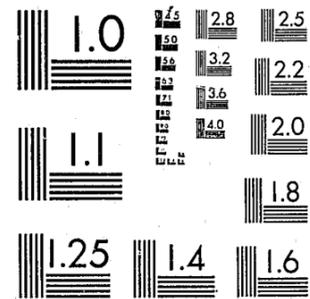


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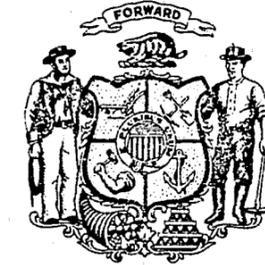
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SEXUAL ABUSE OF CHILDREN:
A BACKGROUND REPORT

78347

STAFF BRIEF 80-19

U.S. Department of Justice 78347
National Institute of Justice

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Wisconsin Legislative Council Staff

September 24, 1980
(Corrections 10/7/80)

State Capitol
Madison, Wisconsin

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ACQUISITIONS

Wisconsin Legislative Council Staff
Special Committee on Sexual Assault
and Abuse

Madison, Wisconsin
September 24, 1980
(Corrections 10/7/80)

STAFF BRIEF 80-19*

SEXUAL ABUSE OF CHILDREN:
A BACKGROUND REPORT

INTRODUCTION

On May 30, 1980, the Legislative Council established the Special Committee on Sexual Assault and Abuse. The Committee is directed, pursuant to 1979 Assembly Joint Resolutions 117 and 119, "to examine (a) the causes of sexual assault and methods for reducing incidences of sexual assault and (b) the problems of incest with, and the sexual exploitation of, children." The Committee is directed to report to the Legislative Council by April 1, 1981.

The purpose of this Staff Brief is to provide, for Committee discussion, information on the extent of child sexual abuse, incest and exploitation and various issues relating to these topics. This Staff Brief is not intended to be a comprehensive analysis of each aspect of these problems, nor is it anticipated that the list of possible approaches to these problems is exhaustive.

This Staff Brief discusses the definition, development of data, Wisconsin laws, Wisconsin organizations and programs and suggested responses to the problems of sexual abuse, incest and sexual exploitation of children. It contains the following parts:

PART I, Dimensions of the Problem;

PART II, Wisconsin Laws;

PART III, Wisconsin Organizations and Programs; and

PART IV, Possible Approaches to the Problems.

*This Staff Brief was prepared by Gordon A. Anderson, Senior Staff Attorney, Legislative Council Staff.

PART I

DIMENSIONS OF THE PROBLEM

This Part (a) discusses the definitions of sexual abuse, incest and sexual exploitation, (b) discusses the difficulties in developing data relating to these acts and summarizes some of the data relating to these acts as collected by various organizations and (c) provides information on family and social background of children who are sexually abused.

A. DEFINITIONS

Assembly Joint Resolutions 117 and 119 direct a study of sexual abuse of children, the problems of incest with and sexual exploitation of children. Thus, three terms need to be defined: (1) sexual abuse, (2) incest and (3) sexual exploitation.

The term "sexual abuse" has no statutory meaