police if a request is made for a copy of the birth certificate.

Summary. The first responsibility of the law enforcement agency in a suspected parental kidnapping case is to determine the missing child's location and ensure the safety of the child. Parental kidnapping cases are often legally complex and complicated by emotional conflicts between the child's parents. If there is a question of the custody status of the missing child, the searching parent should be referred to the prosecutor, or the case handled according to the policies and procedures of the law enforcement agency. Once a complaint has been filed, the law enforcement agency has the responsibility to investigate a parental kidnapping as it would any other criminal act.

If parental kidnapping can be treated as a felony under the laws of the State, there are numerous tools available to the local police agency to assist in the investigation. The NCIC is a vital tool. The abductor should be listed in the Wanted File, and the child listed in the Missing Persons File. Other Federal resources are also available to help locate the abducting parent.

## Abductions

The least common but most dreaded kind of missing child case is the abduction by an unknown individual. In these cases, a nonfamily member whose identity is unknown abducts the child. Investigators should be aware that a change in the status of the case may occur--a child who is originally reported as a voluntary missing case may be abducted while on the street.

There are two considerations in addressing an abduction case. The primary consideration is the safe recovery of the child. A second, yet vital, consideration is to build the case against the abductor. The latter consideration should not be overlooked and should be borne in mind throughout the investigation.

Time is of the essence in responding to abduction cases. The child should always be considered in extreme danger when abducted by an unknown individual. The mobilization of every appropriate resource available to the law enforcement agency is justified.

Set up a command post. As soon as it is suspected that the child has been abducted by an unknown individual, a command post (CP) should be established away from the child's home. An officer should be stationed at the home and should maintain contact with the CP via radio communication. The officer will be able to inform the CP if the child returns home or if a ransom demand is received. If the child is found, the officer will be able to inform the

family. If the child is found injured or dead, the officer should be informed discreetly so that he or she can tell the parents firsthand.

The CP has the responsibility of ensuring that all aspects of the case are covered in the investigation. All assignments pertaining to the case will originate from the CP, and all information generated will be processed through it. Media information and press notices will originate there. In short, the person in charge of the CP must have the authority to marshal necessary resources or have immediate access to, and support of, the police chief or sheriff.

Staffing for the CP should consist of a team with a supervisor, investigative coordinator, search coordinator, media specialist, communications specialist, logistics specialist, and clerk/typist. Each of these persons has specific responsibilities, as indicated below:

Supervisor. Directs all activities relative to the recovery of the child and the investigation of the crime; makes decisions regarding the level of resources necessary for immediate reaction by the law enforcement agency; functions as the liaison with other area and Federal law enforcement agencies relative to the case; and coordinates the release of information to the press and public.

Investigative coordinator. Controls the law enforcement personnel assigned to collect evidence, interviews witnesses, and builds the case that eventually

has to stand the scrutiny of a criminal trial; reviews the supplemental reports submitted by investigators; and briefs the CP supervisor.

Search coordinator. Coordinates the activities undertaken to find the child, including liaison with the National Guard, volunteer search and rescue groups, and other law enforcement and public safety agencies that may be used in the search; assigns search teams; briefs search teams about appropriate procedures; and maintains the search map.

Media specialist. Supervises rumor control for securing active assistance from the public, including providing accurate information to the press and to the public about the status of the search and any elements of the case that may be made public; works closely with the CP supervisor; and coordinates communications between law enforcement and the public.

Communications specialist. Maintains radio and telephone communications among the CP staff, the search and the investigative teams, the officer assigned to the victim's home, and headquarters; and keeps a log of activities.

Logistics specialist. Makes arrangements for obtaining necessary equipment and supplies. In prolonged operations, this will include meals for searchers and cots for CP personnel needed to maintain around-the-clock presence.

Clerk/typist. Performs clerical support functions, including the maintenance of a master case file in which a copy of the initial report and all supplemental reports are placed after being logged.

All investigative activities should be controlled and coordinated by the CP. An activities log should be maintained and all activities carefully recorded. A situation board should be set up and a record kept of all searchers. Search team assignments should be made and logged. A sector map with an acetate overlay should be set up, with areas marked as search assignments are made, and marked again when the assignments are completed. Areas covered by ground search teams should be marked differently from those searched by air units.

A special system is necessary for receiving tips and other information from the community. A coordinated procedure should be established so that these calls are all received and recorded consistently. If possible, a "neutral" search line telephone number should be set up that is identified by its special purpose (the case) and not simply by the police department name. A protocol consisting of questions designed to elicit necessary investigative leads should be devised--normally the officer must ask for specific data in order to guide responses.

Mobilization of nonpolice personnel. The search coordinator is responsible for determining the number of nonpolice personnel needed to search for the child. Consideration should be given to the use of scout troops, neighbors, fire rescue units, neighborhood watch patrols, and family members. The search coordinator makes the assignments for conducting the search and explains the procedures to be followed if the child is found. Searchers must be told that the first concern is the health and care of the child and that all information about the police investigation is confidential. Requests for information should be referred to the media specialist.

It is critical to discern the differences between searching for a child who is still alive and searching for a child who is the victim of a homicide.

Searches need to be conducted in such a way that the possibility of a child wandering away is covered as well as the possibility that the child was the victim of accidental death. In addition, the investigator should try to "think like a kidnapper" and examine those scenes and locales in the area where the child's body may have been deposited. For a more thorough discussion of search techniques, consult your department's procedural guide or criminal investigation texts.

Upon finding the child, medical personnel should be called, emergency first aid rendered, if necessary, and the child taken to a hospital. Steps should be taken, however, to protect any evidence that may be available around the child at the scene. Searchers not needed for first aid should cordon off the area, limiting access until investigators arrive. This will require strong discipline, as people usually crowd around the child and contaminate the area. It is preferable to have a police representative with each search team in order to enforce discipline, preserve forensic evidence, and protect the scene from contamination.

Patrol activities. The CP Supervisor decides the best allocation of patrol forces assigned to the search during the period of time in which the CP is in operation--usually the first 72-96 hours after the abduction. Patrol officers may be assigned to the search operation or to the investigation of the case. As law enforcement officers, the patrol personnel are uniquely trained to question witnesses, conduct building searches, and report on these activities.

The particular circumstances of the case will dictate the most efficient and effective use of patrol officers assigned to assist with the missing child case.

In most departments, it may be necessary to assign officers to a double shift or to call in off-duty officers and assign them to the missing child search and investigation. Patrol officers should be assigned to conduct door-to-door searches and to ask questions such as "Were you anywhere near (location) at (time)?" and "What did you see?"--rather than "Did you see anything unusual?" The CP supervisor should coordinate these arrangements with the patrol division commander in accordance with departmental policies. Through the patrol division chain of command, officers not working the case can be assigned to follow up leads in their regular patrol areas in addition to being on the lookout for the child and the suspected abductor. Photographs or flyers should be distributed to patrol officers (see page (12)\_\_\_\_\_).

It is extremely important that routine patrol be maintained in the area. Patrol officers assigned to the location from which the child was abducted should be instructed to look for anything unusual. This would include running NCIC checks on automobiles that appear to be abandoned or that have been parked in the same spot for a long period of time. Any cars that appear suspicious should be thoroughly examined by the patrol officer. If there is a crime analysis unit in the department, its expertise should be used to determine if the offense fits into any crime pattern in the area.

The patrol officers from the child's neighborhood and school should be asked about any activity that may be related to the abduction--for example, complaints of a "peeping tom," an individual lurking around a park or playground, or a burglary with no apparent theft.

Investigators' responsibilities. Under the leadership of the investigative coordinator, investigators should concentrate their efforts on finding the perpetrator. This entails interviewing witnesses; following up on leads; monitoring the parents' telephone line; crime scene processing; and using records and police intelligence sources as well as crime analysis to identify, locate, and apprehend the suspected abductor. Officers should consider reviewing physician and pediatric records. This evidence, which can be secured by subpoena, is critical to provide a complete understanding of the circumstances surrounding the child's disappearance. The child abuse registry should be consulted for potential reports that may have been filed concerning the family of the missing child.

Another family member or someone close to the missing child could be responsible for the disappearance or possible death of the child. The investigator should determine if it is necessary to polygraph the parents and other caretakers who may be involved in the child's disappearance. If a polygraph of family members and other caretakers is deemed necessary, it should be administered at the outset of the investigation.

Officers should also go door to door and person to person to uncover any possible clues. Simply to ask if anyone "saw anything unusual" is not

sufficient; witnesses may believe that they have seen absolutely nothing that is unusual in the course of daily events. A search for witnesses should be conducted 24 hours, 48 hours, and 7 days after the occurrence in order to identify individuals whose daily activities may have brought them in contact with the scene. Again, officers should know that the proper questions to ask are "Were you anywhere near (location) at (time)?" and "What did you see?"--not "Did anything unusual happen?"

Investigators need to inform hospitals, cab companies, and other jurisdictions that the child is missing. Recent crime reports from involved jurisdictions need to be analyzed, as do reports from areas in close proximity. Any reported crime against a child should be examined for a relationship to the abduction being investigated. Similarities in size, age, physical appearance, and sex of the victims should be looked for. Many cases in which a child was abducted are not listed as abductions because the victim escaped or was found murdered. In these cases the offense may be reported as a sexual molestation or homicide. Individuals with a past history of child sexual molestation should be interviewed. Priority should be given to those whose victims' appearance and developmental stage most nearly correspond to those of the missing child.

FBI assistance. Since the widely publicized Lindbergh kidnapping, the FBI has been able to become involved in kidnapping cases. While the public has traditionally thought of FBI involvement only in cases of interstate transportation of the victim or in cases in which a ransom has been demanded, neither of these circumstances is necessary for FBI assistance. FBI former

Director William Webster, in a memorandum issued in February 1983 to all FBI field offices, stated:

In accord with existing instructions, the following is set forth:

- A. When reports are brought to your attention, without regard for the means of referral, of minors abducted or missing under the circumstances indicating a possible abduction, unaccompanied by ransom demand or evidence of interstate transportation or travel, insure the following:
1. Advise FBI HQ immediately.
  2. Furnish a teletype setting forth specific details bearing upon abduction or circumstances indicating a possible abduction, any ransom demand, interstate transportation and your action. Mere statements that the "local authorities advise no evidence of abduction exists" are not acceptable.
  3. Determine if it is necessary to institute a preliminary inquiry immediately in order to ascertain the need for a full investigation.
  4. Resolve questions pertaining to the abduction, seizure, confinement, inveiglement, decoy, kidnap, or carrying away by

any means whatsoever, through the conduct of a preliminary inquiry in accord with existing Attorney General guidelines.

5. Note that no ransom demand is necessary.
6. Note that interstate travel can be assumed after 24 hours from the time the minor was abducted or missing under circumstances indicating a possible abduction.

- B. Complete documentation is required as to the facts and circumstances which cause you to conduct or not to conduct a full investigation. Include any United States attorney's opinion and the specific liaison effected with local authorities together with any requests that local authorities, citizens or family members may make and your action thereafter.

This memorandum is explicit in the requirements that the FBI field offices are expected to fulfill when informed of a possible abduction. Local law enforcement agencies should always inform the FBI of the abduction report and collaborate on the investigation. The Bureau has resources and technical capabilities not available in most local agencies that can be applied to the investigation of a suspected abduction.

NCIC reporting. Completing the entries in the NCIC file should be done as soon as possible after an abduction happens. The file should be as complete as possible with medical and dental information within 30 days, or within the time

stipulated by the State law. By establishing this as part of the investigative routine, there will not be a need to arouse the fears of the parents if an unidentified body is found and the information is needed by the medical examiner for identification.

Summary. The most dreaded kind of abduction is that in which a nonfamily member is the perpetrator. Fortunately, this kind of case appears to be unusual--but when it occurs, an immediate response and mobilization of law enforcement resources is required. In every abduction case, the child should be considered in extreme danger.

Once it has been established that the child is missing due to a possible abduction, the law enforcement agency should establish a command post that will direct the efforts to find the child and begin to investigate the case. The effort has two purposes: to find the child and ensure his or her safety, and to find the perpetrator and establish the criminal case against him or her.

The CP supervisor will have total control of both aspects of the case, determine the level of effort necessary, and provide liaison with other local and Federal law enforcement agencies. The FBI should be informed so that their technical and investigative skills may be utilized fully.

#### Unknown missing child cases

Not every case can readily be classified, and cases in which the facts are insufficient to determine the reason the child is missing are called unknown

missing child cases. In many, the only fact apparent is that there is a missing child. Without any facts that indicate otherwise, however, the police agency should assume the child is in extreme danger and should act accordingly. The investigative steps for unknown missing child cases encompass those taken for the other three kinds of missing child cases. If any of the unusual circumstances listed on page (2) \_\_\_\_\_ exist, establishing a command post and conducting an extensive search should be normal law enforcement practice.

The unknown missing child case needs to be analyzed to determine if there are other traceable pieces of evidence. For example, if the youth is of driving age, was an automobile involved? If so, the Vehicle Identification Number (VIN) should be run through the NCIC system. Was the youth wearing jewelry or have a tattoo that may be unique or easily identifiable? It is important that no potential lead be overlooked.

Local departments are discouraged from establishing an arbitrary waiting period before taking action. The longer the police agency hesitates, the longer the child is endangered, and the greater the distance that the abductor, if there is one, can put between himself or herself and the investigating agency.

NCIC reporting. Entries in the NCIC file should be made as soon as possible after a child is reported missing. The file should be as complete as possible with medical and dental information within 30 days, or within the time stipulated by the State law.

Summary: Intensive investigation

The second phase of the investigation of a missing child case is the intensive investigation. During this phase the case is still new and the trail of the child still fresh. For this reason, investigating agencies need to pursue actively whatever leads are available for all missing child cases.

Each kind of missing child case requires a suitable followup by a law enforcement agency.

Voluntary missing child case investigation focuses on the family, friends, school, and lifestyle of the missing youth. The youth's survival resources should be considered. Other units in the department and nearby jurisdictions should be informed of the case and provided with pictures of the missing youth. These cases will be located in the NCIC MPF:Juvenile file.

Parental kidnapping case investigation focuses on the abducting parent, his or her friends and relatives, and the needs of the child for public services, such as school, health, and child care. A thorough check of bank records, employment, labor unions, credit bureaus, etc., and the Worldwide Locator Service should be made in an attempt to locate the abductor. If possible, felony charges should be filed against the abductor parent and a Federal Unlawful Flight To Avoid Prosecution warrant issued. If friends or relatives are thought to be in contact with the abductor through the mail, the postal inspector's office should be asked to place a "cover" on that individual's

mail. These cases will be located in the NCIC MPF:Endangered or Involuntary file.

Abduction cases require that the child be considered in extreme danger and are therefore subject to mobilization of every available resource of the investigating agency. A command post should be established away from the child's house. An officer should be stationed at the house to maintain communication between the command post and the parents in the event that the child is found or returns home. If the child is found seriously hurt or dead, the officer at the home needs to be informed discreetly. The search for an abducted child has two purposes: (1) to find the child and ensure his or her safety, and (2) to identify, locate, and apprehend the perpetrator and build a case that will result in his or her conviction in criminal court. The FBI should be informed of the abduction. These cases will be located in the NCIC MPF:Involuntary file.

Unknown missing child cases should be investigated using all the techniques discussed in the other three case categories. A child who is missing due to unknown causes should be assumed to be in extreme danger until facts indicate otherwise. Establishment of an arbitrary waiting period before police action is discouraged. If any unusual circumstances are present, a command post should be set up and an extensive search and investigation conducted. These cases will be located in the NCIC MPF:Endangered file.

### Phase three: Sustained investigation

Missing child cases are very often resolved during the intensive investigation phase; however, a significant portion require sustained effort by the law enforcement agency. No missing child case is ever closed until the child is recovered or a body found and identified.

In each kind of missing child case, the investigator should contact the National Center for Missing and Exploited Children (toll-free number: 1-800-843-5678) and should discuss the case with one of its technical advisors. The National Center can arrange for the toll-free number to be used for sighting information and can include the case in its national missing children media programs.

The National Center operates a hotline for taking information on sightings of missing children. The 800-line operators use a protocol developed by technical advisors--all former law enforcement personnel--consisting of about 60 specific questions that are computer supported. All leads are reviewed by technical advisors and are forwarded immediately--by first-class mail, NLETS (teletype), or express service--to the law enforcement agency on record in the NCIC.

The sustained investigation involves not only working whatever leads come in but also taking steps to generate additional leads. In the following sections, techniques for generating new information after the trail grows cold are discussed.

### Voluntary missing child cases

In the early stages of an investigation, parents should be asked to begin the process of collecting medical and dental information for entry into the NCIC system. This process is described fully on page (12)\_\_\_\_. By the time a child has been missing for 30 days, or for the time stipulated by State law, the investigator should make sure that all available, pertinent information is entered into the NCIC system.

Routine contact should be maintained with the child's friends and family. Parents should again be instructed to notify the investigator if the child returns home. Contact should not be limited to the immediate family, however. Aunts, uncles, cousins, and grandparents, including those who live in other areas, should be contacted as well. The investigator could send an official preprinted postcard to these relatives with instructions on what to do if contacted by the missing youth. The postcard should include a statement that unless requested by the youth, the parents will not be contacted until after the child talks with the police. If the parents ask about this, they should be told that this is standard procedure. It gives the youth the opportunity to address any problems free of the influence of his or her parents. (The reason that the postcard should be preprinted is to depersonalize some of the information and thereby make it less threatening to the family.)

The runaway's network of friends and associates should be questioned to determine if the youth has had any contact with them. The longer the absence, the more likely it is that the youth will make contact with his or

her friends. It is possible that the runaway will return to the community after the initial investigation. Vice officers and other units within the department should be updated on the case regularly. Patrol officers should be asked to revisit electronic game arcades, shopping malls, and other hangouts that may be frequented by the missing youth.

#### Parental kidnappings

In some parental kidnapping cases it is easier to find the abducting parent after the crisis of the abduction itself has quieted and the abducting parent has resumed a more normal life. If the person receives pension checks, public assistance, Social Security checks, or other payments that can be tracked, the endorsed checks should be examined to determine where they were cashed or deposited. The investigator should examine credit bureau records on a regular basis to trace any loan applications the abductor may have filed.

The more time that passes, the more likely it is that the abducting parent will reestablish contact with his or her family, or use money on deposit in a bank. If an abductor conducts a transaction in his or her bank, the bank should be asked to flag the accounts--not block the transaction--and to notify the investigator. If the abductor makes a withdrawal in person, the bank should attempt to stall him or her and notify the police. If felony charges have been filed against the abducting parent, every 6 months a mail "cover" for close relatives and friends should be requested from postal inspectors.

The abductor's employer or former employer should be asked to notify the investigator if the fugitive parent requests a reference or sends an address for forwarding pension fund checks. Again, these requests should be handled discreetly by the employer so as not to alert the abducting parent.

If the case is at least 6 months old, the Federal Parent Locator Service (FPLS) may be helpful. Information generated may provide useful leads, even though they may be dated and it takes 40 to 60 days to receive each one. The Federal Office of Child Support Enforcement maintains the FPLS, which can be reached at 1-301-443-4950. The FPLS can search for the abductor's addresses in records of various Federal agencies, including the Selective Service, Internal Revenue Service, Social Security Administration, Department of Defense, Coast Guard, and National Personnel Records Center of the General Services Administration. The abductor's Social Security number is needed to search these files. If the Social Security number is not known, additional information will be needed to obtain the number.

The FPLS data bases are not current and it takes months for new information to be entered. Even if the information is in the data base, it will take 40 to 60 days for an investigator to receive it once requested. Therefore, a request for an FPLS search should be made every 6 months. There is a nominal fee for the data base search.

Each State has a Parent Locator Service (PLS) maintained by the State Office of Child Support Enforcement. The PLS generally has more current information than the FPLS. Because policies concerning access vary between States, the

investigator should contact the State PLS to determine who is authorized to access it.

Generally in parental kidnapping cases, investigators recover the child alive. There are some cases, however, in which the abducting parent has great rage against the other parent, is an alcoholic or drug abuser, has a history of child abuse, or is otherwise mentally unbalanced, which could place the child in great danger of serious injury or death. Again, after the child has been missing for 30 days, or for the time stipulated by State law, the NCIC file should be complete with all medical and dental information about the child so that if he or she becomes a homicide victim, identification may be made.

#### Abductions

The investigator should work with the family to develop a poster with the child's picture, physical description, date of abduction, and unique characteristics or mannerisms. A telephone number that can be used for sightings should be listed, as well as any reward being offered. (A suggested missing child poster format is included at the end of the chapter as Appendix F.) This poster should be widely distributed to law enforcement agencies, missing children groups, the National Center for Missing and Exploited Children, truckstops, the media, and any other organization that might give exposure to the poster.

The FBI should always be consulted for utilization of their technical expertise. If a long period of time has elapsed since the abduction, computer

enhancement of a photograph to show aging and physical development may be considered, and can be done by the FBI.

It is important to continually pursue new leads and to follow up on every piece of new information. Parents should be referred to local voluntary groups for support services. The National Center for Missing and Exploited Children has a directory of support services in each State.

#### Unknown missing child cases

Until facts are uncovered that narrow the direction of the case, all possible reasons for the child's disappearance should be repeatedly explored. Friends and relatives of the missing child should be told how to respond if contacted by the missing child or the child's abductor. Posters with the child's picture, description, and a telephone number to call for sightings should be circulated. All medical and dental information should be in the NCIC computer so that if a body is found, or if the child is unable to give his or her identity, it can be matched to a record in the NCIC computer.

The investigator should consider the possibility that a family member or someone close to the missing child is responsible for the disappearance or possible death of the child. A polygraph examination of parents and other caretakers at the outset could lead to the resolution of the case.

Summary: Sustained investigation

It is important that the case continue to be worked and new leads developed and explored, regardless of how long a missing child case has been under investigation. Posters should be distributed. The National Center for Missing and Exploited Children should be consulted and arrangements made to use the missing children's hotline, a toll-free number: 1-800-843-5678. In all missing child cases, the NCIC system should have complete dental and medical information to enable forensic matching should a body be found, or the child not know his or her name when recovered.

Phase four: Followup and closeout

The investigation of a missing child case does not end with the recovery of the child or with the recovery and identification of the child's body. Obviously, it is important for the law enforcement agency to determine what happened to the child while the child was missing. This information may be important as police intelligence, providing important leads on possible drug activity and child pornography or prostitution operations.

Just as the different nature of missing child cases demands different investigative approaches, it also dictates a different approach to the recovery and debriefing of the victim. When a child has been found, the originating investigative agency must delete the name of the child from the NCIC Missing Persons File. This deletion will ensure the currency and accuracy of the NCIC

information and increase its usefulness as a law enforcement tool. Care should be taken that the correct entry is deleted by doublechecking the NCIC number before entering the deletion.

If any investigative agency other than the originating agency should locate a missing child, the NCIC MPF should be questioned. If a record is found, the originating agency should be contacted by phone or by NLETS (teletype) to verify the status of the record. Once the record is verified, the agency that located the child should place a LOCATE message on the missing persons record in the NCIC. The originating agency will then delete the entry.

#### Voluntary missing child cases

Traditionally when a runaway has been found, the child is returned to the home, but may run away again. Therefore, upon recovery of the runaway, three different matters should be considered:

Why did the child leave home? In exploring this area, the investigator should be sensitive to possible physical or sexual abuse in the home. If there are indications that any form of abuse existed, an investigation is required and alternative care for the child may be needed.

What happened during the time the child was missing? It is important to learn what the child was doing to survive while missing. Available evidence indicates that runaways are at a higher risk of rape and other forms of sexual coercion than the general population of adolescents.<sup>3</sup> Other forms of

exploitation happen, such as involvement with drug distribution as well as other kinds of criminal activity. Getting the youth to talk about these experiences can provide valuable intelligence as well as leads for immediate arrests.

What can be done for the youth now? There is a multitude of social problems that can cause youngsters to leave home, not all of which are law enforcement responsibilities. The law enforcement officer in charge of a runaway case should have access to or knowledge of programs in the community that can help families resolve their problems. Such programs include mental health counseling, teenage pregnancy counseling, school social workers, residential care, and family counseling. A physical examination is needed to ensure the health and well-being of the child.

Once the missing child has been interviewed and the investigator is satisfied that the child will not be endangered if returned to the home, the family can be reunited or the proper referral made to a social services agency. The case can then be closed.

#### Parental kidnappings

When a law enforcement agency is involved in the recovery of a child in a parental kidnapping case, there are two actions that must be taken. The first is that the abducting parent be taken into custody, preferably not in the presence of the child. If the arrest has to be made when the child is present, it is important that an officer take a few minutes at the time of the arrest to

explain to the child what is happening. The child should be told that the arrest is proper and necessary--the abducting parent has broken the law, and the child is not to blame. It is normal for the child of an arrested parent to feel confused in this type of case, and efforts to alleviate this confusion should be made.

The second action necessary is the immediate placement of the child. There may be several thousand miles separating the custodial parent from the child and it will take time to arrange their reunion. If possible, prior planning for the reunion should be made. Depending on the laws of the particular State, a pickup order for the child may be necessary and should be obtained prior to arresting the abducting parent.

The investigator should develop a close working relationship with the agency providing child protective services (CPS) so that temporary shelter care can be provided when a child cannot be immediately returned home. The provider of the shelter care should understand that the child may be released only to a CPS worker or to the police, and the abducting parent not be given information about the location of the child. There have been cases where the abducting parent has been released on bond and attempted to abduct the child again.

As in the case of the recovered runaway, the recovered victim of parental kidnapping should be interviewed to determine if abuse occurred during the time of abduction or, as is usually alleged by the abducting parent, during the time the child was living with the custodial parent. If abuse by either parent is suspected, the appropriate child protective services agency should be notified

and an investigation conducted, either by the local agency or the agency in the State of origin.

Investigators of parental kidnappings should keep in mind that recovery of the child is only part of the objective. A criminal case must be pursued in court. Witnesses, evidence, and victims should be prepared for the followthrough. The case can be closed after the child is recovered and the abducting parent is prosecuted for child abduction either in civil or criminal court.

#### Abductions

There are two concerns the investigator has upon recovering an abducted child: the health and safety of the child, and the apprehension and prosecution of the abductor. Nothing must take priority over the health and well-being of the child. A medical examination should be provided, and the child should be seen by a counselor/social worker to determine if the child needs counseling or other support services.

The parents or guardians should be notified immediately of the child's recovery. If an agency other than the originating agency should locate the child, first the officer of the originating agency should be notified, and he or she will notify the parents.

The site for the child's interview should be one in which the child can feel relaxed and undistracted. The length of time for any interviewing session

should be appropriate for the age and interest span of the child. A multidisciplinary or team approach to interviewing, including law enforcement and social workers, can help ensure collection of evidentiary information while minimizing trauma to the child. Extreme caution should be used in deciding whether to videotape the initial interviews with the victim. (A complete discussion of the legal implications for the interview appears in Chapter 4.)

The child should be asked what happened during the time the child was missing and as much information as possible gathered about the abductor. Questions should be asked about the appearance of the abductor(s), the locations where the child was held, vehicles in which they traveled, and other factors that link the child with the suspected abductor(s). This questioning is required, even if the abductor is in custody, because offenses may have occurred in multiple jurisdictions.

A physical examination must be conducted by a medical authority and any injuries documented for later use as evidence. Laboratory samples indicating sexual abuse should also be preserved for later use as evidence. The child's clothing may need to be kept and examined for trace evidence.

In the event that the abducted child is found dead, the investigation should proceed as a homicide investigation.

### Unknown missing child cases

When a child is recovered whose disappearance was due to unknown circumstances, the investigator must find the cause of the disappearance. Once the cause is determined--voluntary, parental kidnapping, abduction, or other (such as accidental injury)--the procedure for those incidents should be followed.

If the child is dead, seriously injured, or otherwise unable to explain what happened, the investigator will need to use investigative and forensic techniques to find an explanation. It may be helpful to request assistance from the FBI to develop a crime scene profile. To do this, contact the local FBI field office and ask for the field profiling coordinator.

Crime scene profiling is not an exact science, but through clues and previous experience, profilers can get a feel for the scene and project scenarios for what may have happened. Further investigation is necessary, however, to validate their hypotheses.

### Summary: Followup and closeout

When a child is recovered, the investigator has the responsibility to question the child, find out what caused the child to be missing, what happened while the child was missing, and make the proper referrals to deal with the child's consequential problems. The investigator should be mindful of the potential for psychological trauma to the child, be sensitive to interviewing techniques, and make referrals for followup services. The investigator should consider

also the requirements of a prosecution team to build a legal case against an abductor (see Chapter 4).

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

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

GIVEN under my hand and dated

this 25th day of March, 1983

at 3:04 p.m.

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Signature of Magistrate

Judge of the Municipal Court Los Angeles

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**NIGHTTIME SERVICE ENDORSEMENT\***

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

---

Endorsement of Magistrate  
for Nighttime Service

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

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

**AFFIDAVIT FOR SEARCH WARRANT**

William H. Dworin, 12122, being sworn, says that on the basis of the information contained within this affidavit, he has probable cause to believe and does believe that the property described below is seizable pursuant to Penal Code Section 1524 in that it: (CHECK APPROPRIATE BOX OR BOXES)

was stolen or embezzled

was used as the means of committing a felony

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

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

and that he has probable cause to believe and does believe that the described property is now located at and will be found at the locations set forth below

and thus requests the issuance of a WARRANT TO SEARCH: 1. 260 South Burlington Avenue, Los Angeles, County of Los Angeles, described as a two-story woodframe house covered with brown asphalt shingles. The numerals 260 are attached to the door frame. 2. Hernandez, Alex Mora, male Caucasian, black hair, brown eyes, 5'6", 150 pounds, date of birth--March 20, 1939.

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

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

---

Signature of Affiant

Subscribed and sworn to before me  
this 25th day of March, 1983.

---

Signature of Magistrate

Judge of the Superior/Municipal Court Judicial District

Prepared with the assistance of, or reviewed by:

---

Deputy District Attorney

\*Strike OR NIGHT if not applicable.

Attachment A

Your affiant is William H. Dworin. I am a detective for the City of Los Angeles and have been so employed for the past 18 years. For the past six years, I have been assigned to the Sexually Exploited Child Unit of Juvenile Division. I have been assigned to said Juvenile Division for the past 10 years. I have participated in an excess of 750 investigations involving the sexual exploitation of minors and children. I have personally conducted in excess of 350 investigations resulting in felony charges of child molestation and exploitation. I have received extensive training and have read numerous publications dealing with the sexual exploitation of children. I have talked to in excess of 500 sexually exploited children and in excess of 800 admitted child molesters. I have read and examined in excess of 10,000 letters between pedophiles describing their admitted sexual conduct with children and the manner in which they exploited said children for sexual gratification. I have examined in excess of 30,000 photographs during these investigations which depict children engaged in sexual activities with themselves, with other children, with animals and with adults. I have examined and read publications distributed from foreign countries and in the United States which describe in detail sexual activities between adults and children. I am familiar with the manner in which pedophiles entice and encourage children to engage in sexual conduct and the manner in which they exchange children with each other and make contact with other adults who engage in such conduct. From my training and experience, I am aware that pedophiles have a specific age preference for the juvenile victim and that when the victim surpasses this age, the pedophile, no longer having sexual interest in her/him, will seek out a younger juvenile to take the victim's place sexually. It has been my experience that pedophiles

will not stop or remain with one juvenile victim but will constantly seek out new victims, using the same method of seduction that had been successful for him. It has been my personal experience and knowledge of pedophiles from other officers that a pedophile has never stopped with one juvenile victim but has continued to molest juveniles whenever the opportunity arises. From interviewing and speaking with pedophiles, both in an official capacity and during undercover operations, I am aware that pedophiles will retain photographs, magazines, movies and correspondence. This retention will span many years and the material is used by the pedophiles to lower the child's inhibitions and to relive the pedophile's experience. From the prior investigations that I had conducted and from talking to other detectives involved in pedophilic investigations worldwide, I am aware of pedophiles retaining their pedophilic and pornographic material in excess of twenty years, and that this material has been shown to juveniles to lower the victim's inhibitions. I am aware that, depending upon the age of the juvenile victims, that pedophile will often furnish drugs and alcohol to lower their inhibitions. A pedophile will frequently seek out employment or volunteer his or her service to be close to children and to use the authority over the children and to victimize them. I have testified as an expert in both the Municipal and Superior Courts in the field of the sexually exploited child and have assisted the United States Attorney's Office in formulating procedures in the federal prosecution for the importation and non-commercial distribution of child pornography.

On March 25, 1983, Mr. and Mrs. Raul Hernandez, 3856 Brookline Avenue, Rosemead, went to Rampart Police station and reported that Alex Hernandez, Raul Hernandez's brother, had been molesting their son, Raul Hernandez Jr. when Raul was 12--16 years of age. Your affiant was contacted by Rampart detectives and

advised of the complaint. Your affiant contacted Mr. Raul Hernandez and learned that his brother, Alex Hernandez had never been married and has always had an interest in boys. On March 24, 1983, Raul Hernandez's son, 19 year old Raul Jr., told his father that Raul Jr.'s uncle, Alex Hernandez had sexual relations with him between the age of twelve to sixteen. Mr. Hernandez is aware that Alex Hernandez is a Los Angeles City school teacher and a Boy Scout leader. In addition, he was a Big Brother and a Parks Director. Alex Hernandez is frequently with young boys, taking them on trips and having them in his home.

On March 25, 1983 your affiant interviewed Raul Hernandez Jr. Raul stated that he is 19 years old. When Raul was twelve he would frequently visit his uncle, Alex Hernandez at his residence, 260 South Burlington Avenue in Los Angeles. Alex Hernandez had items such as trains and clay that was of interest to Raul Jr. While there Alex would encourage Raul Jr. to be photographed and as this photography continued, Raul Jr. was convinced to be photographed nude. Alex Hernandez then began to molest Raul Jr., the majority of the molestation being oral copulation. The victim stated that Alex Hernandez did try to sodomize him on some occasions. Raul Jr. stated that Alex Hernandez is a photographer and had a darkroom set up in the attic. Most of the photographs were done in black and white and Raul Jr. observed photographs of himself, nude and being orally copulated by Alex Hernandez. Raul Jr. stated that he also saw photographs of other male juveniles, taken inside Alex Hernandez's house and these photographs depicted juveniles nude and engaged in sexual activity.

Raul Jr. stated that Alex Hernandez would show Raul Jr. these movies to get him excited. Raul Jr. stated that Alex Hernandez kept many of the photographs under his bed or in other parts of his bedroom and in the attic with the darkroom equipment.

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

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

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

Penal Code based upon the facts and the attachments.

**Appendix G: Warrant to obtain photographs from a film laboratory**

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

STATE OF CALIFORNIA - COUNTY OF LOS ANGELES

**SEARCH WARRANT AND AFFIDAVIT**

**(AFFIDAVIT)**

William H. Dworin, 12122, being sworn, says that on the basis of the information contained within this Search Warrant and Affidavit and the attached and incorporated Statement of Probable Cause, he/she has probable cause to believe and does believe that the property described below is lawfully seizable pursuant to Penal Code Section 1524, as indicated below, and is now located at the locations set forth below. Wherefore, affiant requests that this Search Warrant be issued.

William H. Dworin, NIGHT SEARCH REQUESTED: YES[ ] NO[ ]

**(SEARCH WARRANT)**

THE PEOPLE OF THE STATE OF CALIFORNIA TO ANY SHERIFF, POLICEMAN OR PEACE OFFICER IN THE COUNTY OF LOS ANGELES: proof by affidavit having been made before me by William H. Dworin, 12122, that there is probable cause to believe that the property described herein may be found at the locations set forth herein and that it is lawfully seizable pursuant to Penal Code Section 1524 as indicated below by "x"(s) in that it:

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

YOU ARE THEREFORE COMMANDED TO SEARCH:

See attached for narrative

FOR THE FOLLOWING PROPERTY:

See attached for narrative

### Videotaping--initial meeting

Several factors need to be considered prior to deciding whether or not to videotape the initial meeting.

In many instances the child initially exhibits severe emotional distress (sobbing, hysteria, etc.) and the investigator wishes to preserve this emotional reaction, but not necessarily take a statement from the victim. Such a videotape would graphically demonstrate the extent to which a child is distressed by the incident, therefore increasing the viewer's feelings of the probability that abuse occurred. This videotaping would be similar to a photograph being taken of physical injuries to prove and preserve their existence, and need not include questioning of the child. The videotaping of a statement itself is not required and might not be appropriate at all depending on the emotional state of the child.

The videotaped conduct can be used to present to the jury, in a dramatic and effective manner, the emotional and psychological effect of the abuse upon the child. No legislation is necessary to permit the making of such a videotape; it is merely a good investigative technique.

This type of videotaping does not relieve or lessen the trauma a child encounters in the courtroom because his or her appearance as a witness would still be necessary. However, neither does it have any of the disadvantages of a videotaped interview, discussed below.

### Videotaping--initial statement

A number of police jurisdictions have begun recording a child's initial statement by videotape. Such recordings, however, cannot be introduced in court proceedings by the State unless a specific legislative enactment permits its usage. The impetus for passing this type of legislation comes from a desire to lessen courtroom trauma for the child victim, thereby enabling the State to present the witness in as normal a manner as possible. Most States that have legislation permitting videotape use in the court process limit such usage to custody cases, grand jury investigations, juvenile proceedings, or preliminary hearings. In most States videotapes are not admitted at criminal trial; therefore, the value of videotaping such statements is substantially lessened and must be carefully considered before making videotapes.

At least three States--Texas, Louisiana, and Kentucky--have drafted laws that do permit a child's videotaped initial statement to be introduced at a criminal trial as substantive evidence. (The statutes of Kentucky and Texas are currently being challenged.) Trial admissibility, however, is dependent upon the content of the videotaped questioning by a nonattorney, and upon both the interviewer and child being available at trial for cross-examination. Accordingly, since these three States require a child's appearance in court, the potential for courtroom trauma is not lessened in any way.

The ultimate decision as to whether a child's statement should be videotaped must be made on an individual basis and depends upon a comparison of the advantages offered against the disadvantages likely to be encountered.

The primary benefit to the State of videotaping the statement is a reduction in the number of victim interviews. A single videotape can be used by police, social workers, and other interested parties to obtain the information necessary for dealing with the child's victimization. Such a procedure would undoubtedly lessen the trauma of repeated questioning, and would also reduce the possibility of conflicting statements by the child, which could be used to impeach credibility at trial. If State law permits the introduction of these videotaped statements at grand jury proceedings, preliminary hearings, or sentencing, without requiring the child's presence for cross-examination, then videotaping would accomplish all of these purposes.

Other advantages often cited are that videotaping captures the child's most immediate reactions to the incident, helps experts evaluate psychological damage and prescribe treatment, and enables the prosecuting attorney to determine a child's competency. These claimed advantages have little merit and are not of great importance. First, the child's most immediate statement is only valuable if accurate, clear, complete, and obtained in a manner that projects positively in court. If the child is so upset that this is unlikely to occur, the interview should not be videotaped.

Second, it is doubtful that a videotaped interview conducted by a law enforcement officer for prosecution purposes would provide a psychiatrist or psychologist with the data necessary to support treatment. In some jurisdictions a psychological or psychiatric interview cannot be used to impeach the victim at trial because of its confidential nature and therefore poses no concern to law enforcement.

Third, while competency must be determined as early as possible, and should be considered by the investigator at the initial interview, it need not be recorded by videotape. The investigator's personal observations and determinations should be communicated verbally to the prosecutor, otherwise there is a risk of recording possible incompetency of the victim. Furthermore, a child's competency can improve as the child matures prior to trial or hearing. It is better not to videotape a statement than to videotape and preserve for the jury a damaging statement.

An initial consideration in whether to videotape the initial statement is whether the child is willing to speak about the incident and, if willing to do so, that out of fear he or she may subsequently retract the story or expand upon it. This possibility will adversely affect the State's case at trial and could destroy it in some circumstances because the defense attorney will have the videotape for impeachment purposes.

Additionally, several interviews are usually necessary before a child is willing to fully discuss the incident. If the first statement is videotaped and pertinent information is withheld, the child's later detailed description of the incident would enable a defense attorney to argue that the child was "coached." If the jury believes this expanded testimony is the product of a prosecutor's creativity rather than the child's memory, it could impact their finding in the case.

An even more damaging situation arises where the child's first statement is videotaped and the child's story at trial is **contradictory**. In this situation

the defense attorney does not have to convince the jury of prosecutorial "coaching," but rather that the victim was lying, either when the first statement was taken or later at trial. Unless an expert witness can convince the jury that this conduct is common practice among abused children, the investigator will have created the reasonable doubt.

A videotape preserves not just the child's answers, but also the interviewer's questions and the manner in which they were asked. The interviewer must be experienced because if leading questions have been used during the videotaped interview, or answers have been "suggested" by the interviewer, the tape would be used by the defense attorney to discredit information obtained from the child.

Recent reports suggest that a significant number of confessions and guilty pleas result when the child's videotaped interview is shown to the defendant or his attorney. This is an additional factor to be considered, but should not be a controlling factor. Rather it is a potential result if the original decision to videotape was correct. If the defense attorney views a believable, independent videotaped statement from a competent child, the chances of persuading the defendant to enter a guilty plea improve. If the interview is poor, the defendant will have an incentive to go to trial with a better chance of being acquitted.

The issue of prompting a confession presents an additional consideration for investigators; i.e., the mental attitude of the defendant. If the defendant is experiencing a lot of guilt and remorse, then showing him or her the videotaped

interview could prompt a confession. Naturally a confession would probably result in a guilty plea and thus save the child from the trauma of testifying. An abusive family member or a person who committed the abuse under stress, alcohol, or drugs might be such a defendant. On the other hand, if the defendant is a pedophile, or has no apparent remorse or guilt, then viewing a videotape would probably not increase the likelihood of illiciting a confession from him.

In conclusion, if the primary reason for videotaping an interview with the victim is to obtain a confession from the defendant, the defendant's mental attitude must be considered. If he or she does not seem remorseful or guilt ridden, the interview should not be taped only for the purpose of getting a confession.

#### Preparing the child for court

Preparing a child witness for a court appearance is quite different from preparing an adult witness. With an adult, the primary focus is upon reviewing the testimony, explaining any inconsistencies in that testimony, and discussing the manner in which to testify. However, the effectiveness of a child witness is directly related to the comfort and security the witness experiences because this lessens the trauma of the courtroom setting. In preparing the child, the investigator or prosecutor must demystify the courtroom to promote feelings of comfort. The child's fears of the courtroom

must be alleviated if the State expects him or her to speak freely under oath. Several relatively simple acts can facilitate this.<sup>6</sup>

First, the child and his or her family or representative should be familiarized with the trial setting by taking them into the **empty courtroom** in which the trial is to be held. The trial process and the function of the judge, jury, and attorneys should be explained, and they should be shown where the family or other personal representative of the child will be located, as well as court personnel and other participants.

If an increase in trauma would not result, the child's basic testimony should be reviewed from the witness stand. Depending on the age of the child, it might be advisable for the child-victim to attend another trial beforehand. The investigator should arrange to have the child and parents meet the judge assigned to hear the case, other individuals serving the courtroom, and members of the prosecutor's office with whom they might have contact.

Another method of lessening courtroom trauma is having the judge **modify the courtroom** when the child testifies. Smaller chairs could be used, the witness stand could be replaced by a table from which the child could testify, the judge could wear a suit rather than a robe, and could sit on a level with the witness table rather than on the bench, which is higher.

On the day the child is scheduled to testify the child could be placed "on call," that is, he or she could remain at home or in a familiar setting until

just before his or her testimony is taken. The child should not be present in the courthouse for several days while the trial is being held.

If "on call" status is impossible, there should be a separate area, apart from the courtroom, available for the child and his or her family or personal representative. A room set aside where the child can play, eat, and nap, protected from regular courthouse activity, would be less upsetting.

Many States have laws providing, or prosecutors have established, witness advocacy programs to aid and comfort witnesses. These are especially beneficial to young children. The child-victim and his or her family or representative should be introduced to this person as early in the proceeding as possible. Some jurisdictions have developed coloring books and brochures for parents and children describing the courtroom process. Often, no one in the family has been involved in the legal system; its terms, procedures, and activities are a mystery.

The trial itself should be scheduled as early as possible; the judge, prosecutor, or court administrator can be requested to expedite the trial or hearing. Only in rare circumstances should the trial or hearing be delayed for 6 months, as in the regular scheduling process in criminal court. Optimally, once the trial has been scheduled, the court should grant no continuances unless absolutely necessary. A child expends tremendous energy in preparing for trial and the potential for trauma increases greatly just prior to court. If a child has to get psychologically and emotionally prepared for trial several times, it is highly likely that he or she will reach a point of total

frustration and refuse to testify. Defense attorneys are aware of this likelihood and intentionally delay and continue trials in an effort to cause the State to lose its key witness.

Finally, the prosecutor should plan the day the child is to testify in conjunction with the child's normal daily schedule. If the child normally naps in the late morning or early afternoon, those hours should be avoided.

If a victim-witness advocacy or guardian ad litem program is not available, a support person for the child will be necessary, preferably someone who will not be called to testify as a material witness. For example, if a child's mother is a potential witness for either party, the defense might obtain a sequestration order removing the mother from the courtroom until her testimony is given. If this occurred, the child would lose his or her primary support person during testifying and might not cooperate. If the mother is testifying for the State, a prosecutor can probably avoid this issue by having the mother testify first. However, if the defense subpoenas the mother, this issue becomes more difficult. In those cases, a support person should be selected with whom the child can relate easily, but who does not have to testify. A grandparent, adult, friend, or neighbor is generally used. The person best qualified to serve in this capacity should be identified as soon as possible in the investigation.

## Voir dire

Jury verdicts in child abuse cases are extremely unpredictable and often unsatisfactory to the victim. The child-victim's lack of maturity and vulnerability during cross-examination may damage his or her credibility.

Jury selection is always a matter of extreme importance. One faulty selection could result in a hung jury and require a retrial. Moreover, older jurors, usually acceptable to the State, may not be a good choice in a child abuse trial. This group may have outdated ideas, attitudes, or prejudices about the family and be unaware of the extent of child victimization today.

Most prosecutors favor younger jurors who have just raised a family, or are in the process of doing so. Many sociologists suggest that a younger, masculine male who is raising children is the best jury candidate. They argue that a take-charge male will look upon the abusive act as repulsive and the child as needing protection.<sup>7</sup> However, a young mother, with current child-rearing obligations, could also serve well as a juror.

Several voir dire questions, designed to both evaluate and educate potential jurors, are suggested below:

1. Do you naturally tend to question the credibility of small children--do you think children, in general, are less credible than adults?
2. Do you enjoy the company of children?

3. Do you feel that it would be impossible for you to find a person guilty in a case where it is one person's word against another's?
4. Do you have any hearing problems?
5. This child is going to describe some disturbing events. Do you think that, unpleasant as it may be, you will be able to listen to what he or she has to say?
6. Some people view molestation of children within the family as a family affair and one that the government should leave within the family. Do you feel that it is proper for the police and the courts to interfere in this family?
7. Penalty plays no part in jury deliberations. The final deposition of this case will be in the hands of the judge. Are you confident that you would leave any thoughts of penalty or treatment out of your deliberations?
8. The child in this case may use words like "dick" and "peter." Will you be able to listen to that kind of language without prejudice to the child?
9. There are some people who simply refuse to recognize that children are sexually molested. Do you think that child sexual abuse occurs in your community?

## Competency

"Competency" and "credibility" are two closely related concepts that must be considered by any law enforcement professional during an investigation. Most police assess the credibility of each and every potential witness in a case, both for investigative and trial purposes. "Do I believe this person?" is always a question foremost in an investigator's mind; competency is not usually so paramount.

Competency has been defined as that personal qualification that renders a witness legally able and capable of presenting testimony in court. It arises prior to presenting the witness's testimony to the jury and is determined, in most States, by the judge.<sup>8</sup> Credibility, on the other hand, presumes competency and is that quality that renders the evidence of a witness worthy of belief, and the degree of credit to be given the testimony. This determination is solely the function of the jury.<sup>9</sup>

Since victims of child abuse are often young, competency challenges are routinely raised when a child's testimony is offered in court. If found incompetent, the witness is precluded from testifying, thereby terminating the prosecution unless other evidence of the abuse exists. Accordingly, competency must be determined as early as possible to prepare and evaluate the case. The initial interview usually presents this opportunity and the investigator, in conjunction with the prosecutor, must assess the competency of the victim.

While specific legislation varies with individual States, the manner of approaching the issue of competency falls under two general theories. The proposal favored by most child advocates, prosecutors, and the American Bar Association urges the adoption of laws or court rules similar to Rule 601 of the Federal Rules of Evidence. This rule provides "...every person is competent to be a witness except otherwise provided in these rules." Age not being mentioned as an exception, a child's competency on that basis is presumed to exist without a prior showing of qualification before a judge.

The impact of this provision is to replace the judicial determination of competency with a jury determination of credibility. Thus, the factors of perception, memory, and narrative ability, while still considered, are now a part of the determination of credibility, and not competency. The result is that automatic competency hearings are no longer held.

To the contrary, a competency hearing is ordered only after a defendant has made a showing of a child's incompetency. The standard by which the child's competency is to be judged is usually whether the testimony has at least "minimum credibility." While both the burden of proof and the accompanying legal standards have been modified to favor children, the primary factors considered are similar to those considered by judges in States still governed by the common law concept of competency. Presently some 20 States have adopted this rule.<sup>10</sup>

The prevailing rule in those States accepting the common law approach to "competency" is that competency is presumed when the witness is older than a

specific age (often as young as 10). Only a showing of incompetency by the person asserting that condition will overcome this presumption. The burden of proof is therefore on the defendant in abuse cases where the victim has reached the stated age.

When the child victim is younger than the specified age, the presumption of competency does not operate and the child has the burden of proving his competency. In most States, no particular age has been held to be conclusive of incompetency, and the issue is decided by the trial judge after an inquiry as to the child's mental maturity. The younger the victim, the more difficult it is to establish competency. While judicial discretion is not absolute, it will not be reversed absent a flagrant abuse of that discretion.

In earlier common law the ability of a young child to understand the obligation of the oath was the pivotal consideration, because otherwise the child might be presenting unsworn testimony. Today, however, competency of the witness is not determined solely upon the basis of whether the child's vocabulary includes an understanding of the term "oath." Rather there are **three legal requirements** for determining the competency of a child to testify:

1. Present understanding of the difference between truth and falsity and a conscious duty to speak the truth.
2. Mental capacity sufficient to observe the occurrence itself and the capacity to retain an independent recollection of that observation.

3. Capacity to communicate to others this event, including as it does both an ability to understand questions and to frame intelligent answers to said questions.<sup>11</sup>

The last two qualifications are easily answered when a witness of more than 6 years of age is called to testify as to recent uncomplicated events. Further, many researchers believe there is little correlation between age and honesty, and even young children generally possess the basic skills necessary to observe, remember, and communicate information about events they witness.

The third qualification might virtually be impossible for a child under 4 years of age who has limited verbal skills. However, the use of anatomical dolls can expand the child's capacity to communicate by using the dolls to demonstrate what occurred.

An example of incompetency based upon the second factor, the capacity to observe and remember, occurs when a witness is confronted with a complicated and confusing situation, rather than a simple one. An incident involving several varied sexual assaults, by different people, would be much more difficult to remember than a single sexual act performed by only one person.

It is the first factor, knowledge of the difference between truth and falsehood, and a moral responsibility to speak the truth, that is usually the basis for a defense counsel's challenge to the testifying witness. An accurate questioning of the child at the initial interview will alert the State as to whether this issue could be successfully raised at trial. It is advisable that

the investigator not record questions and answers relating to competency, but merely make a mental note of them for the prosecutor.

The following is an example of an efficient but simple interview with a child for the purpose of determining competency:

Q. How old are you?

A. Seven.

Q. Do you go to school?

A. Yes.

Q. What grade are you in?

A. Second.

Q. Do you know what this book is?

A. The Bible.

Q. If you put your hand on the Bible and the judge were to ask you, "Do you swear to tell the truth?" do you understand what that would mean?

A. I would be promising that I would tell the truth.

Q. Do you know the difference between the truth and a lie?

A. Yes.

Q. If I said my jacket was red, would that be the truth or a lie (jacket is black)?

A. A lie.

Q. If I said my jacket was black, would that be the truth or a lie?

A. The truth.

Q. Is it right or wrong to tell a lie?

A. Wrong.

Q. Is it right or wrong to tell the truth?

A. Right.

Q. What happens if you tell a lie?

A. I get punished by my parents.

Q. Suppose you put your hand on the Bible and promised that you would tell the truth, but then you didn't, what would happen?

A. I would be punished.

Q. Suppose you lied in court, what do you think would happen?

A. I could be sent to jail.

Q. Do you know why you are going to court?

A. To tell what Joe did to me.

Q. Do you remember what Joe did to you?

A. Yes.

Q. Do you remember what you received as a birthday present last year?

A. Yes, I got a blue shirt, and a first baseman's mitt.

Q. When you go to court will you promise to tell the truth about what Joe did to you?

A. Yes.

In the above answers, the child clearly demonstrated all the prerequisites for competency, including that he knew what the truth meant, that he had an obligation to tell the truth, and that he would be punished if he lied. However, the requirement of awareness of the possibility of punishment in response to a falsehood is satisfied by significantly less.

In the State of Pennsylvania the courts permitted the child's testimony in the following instances: Commonwealth v. Riley, 326 A.2d 384 (1974) (a 6-year-old witness stated that he would "go to the devil" if he lied); Commonwealth v. Payton, 392 A.2d 723 (1978) (a 6-year-old witness testified that her mother would punish her if she told a lie); Commonwealth v. Mangello, 378 A.2d 897 (1977) (a 6-year-old stated that people who tell lies "go to jail").

Familiarize yourself with the caselaw existing in your own State so that you know the judicial requirements for competency.

While interviewing and preparing the child for court it is advisable for the investigator to explain to him or her the difference between truth and falsity or the importance of an oath, and to tell the child the consequences of lying in court.

One final discussion involves the filing of pretrial motions by defense attorneys to compel the child to undergo psychological or psychiatric examinations to determine a child's competency. These motions should always be opposed by the prosecution. A trial judge has no obligation to order an investigation of competency unless he cannot make this determination from observing and questioning the child.<sup>12</sup> While such an examination may benefit the court where a competency challenge is based upon insanity, competency is usually a legal, not a medical, issue. Often the trauma caused by these types of psychological or psychiatric examinations is as devastating to the child as a courtroom appearance.

#### Expert witnesses

Police investigators are thoroughly trained at locating and interviewing witnesses in preparation for a trial. Most are witnesses because they perceived through a sensory function (usually sight) some fact relevant to the presentation of the case. This information is primarily firsthand knowledge and is never based upon the opinion or conclusion of the witness. It is the function of the jury to draw inferences, opinions, and conclusions.

An exception to this rule is the testimony of experts. The expert is permitted to draw inferences and render opinions from facts introduced at trial. The reason for this is that a jury would be unable to draw such opinions because the expertise needed to support the opinion is beyond the knowledge of the average person. To qualify as an expert two elements must be present:

1. The subject of the opinion must be so distinctively related to a science, profession, business, or occupation as to be beyond the knowledge of the average lay person.
2. The witness must have special skill, knowledge, or experience in that field which would make it probable that his or her opinion would aid the jury in its search for the truth.<sup>13</sup>

While most investigators are familiar with the fingerprint analyst, chemist, or forensic pathologist used in ordinary criminal cases, they are not aware of the expertise of the psychologist, psychiatrist, or licensed clinical social worker who is important in the area of child abuse.

In the majority of child abuse cases a young child is the sole witness to the abuse. It is often the child's testimony, limited by age, which is the sole evidence against a defendant who has superior verbal skills. The testimony of experts, even if only corroborative, is often the factor that determines guilt.

The functions of an expert witness include the following:

1. Providing greater reliability and validity to an interpretation of the facts to assist the trier of fact.
2. Presenting opinions to help the trier of fact resolve issues in the case, including the issue of innocence or guilt.
3. Presenting objective testimony such as observations of a victim's injuries, or an enumeration of the behavioral characteristics of the sexually abused child.
4. Assisting the prosecutor to organize the case.<sup>14</sup>

It is the prosecutor's duty to speak with an expert witness prior to trial to learn his or her qualifications and the key issues and opinions relating to his or her area of expertise.<sup>15</sup> The investigator's duty, on the other hand, is to determine as early as possible if an expert is already involved with the child victim, the expert's potential contribution at trial, and whether expert testimony is necessary.

The expert witness in a child abuse case can often have a vital impact upon the case by the manner in which he or she testifies. The following advice is offered to expert witnesses to improve their courtroom demeanor.

1. Always present your experience, education, memberships, and other qualifications for the jury to hear; never stipulate (which means to arrange for or settle definitely as an agreement).
2. When testifying, use language the average person will understand; do not try to overwhelm the judge or jury with your knowledge.
3. On direct examination, avoid the temptation to testify in too much detail; be specific only in the area of primary importance to the case.
4. On cross-examination, listen to the precise question asked and be aware of the context in which it is asked. Answer only the question asked, if you can.
5. If a poorly worded question would confuse the jury or yourself ask the attorney to rephrase the question and, if necessary, tell him why.
6. If you answer a question in a manner which seems contrary to your position, but you have a reasonable explanation or distinction to make, do so.
7. Never become arrogant or emotional while on the witness stand; maintain an appearance of impartiality.
8. Talk directly to the jury or judge and maintain eye contact.

9. When asked about your fee, explain the rate was established prior to your doing any work, and the projected fee was for time spent in reviewing records, analyzing facts and arriving at conclusions, and traveling to and from court.<sup>16</sup>

### Corroboration

The nature of the crime of child abuse, especially sexual abuse, is that it is most often committed in secret. Rarely are there independent eyewitnesses. To the contrary, the abuser waits until the child is alone to commit the act, and then depends upon his or her adult status, better communication skills, and the victim's immaturity to protect him or her from conviction. The production of corroborating evidence to support the child's credibility and the underlying allegation of sexual abuse is critical to successfully prosecute these cases.

Several jurisdictions have passed statutes or rendered judicial decisions that do not permit a conviction for sexual abuse based on the victim's testimony alone. Evidence corroborating the sexual abuse must exist or the jury will not even be permitted to consider the case. Legal scholars working to improve the judicial process argue on behalf of child victims that the corroboration rule is highly undesirable and unnecessary. They suggest the rule is based on a series of myths and misconceptions surrounding sexual child abuse, including the supposed lack of credibility of child witnesses, misconceptions about sexual abuse, misunderstanding the importance of behavioral indicators, and delayed parental response to disclosure.<sup>17</sup>

The most effective form of corroboration is found in eyewitness accounts of the incident, or a confession or admission by the accused. These types of corroboration often result in a guilty plea to the criminal charges.<sup>18</sup> Other forms of corroboration, although not this effective, are still very important to the jury process. The most common of these types of evidence include medical or scientific testimony, behavioral indicators, doctors' reports, psychological and psychiatric testimony, and various hearsay exceptions.

Corroborating evidence serves other purposes as well. In some cases it overcomes societal myths held by some jurors concerning the sexual abuse of children. In other instances it is used to avoid directed verdicts of acquittal in those jurisdictions where corroboration is a prerequisite for conviction. Since corroboration by eyewitnesses or confessions by perpetrators are seldom found, the investigator must utilize these other types of evidence to corroborate a child's testimony.

#### Medical or scientific testimony

One important area of corroboration is that represented by medical or scientific testimony. The observations made by a physician during a medical examination are critical for two reasons. As an expert, the physician can both present observations and give an opinion as to the cause of the injury. Thus in physical abuse cases, burns, lacerations, and similar injuries both corroborate the child's testimony and also serve as substantive evidence if the expert is able to give an opinion to the jury as to the cause of the injury.

In sexual abuse cases, a doctor might observe vaginal and/or rectal lacerations, irritation, or other damage. This would corroborate the child's allegation of sexual abuse and also serve as a basis from which an expert could draw an opinion as to the cause of the injuries. Testimony as to the presence of seminal secretions on the body of the child is an example of excellent scientific testimony.

Corroborative testimony also can come from statements made by patients to their doctors, which are admissible at trial because they constitute exceptions to the hearsay rule. This concept is described in greater detail on page \_\_\_\_ (4) under "Legislative hearsay exceptions."

#### Psychological and psychiatric testimony

In sexual abuse cases, the testimony of psychologists, psychiatrists, and licensed social workers is receiving increased attention at trial.

Psychological experts have recently found that a child's conduct often undergoes identifiable behavioral changes as a result of experiencing sexual abuse, or continued physical abuse.

"Sexually abused child syndrome," "battered child syndrome," "incest trauma," and "rape trauma" are psychological concepts that describe the predictable personality and behavioral alterations that an abused child might experience. The theory is that most children victimized by a particular abuse will have their behavioral pattern altered dramatically in a predictable manner. While not all of these behavioral indicators need exist in every instance, a

majority of such changes can enable an expert to conclude that these behavioral alterations could be caused by sexual abuse or a continued pattern of physical abuse, depending upon the indicators. Theoretically the expert should be permitted to draw an opinion as to whether sexual abuse or long-term physical abuse was inflicted. This of course assumes that such an opinion could be made to a reasonable degree of certainty.

In most States, the expert is not permitted to venture an opinion in the manner indicated above. However, he or she can list and explain the behavioral indicators that demonstrate the existence of sexual abuse. Other witnesses then testify as to the child's behavior before the alleged abuse, and his or her behavior afterward. If the jury accepts the expert's testimony that behavioral indicators exist, and then find that the child after the date of the abuse exhibited these indicators, they can use this evidence to corroborate the victim's testimony and find that the abuse occurred.<sup>19</sup>

Expert testimony also has great significance in the success of prosecution where it is offered as rebuttal testimony to explain a child-victim's apparent lack of credibility.

The jury has the responsibility of deciding on the credibility of witnesses, i.e., which witnesses to believe, and the amount of testimony worthy of belief. Among the factors considered by the jury in determining credibility are the demeanor of the witness in court, including any reluctance or hesitancy to testify, and whether the witness's prior or current statements are consistent with the testimony given in court.

If the child's courtroom testimony is contradictory or a recantation of prior statements, if the testimony is more detailed than prior information given to law enforcement officials, or if the witness seems reluctant to testify, juries may reject the witness as being untruthful. Such a conclusion is based upon the belief that a witness has his or her best recollection of the event at the time closest to the incident, and understands the importance of giving as accurate and detailed a statement as possible to facilitate the arrest of the perpetrator.

For reasons noted previously involving the effects of trauma on a child victim, the above rationalization is not necessarily valid in a child abuse situation. The child-victim is often reluctant to recall or discuss the event in as much detail immediately after the incident as at a later point in time, or might make false statements denying the incident occurred in order to escape discussing the matter. Children tend to speak fully and openly only when they have confidence in the person with whom they are communicating. This often takes several meetings.

A psychological expert could explain to a jury the commonality of such conduct in child abuse cases, that this type of conduct is caused by psychological considerations, and that it is not indicative of fabrication by the witness. Such expert testimony could negate any defense argument that the child is being untruthful.

## Hearsay

Child victims are increasingly making prompt complaints of physical or sexual assault to a parent, relative, friend, police officer, or medical person. It is important that an investigator identify, locate, and interview this person and accurately record what the child had said. Although these statements are "hearsay," they might be introduced as substantive evidence at trial by the person to whom the statement was made, even though the child is absent. To do this, the statements would have to constitute an exception to the "hearsay rule."

Hearsay is testimony introduced in court of a statement made out of court by another person, which is offered to show the truth of the matter asserted, and thereby depends upon the credibility of the absent out-of-court party.

Early objections to the admission of this type of evidence centered upon the declarant's not being under oath when the statement was given, and the failure of the defendant and the jury to be able to confront the declarant at trial.

The primary modern reason for excluding hearsay is the lack of opportunity for the factfinder to cross-examine the absent declarant whose out-of-court statement is reported by the witness, and that one therefore cannot measure the reliability of the out-of-court statement.

From the inception of the hearsay rule, however, the courts created exceptions to the rule when outside circumstances established the reliability of the out-

of-court statement. These exceptions permit the introduction of the out-of-court statement at trial to prove the truth of the facts stated. The admissibility of such a statement depends upon a variety of factors. However, the basis most commonly found in child abuse situations concerns the res gestae exception to the hearsay rule. Res gestae provides that a third party can testify to a child's statement, and the statement can be considered as substantive evidence, even though the child is not present at trial--or if present, has been declared incompetent because of age.

Res gestae is actually a generic term encompassing a number of distinct exceptions to the hearsay rule, which should be of great interest to investigators of child abuse: present bodily condition, present mental state, excited utterances, and statements to physicians.

#### Present bodily condition

These constitute statements that are spontaneous in nature, describe a physical condition or symptom which is presently existing, and are made by the children to third parties. Spontaneous means the child has not had an opportunity to consider the comment, but voluntarily "blurts it out." An example of such a declaration is "My pee-pee hurts," or "Daddy hurt my butt."

#### Present mental state

These statements must likewise be spontaneous and describe presently existing mental conditions. They could describe a child's intent, purpose, or emotional

state of mind, such as fear or ill-will. For example, if a child returned home from a weekend visitation with his father, with whom he had previously shared a good relationship, and stated "I hate Daddy," this comment, plus signs of physical injury, could corroborate allegations of abuse.

These spontaneous comments would occur shortly after the incident happened, while the condition exists, and probably be made to a close friend or relative. As noted previously, an investigator must locate such people and record the comments accurately for trial use. Generally these types of comments represent an outburst by a child, are limited in content, and merely corroborate other evidence.

#### Excited utterances

Usually the statement that the prosecutor seeks to offer at trial is a more detailed account as to what happened and, more importantly, who did it. The aspect of res gestae that governs a detailed statement would be the "excited utterance" exception. There are two elements essential to the existence of this exception:

First, there must be some occurrence or event sufficiently startling to render normal reflective thought processes of an observer inoperative.

Second, the statement of the declarant must have been a spontaneous reaction to the occurrence or event and not the result of reflective thought.<sup>20</sup>

Usually the first element, a startling event, is readily satisfied. Certainly an act of sexual abuse, or serious physical abuse upon a child, would constitute such an event. However, defense counsel will often object to admissibility, arguing the statement lacks the requisite spontaneity.

The court in determining the second element must decide whether the statement was deliberate or spontaneous. Three factors most commonly used to decide this issue are:

1. The elapsed time between the startling incident and the statement.
2. Whether the statement was a detailed narrative or less contrived.
3. Whether the statement was in response to questioning or emanated from the child without questioning.<sup>21</sup>

No definite time limit, or distance from the site of the incident, has been established by the courts in determining whether an utterance is sufficiently spontaneous to allow its admission as part of res gestae. Many cases exist where courts have approved admissions as excited utterances, notwithstanding the declarant's failure to speak immediately after the incident. See Commonwealth v. Cheeks, 223 A.2d 291 (1966), which was a 45-minute delay.

A modern court trend in some States favors relaxing the definition of spontaneity even more when the child declarant is a victim of sexual abuse. In Commonwealth v. Bailey, 510 A.2d 367 (1986), the court allowed at trial the introduction of a sexually abused child's out-of-court statement to his mother, even though it was given more than 48 hours after the incident occurred. In this case a 9-year-old boy was sexually abused while visiting his father on a Friday evening. He returned to his mother at 10:30 p.m. on Sunday, took a bath, and went to bed. At 7 o'clock the next morning the mother found bloodstains on the child's underwear and questioned him about it. The boy became extremely upset, burst into tears, and told her about the incident.

The court permitted the statement despite the time delay because it theorized that the victim made the statement at the first available opportunity to speak of the incident outside the presence or influence of the abuser to a person who was known and trusted by him. The length of elapsed time between occurrence and declaration, although important, is only one aspect of spontaneity.

Another consideration noted above is whether the statement was primarily a response to questioning or was totally unsolicited. While an initial question is common, i.e., "What happened?", the issue of spontaneity is determined by whether continued questioning was so extensive that the question-and-answer exchange became reflective of thought rather than spontaneous.

In most cases, all three factors are interrelated and are considered as a part of the total circumstances. All child abuse investigators must be aware of

this issue so as to preserve the facts in a manner as favorable as possible to establishing spontaneity legally.

#### Statements to physicians

An abused child often has to be taken to a doctor for medical examination. The statement of a young child to a doctor or nurse, describing his or her present physical symptoms or condition, taken during examination, is admissible at trial as an exception to the hearsay rule. Some jurisdictions expand the rule to permit into evidence the child's medical history of past physical conditions or symptoms, if given under the appropriate circumstances.

Such statements are considered inherently reliable because they are made by a patient to his or her doctor for the purpose of diagnosis and treatment. Reliability is assured because a patient knows the quality of treatment is based largely upon the accuracy of the information given to the treating physician. These statements must be discovered, evaluated, and accurately noted by the investigator for trial purposes.

A related issue is that even when the doctor is not available for trial, the doctor's medical report describing conditions and symptoms can be introduced as a medical record. This assumes, of course, that the child's statement would have been otherwise admissible as an exception to the hearsay rule. To introduce medical records into evidence the following conditions must be met:

1. The information must be obtained contemporaneously with the medical examination.
2. The doctor or nurse must be operating within his or her regular course of duties.
3. The information must relate to a description of the patient's present physical symptoms or conditions.
4. Records and reports must be authenticated by a custodian of the records.<sup>22</sup>

#### Legislative hearsay exceptions

While the hearsay exceptions previously discussed have legal validity, not all States uniformly recognize them as exceptions. Furthermore, a child-victim's out-of-court statement often does not fall within the strict requirements of these traditional exceptions. As a result, a growing number of States have drafted legislation creating a blanket hearsay exception for a child's out-of-court statement in sexual abuse situations. These statutes universally apply to civil abuse and neglect proceedings, but not all apply to criminal trials.

The reason courts are reluctant to admit a child's out-of-court statement in a criminal proceeding is because the Sixth Amendment of the U.S. Constitution guarantees a defendant the right to confront a witness who testifies against him or her. The U.S. Supreme Court has held that a defendant's right of

confrontation is satisfied when the person who made the out-of-court statement testifies at trial.<sup>23</sup> In such a situation the witness testifies under oath and can be cross-examined by the defendant on the circumstances of the out-of-court statement, and the jury can observe the demeanor of the witness.

Even if the child is present to testify in court, the admission of such a statement could serve two other purposes. First, if the witness testifies in a manner similar to the content of the out-of-court statement, the introduction of such a statement corroborates the witness's testimony and helps establish his or her credibility. Second, if the child witness testifies differently from his or her prior statement, or retracts the statement, then the out-of-court declaration can be used by the jury as substantive evidence and the jury can convict upon it alone.

The admission of an out-of-court statement becomes most important when the person making the statement is absent from trial and not subject to cross-examination, confrontation, or the oath. The U.S. Supreme Court imposes two conditions on the proponent of a hearsay statement if it is to be admitted into evidence. First, the prosecutor seeking to introduce the statement must show that the child who made the statement is "unavailable" as a witness. According to an American Bar Association proposal, which is similar to a majority of existing State laws, a child is unavailable when he or she is not able to testify in court for one or more of the following reasons:

1. The child's death.
2. The child's absence from the jurisdiction.

3. The child's total failure of memory.
4. The child's persistent refusal to testify despite judicial requests to do so.
5. The child's physical or mental disability.
6. The existence of a privilege involving the child (such as the attorney/client privilege).
7. The child's incompetency, including the child's inability to communicate about the offense.
8. The substantial likelihood that the child would suffer severe emotional trauma from testifying at the proceeding or by means of videotaped deposition or closed-circuit television.<sup>24</sup>

Proving the existence of any one of the above circumstances is enough to render a child "unavailable," and all except No. 8 can be proven by lay testimony. No. 8 demands a degree of prospective psychological trauma to be suffered by the child if he or she is forced to testify. It requires expert testimony from a psychologist or psychiatrist to establish its likelihood of occurring. If such a situation arises, law enforcement personnel must be prepared to have an expert available who could render such an opinion.

Once "unavailability" has been proven, a second condition imposed by the U.S. Supreme Court must be established before the hearsay statement will be introduced at trial. The prosecutor must demonstrate that the out-of-court statement has an "indicia of reliability." This means the statement of the child-victim must possess particular factors that demonstrate its trustworthiness. Any statement introduced as one of the traditional hearsay

exceptions discussed previously has presumed reliability and needs nothing more. Any other statement by a child-victim must have some additional identifiable factor or factors to support the reliability of the statement, other than the mere credibility of the declarant.

The American Bar Association suggests some factors that may be considered as indicia of reliability:

1. The child's personal knowledge of the event.
2. The age and maturity of the child.
3. Certainty that the statement was made, including the credibility of the person testifying about the statement.
4. Any apparent motive the child may have to falsify or distort the event, including bias, corruption, or coercion.
5. The timing of the child's statement.
6. Whether more than one person heard the statement.
7. Whether the child was suffering pain or distress when making the statement.
8. The nature and duration of any alleged abuse.

9. Whether the child's young age makes it unlikely that the child fabricated a statement that represents a graphic, detailed account beyond the child's knowledge and experience.
10. Whether the statement has a "ring of verity," has internal consistency or coherence, and uses terminology appropriate to the child's age.
11. Whether the statement is spontaneous or directly responsive to questions.
12. Whether the statement is suggestive due to improperly leading questions.
13. Whether extrinsic evidence exists to show the defendant's opportunity to commit the act complained of in the child's statement.<sup>25</sup>

This list merely provides guidance for the prosecutor of child abuse cases. The factors are not exhaustive and many are used in combination with one another to establish the necessary degree of "reliability."

In addition to the constitutional requirements imposed by the U.S. Supreme Court, the legislation of nine States also requires that either the alleged act, or the statement itself, be "corroborated" before the out-of-court statement will be admitted at trial. Corroboration is a legislative decision, not a constitutional requirement, and is based upon the fact that some State legislatures will not permit a person to be convicted of crime on the basis of a hearsay statement alone.

Even those States that have drafted legislative hearsay exceptions differ greatly in the application of those exceptions and the requirements for admission into evidence. Both investigators and prosecutors must be familiar with the specific laws governing their jurisdiction and the manner in which these laws can be used in child abuse instances.

### **Mechanical techniques**

A recognition of the growing incidence of child abuse and the trauma inherently experienced by the abused child has led many States to pass legislation aimed at reducing the additional trauma caused by testifying in open court.

Courtroom trauma has two distinct sources. First, the formal, unfamiliar courtroom setting, including judge, jury, press, and public, often overwhelms a young child. Second, the child-victim has a natural reluctance to be in the presence of the perpetrator of the abuse while testifying. Two methods of permitting a child's testimony, taken outside the courtroom, to be introduced to the jury at trial have been adopted to reduce the first cause of courtroom trauma.

### **Videotaping depositions**

Twenty-seven States permit the videotaping of a child's deposition outside the courtroom for later use at trial. This deposition is usually taken in the presence of a judge who rules on all legal issues as if at trial. The only parties usually present include the operator of the recording equipment, the

child, his or her guardian ad litem, and the attorneys for the State and defendant.

The presence or absence of the defendant in the deposition room has received varied treatment. Some States require the defendant to be present if the videotape is to be used at trial; others allow the judge to exclude the defendant from the room if deemed appropriate. Finally, several States do not permit the defendant's presence at all. Under all these statutes, however, the defendant must have constant, private, simultaneous contact with his attorney while the deposition is being taken.

The pretrial videotaped deposition has the advantage of recording a child's testimony closer to the time of the abusive act and in a less formal setting than the courtroom. These statutes certainly reduce the first of the above-stated causes of courtroom trauma; however, the effect upon the second source of trauma is not clear. In those States where the defendant is present in the deposition room, a child-victim may have greater difficulty in testifying than at trial because he or she is in closer proximity to the defendant in the smaller deposition room than in the larger courtroom.

Those statutes excluding a defendant from the room in which the child's testimony is taken reduce both types of courtroom trauma. However, a defendant's constitutional right to confront an accuser might be jeopardized by this procedure. The American Bar Association advises the court to provide two-way monitors that televise the defendant's image to the deposition room

and the child's testimony to the room in which the defendant is located. This procedure is thought to lessen the legal challenge to the confrontation issue.

#### Closed-circuit television

The second method accepted by about 20 States allows a child's testimony to be taken outside the courtroom during trial, while transmitting the live testimony simultaneously by closed-circuit television to the courtroom.

Under the majority of these statutes the attorneys for the State and defendant are present in the room with the child, along with the child's guardian ad litem and the person operating the television camera. The judge, jury, public, and defendant view the child's testimony from the courtroom while it is being given elsewhere. There are two approaches to these types of statutes.

In "one-way" statutes the defendant and court can observe and hear the child's testimony but the child cannot hear or see into the courtroom. These statutes represent about one-half of the statutes that permit testimony to be taken outside the courtroom and reduce both sources of courtroom trauma for the child. The same legal issue involving a defendant's right of confrontation arises in this situation as exists in the televised deposition statutes where the defendant is excluded from the deposition room.

Under "two-way" statutes a television not only transmits the child's testimony to the courtroom, but also projects the defendant's image into the room where the child testifies. This type of statute is strongly favored by the American

Bar Association as being most protective of a defendant's right of confrontation.

A third approach used by some States requires the defendant's presence in the room from which the child testifies while that testimony is televised into the courtroom where the jury is situated. This alternative is effective to reduce only one of the sources of courtroom trauma; any trauma caused by defendant's proximity to the child will not be reduced and, as in the deposition situation, might be greatly increased. Naturally there is no confrontation issue asserted in these situations.

The basic advantage of closed-circuit television is that the child's viewed testimony is live and not prerecorded. Live testimony is more acceptable to a jury because it is more realistic and is also more likely to withstand a constitutional challenge that the defendant was denied a fair trial.<sup>26</sup>

Finally, although closed-circuit television excludes spectators from the room where the child is testifying, it still makes it possible for the public to view the demeanor and testimony of a live witness.

Investigators of child abuse must be aware of the statutes available to reduce courtroom trauma, should their use become necessary. If courtroom trauma is likely to be so great that it will cause the child to recant or "freeze" on the witness stand, the prosecutor should be informed and any available statutes used. However, never use these statutes merely because the victim might be inconvenienced or just upset.

Legal commentators have raised many questions as to whether the use of these statutes abridges a number of defendant's rights. The right to a public trial, right to jury trial, right to compulsory process of witnesses, right to a fair trial, and the right of a defendant to confront witnesses against him all have been cited as potential issues. The investigator should be aware of the newness of these statutes and the fact that many unresolved constitutional issues do exist. Therefore, the validity of these statutes is uncertain. The investigator should not become dependent on using these statutes as a matter of course; he or she should use them only when necessary.

The most troublesome legal issue surrounding mechanical intervention is whether a defendant's right of confrontation is denied when the child-victim and defendant are not face-to-face when the child testifies. This issue has been resolved by most State statutes in a manner similar to the position established by the U.S. Supreme Court in permitting legislative hearsay exceptions.

Thus prior to using closed-circuit television or videotaping a deposition, the prosecutor must demonstrate to a judge that:

1. The child victim is "unavailable" to testify in the traditional courtroom setting.
2. The testimony to be introduced has sufficient indicia of reliability to justify its admission.

The factors establishing indicia of reliability are identical to those that have been discussed previously in conjunction with the legislative hearsay exceptions.

The definition of "unavailable" in the mechanical intervention situation, however, is more liberal than in the area of hearsay since the child witness is always subject to cross-examination in the former instance. The American Bar Association and most statutes define "unavailability" as follows:

1. The child's persistent refusal to testify despite judicial requests to do so.
2. The child's total inability to communicate about the offense because of extreme fear, total failure of memory, or similar reason.
3. The substantial likelihood that the child will suffer severe emotional trauma for so testifying.<sup>27</sup>

The first two definitions can be sustained by the testimony of lay witnesses. However, a finding of "unavailability" based upon No. 3 above refers to a future likelihood and can only be sustained if supported by expert testimony.

Some State statutes merely refer to "unavailability" in general terms and do not mention the above requirements. However, law enforcement personnel must be aware that Federal constitutional law requires their consideration in every case, regardless of the wording of the statute.

You should be aware of your local statute and its requirements so that you can be alert to evaluate the child who might become "unavailable." The earlier this difficulty is discovered, the more likely that an alternative can be developed prior to trial to overcome it. A review of current State legislation can be found in Appendix D at the end of this chapter.<sup>28</sup>

On June 29, 1988, the U.S. Supreme Court, in a 6-2 decision, placed the use of closed-circuit television and videotaped depositions in child abuse trials in jeopardy. In Coy v. Iowa, \_\_ U.S. \_\_, 108 S.Ct. 2798, \_\_L.Ed 2d \_\_ (1988), the High Court held that the defendant's right of confrontation was violated when two young sexual assault victims were permitted to testify at trial against the defendant from behind a screen that obstructed their view of him. This procedure was employed pursuant to an Iowa statute that created a presumption of trauma in victims of sexual abuse under the age of 14. The trial court made no inquiry into whether these specific witnesses would, in fact, be traumatized by seeing the defendant in court.

The U.S. Supreme Court found that the right to confront one's accusers intended a face-to-face meeting. However, the Court noted that this right was not absolute and exceptions exist in certain instances. The Iowa statute establishing a presumption of trauma based on age did not create such an exception. The High Court, however, left open the issue of whether individualized findings of trauma in particular child witnesses might require the special protection of an exception to the general rule.

Even in those States that have no statutes permitting the type of mechanical interventions described above, the prosecutor can do several things to lessen the fear that a child may have of making eye contact with the suspect in court. The prosecutor can order the child to look away from the defendant during the testimony, or can create a physical barrier between the child and the suspect by using his or her own body during direct examination. Finally the prosecutor can also tell the child to inform the judge if the defendant looks at him or her in such a way as to make the child nervous. A judge should also be requested to be sensitive to any attempt by the defendant to intimidate a child witness in any way.

The use of these and other practical techniques can be of great benefit in making a child's court appearance less disturbing.

#### Conclusion

A great deal remains to be done to assist child-victims through the legal process. Many improvements could be undertaken immediately without legislative authorization. Others would necessitate improved laws and new statutes designed to take into consideration the characteristics of children. The legal system must never abuse the rights of an accused. However, until every State makes needed modifications, there will continue to be children who are not protected by our legal system and who continue to suffer in silence.

Note: The following words will be placed in a narrow left-hand column and lined up with the same words highlighted in the text:

Meaning of term "verdict"

"One day, one trial"

Investigators

Prosecuting attorneys

Prosecution team

Juvenile Court Act

No suppression

Trial by judge

Burden of proof

Protective services statutes

Mandated reporting

X-rays, photographs, and reports

Courtroom experience

Venue

Varied laws

Sufficient evidence

Report writing

"Team" prosecution

Prosecutors

Emotional reactions

Lessen courtroom trauma

Reduce victim interviews

Immediate reactions

Competency determination  
Impeachment  
Coaching  
Contradictory statements  
Leading questions  
Confessions and guilty pleas  
Evaluate defendant  
Courtroom setting  
Modify courtroom  
"On call"  
Separate courthouse area  
Witness advocacy programs  
Scheduling  
No continuances  
Daily schedule  
Support person  
Jury selection  
Voir dire questions  
Competency  
Credibility  
Federal Rule 601  
Common law rule  
Three legal requirements  
Capacity to communicate  
Capacity to remember  
Knowledge of truth and falsehood

Suggested interview  
Explanation to child  
Psychological examinations  
Trial preparation  
Manner of testifying  
Corroborating evidence  
Eyewitness accounts  
Medical examination  
Physical abuse  
Sexual abuse  
Hearsay rule  
Child's conduct  
Behavioral indicators  
Descriptive testimony  
Rebuttal testimony  
Cross-examination  
Exceptions  
Res gestae  
Startling event  
Deliberate or spontaneous  
Factors  
Time limit  
Voluntary or questioned  
Present physical symptoms  
Medical records  
Right of confrontation

Witness absent

Unavailability

Indicia of reliability

Corroboration

Presence or absence

"One-way" statutes

"Two-way" statutes

Defendant's presence

Investigator's duties

Legal questions

Right of confrontation

Indicia of reliability

Unavailability

State statutes

Practical considerations

## Chapter 4

### Legal Issues and Considerations

#### Appendixes

- A. Notes
- B. Investigator's checklist
- C. Report preparation for child abuse and neglect cases
- D. Statutory citations for selected issues in child-witness testimony

## Appendix A: Notes

1. Black's Law Dictionary (rev. 5th ed.). P. 1398.
2. Miranda v. Arizona, 384 U.S. 436, 86 S.Ct. 1602, 16 L.Ed. 2d 694 (1966).
3. Krieger, M.J., and Robbins, R. 1985. "The Adolescent Incest Victim and the Judicial System," American Journal of Orthopsychiatry, July, 1985, pp. 419-25.
4. Berliner, L. and Barbieri, K. 1984. "The Testimony of the Child Victim of Sexual Assault," Journal of Social Issues, 40(2):125-37.
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9. Ibid., p. 330.
10. Melton, T., Bulkley, J., and Wulkan, D. 1982. "Competency of Children as Witnesses," Child Sexual Abuse and the Law. Bulkley, J., ed. Washington, D.C.: American Bar Association, p. 127.
11. Ibid.
12. Commonwealth v. Stoner, 284 Pa. Super. 364, 425 A.2d 1145 (1980).
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14. Goldman, E. 1984. "Maximizing Your Testimony in Court," Child Abuse and Neglect: Moving Through the Legal Maze. Ann Arbor, Mich.: The University of Michigan Medical School, pp. 335-41.
15. Duquette, D. 1981. "The Expert Witness in Child Abuse and Neglect: An Interdisciplinary Process," Child Abuse and Neglect. 5:355-63.
16. Schorr, R. 1979. "Courting--How To Do It", Legal Aspects of Medical Practice, September, pp. 363-64.
17. Lloyd, D. 1982. "The Corroboration of Sexual Victimization of Children," Child Sexual Abuse and the Law. Bulkley, J., ed. Washington,

- D.C.: American Bar Association, pp. 111-12.
18. Ibid., p. 103.
  19. Commonwealth v. Baldwin, 502 A.2d 253 (1985).
  20. McCormick's Handbook of the Law of Evidence, 2d ed. §297. 1972. P. 704.
  21. Commonwealth v. Barnes, 456 A.2d 1037 (Pa. Super. 1983).
  22. McCormick's Handbook of the Law of Evidence, (2d ed.). §313. 1972. Pp. 730-3.
  23. Ohio v. Roberts, 448 U.S. 56 (1980).
  24. Eatman, R., and Bulkley, J. 1986. Protecting Child Victim/Witnesses. Washington, D.C.: National Legal Resource Center for Child Advocacy and Protection, p. 5.
  25. Ibid., p. 6.
  26. Whitcomb, D., Shapiro, E., and Stellwagen, L. 1985. When the Victim Is a Child. Washington, D.C.: National Institute of Justice, p. 50.
  27. Eatman, R., and Bulkley, J., p. 17.
  28. Whitcomb, D., et al., p.29.

## Appendix B: Investigator's checklist

1. What crime has been committed?
2. Have all the elements of the crime been met?
3. Is the written report complete and logical in its presentation?
4. What other factors should the prosecutor's office be advised of which do not appear in the body of the report?
5. Will vertical prosecution be used in the case?
6. What has been done to prepare the child and family for the courtroom?
7. Has the child and family been prepared for possible defense tactics?
8. Will the child require a support person during testimony? Who will it be?
9. Will the services of an expert witness be necessary? Who will be used?
10. Has the appropriate information or evidence been processed by a forensic laboratory in preparation for court?
11. Will the child's interview be videotaped?

## **Appendix C: Report preparation for child abuse and neglect cases**

Documenting reported cases of child abuse and neglect is one of the most important aspects of a thorough investigation. The investigator's ability to communicate his or her findings in a logical and sequential manner is critical to any subsequent action that might occur as a result of the investigation. The following headings are designed to provide investigators with an organizational format that should be included in the documentation process. The headings are listed in the order that the information should appear in the body of the report. This is not an exhaustive list and can be expanded according to the circumstances encountered.

### **Recommended original report headings:**

#### **Information**

Briefly describe the situation as it was known to you. Give an overview of the progression of events and facts that are presently available.

#### **Venue**

Provide an exact location of the scene where the incident occurred, including street address or approximate location from cross streets. Indicate city, village or township, and county and State.

#### **Time and date**

Include the time, date, and day of the week that the incident occurred. Also include the time, date, and day of the week the referral was received.

#### **Interview complainant**

Include date, time, and place of the interview, and name of the interviewing investigator. Provide a detailed account of the information provided by the complainant.

#### **Victim**

Indicate name, race, sex, date of birth, current age, height, weight, home address, and phone number of the victim.

#### **Injuries**

List all injuries received by the victim during the incident under investigation. Also list any suspected older injuries that may have been discovered as a result of this investigation.

#### **Interview victim**

Include the date, time, and place of the interview, and the name of the person doing the interviewing. Describe the victim's account of what happened. This section should be very detailed and provide a thorough review of the incident from the victim's perspective.

## **Photographs**

Take photographs whenever appropriate. Provide the name of the person who took the photographs, location, and time that they were taken. Indicate the type of camera (e.g., Polaroid, Instamatic, 35mm) and whether the photographs are in color or black and white. If photographs were not taken, indicate why.

## **Evidence**

List any evidence that is seized at the scene and where it was located. Provide information as to how the evidence was tagged. Include where the evidence is stored.

## **Suspected/Arrested**

Provide suspect's full name, race, sex, date of birth, height, weight, address, and telephone. Include aliases. Indicate whether the suspect was charged and with what crimes.

## **Fingerprints and photographs**

If the suspect is arrested indicate who fingerprinted and photographed him or her and the fact that this process has taken place.

## **Lodged**

Indicate where the suspect was lodged and include the time and the names of the officers involved.

**Advice of rights (police officers only)**

Indicate that the suspect was read his or her Miranda rights and whether or not the suspect agreed to be interviewed. Provide the name of the investigator who actually read the rights and the time, date, and location of this activity.

**Interview suspect**

If the suspect understands his or her Miranda rights and agrees to be interviewed, include the time, date, and location of the interview. Provide the interviewer's name and the name(s) of any other person(s) present during the interview. Provide a detailed account of the information provided by the suspect.

**Medical attention**

Include when medical attention was sought and the name of both the doctor and hospital where medical attention was received.

**Interview physician**

Provide date, time, and location of the interview. List the full name, address, and phone number of the person being interviewed. Indicate the exact nature of the injuries, including the physician's opinion as to how the

injuries occurred. Also indicate if the physician was a witness to any spontaneous utterance by the child or a family member.

#### **Interview emergency room staff**

Provide date, time, location of the interview. List the full name, address, and telephone number of the person being interviewed. Include any information that a member of the emergency room staff might be able to provide. Of particular importance are any spontaneous utterances by the child or a family member.

#### **Witnesses**

Identify any witnesses, with addresses and telephone numbers. Include the witnesses' relationship to the victim (neighbor, family member, etc.).

#### **Interview (name and witness)**

Include date, time, and place of the interview and name of the person doing the interviewing. Provide a detailed account of the information provided by the witness.

#### **Contact prosecutor**

Indicate the time and date that the prosecutor's office was contacted. List the name of the prosecutor or assistant who was contacted. Describe what action was authorized or future activity that may result.

**Contact juvenile court**

If removal of a child is anticipated, indicate the time, date, and representative of the court who was contacted. Indicate the decision of the court relative to removal of the child, e.g., removal authorized, or no action.

**Contact social services/law enforcement agency**

Indicate the time, date, and name of person contacted at the law enforcement agency or county social services office. Describe the outcome of the contact; e.g., action to be taken by D.S.S./law enforcement agency, or joint investigation.

## Appendix D: Statutory citations for selected issues in child witness testimony

### Competency

Ala. Code §12-21-165

Ariz. Rev. Stat. Ann. §12-2202 (controlling)

Ark. Rev. Stat. Ann. §28-1001

Cal. R. Evid. R. 701

Colo. Rev. Stat. §13-90-1061(1)(b) (controlling)

Fla. Stat. §90.601

Ga. Code §38-1607, 1610

Hawaii Rev. Stat. §621-16

Idaho Code §9-202

Ind. Code §34-1-14-5 (applied to criminal matters via §35-37-4-1; §35-1-31-3)

Iowa Code §622.1

Kan. Stat. Ann. §60-417

Ky. Rev. Stat. §421.20

La. Rev. Stat. Ann. §15:469

Md. Cts. & Jud. Proc. Code Ann. §9-101

Mass. Gen. Laws Ann. Ch. 233, §20

Mich. Stat. Ann. §27A.2163

Minn. Stat. §595.02(1)(f)

Miss. Code Ann. §13-1-3

Mo. Rev. Stat. §491.060(2)

Neb. Rev. Stat. §27-601

Nev. Rev. Stat. §50.015

N.J. Rev. Stat. §2A:81-1 and R.Evid. R.17

N.Y. Crim. Proc. Law §60.20 (Consol.)

Ohio Rev. Code Ann. §2317.01

Okla. Stat. Tit. 12. §2601

Ore. Rev. Stat. §40.310

Pa. Stat. Ann Tit. 42. §5911 (Purdon)

S.D. Codified Laws Ann. §19-4-101

Tenn. Code Ann. §24-1-101

Utah Code Ann. §78-24-2, §76-5-410

Wash. Rev. Code 5.60.050

Wisc. Stat. §906.01

Wyo. Stat. §1-138

Some of the above are codified versions of R.Evid. R.601. In addition, R.EVID.R.601 is found separately for the following States: Alabama, Alaska, Arizona, Colorado, Delaware, Iowa, Maine, Michigan, Montana, New Mexico, North Carolina, North Dakota, Ohio, Texas, Vermont, Washington, and Wyoming.

#### **Abused child hearsay exceptions**

Ariz. Rev. Stat. §13-1416 (1984)

Colo. Rev. Stat. §18-3-411 (3)

Ill. Rev. Stat. Ch. 38, para. 115-10 (1983)

Ind. Code §35-37-4-6 (1984)

Kan. Stat. Ann. §60-460(dd) (1982)

Minn. Stat. §595.02(3) (1984)

S.D. Codified Laws Ann. §19-16-38 (1984)

Utah Code Ann. §76-5-411 (1983)

Wash. Rev. Code §9A.44.120 (1982)

Related provisions: Some States permit the use of certain out-of-court statements in a criminal prosecution if the witness is available to testify. See, for example, Del. Code Ann. Tit. 11, §3507 (1953) (statement can be consistent or inconsistent).

#### Exclusion of spectators from courtroom

Ala. Code §12-21-202 (1940)

Alaska Stat. §12.45-048 (1982)

Ariz. R. Cr. P.R. 9.3(c) (1973)

Cal. Penal Code §868.7(a) (1983)

Fla. Stat. §918.16 (1977)

Ga. Code S 17-8-53 (1933)

Ill. Rev. Stat. Ch. 38, para. 115-11 (1983)

La. Rev. Stat. Ann. §15.649.1 (1981)

Mass. Comp. Laws §750.520

Minn. Stat. §631.045 (1982)

Miss. Const. Art. III. §26

Mont. Code Ann. §3-1-313 (1977)

N.H. Rev. Stat. Ann. §632-A: 8 (1979)

N.Y. Jud. Law §4 (1968)

N.C. Gen. Stat. §15-166 (1981)

N.D. Gen. Code §27-01-02 (1974)

S.D. Codified Laws Ann. §23A-24-6 (1983)

Vt. Stat. Ann. Tit. 12, §1901 (1947)

Wisc. Stat. §970.03(4) (1979)

Related provision: Utah Code Ann. §78-74 (1953). Utah's law authorizing the closure of the courtroom in an action of "...seduction...rape, or assault with intent to commit rape," has been construed to apply only in civil actions to avoid conflict with the Constitution.

**Videotaped testimony admissible**

Alaska Stat. §12.45.047 (1982)

Ariz. Rev. Stat. Ann. §12-2311 (1978)

Ark. Stat. Ann. §§43-2035 to 43-2037 (1981, 1983)

Cal. Penal Code 1346 (1983)

Colo. Rev. Stat. §18-3-413

Fla. Stat. §918.17 (1984)

Ky. Rev. Stat. §421.350 (1984)

Me. Rev. Stat. Ann. Tit. 15, §1205 (1983)

Mont. Code Ann. §§46-15-401 to 46-15-403 (1977)

N.M. R. Cr. P.R. 29.1 (1980) (based on N.M. Stat. Ann. §30-9-17 (1978))

S.D. Codified Laws Ann. §23A-12-9 (1983)

Tex. Code Crim. Proc. Ann. Art. 38.071 (1983)

Wisc. Stat. §967.04(7) (1983)

Related provision: Iowa Code §232.96 applies to petition alleging a child in

"need of assistance" in juvenile proceedings, not criminal prosecutions. State law sometimes permits a deposition in sexual assault cases to be used in lieu of live testimony if the accused consents. See, for example, Va. Code §18.2-67 (law does not specify videotape).

**Closed-circuit testimony available**

Ky. Rev. Stat. §421.350(3) (1984)

La. Rev. Stat. Ann. §15.260 (1984)

Tex. Code Crim. Proc. Ann. Art. 38.071(3) (1983)

**Abused child videotape film hearsay exception**

Ky. Rev. Stat. §421.350(1) and (2) (1984)

La. Rev. Stat. Ann. §§15.440.1 to 15.440.6 (1984)

Tex. Code Crim. Proc. Ann. art 38.07(1) and (2) (1983)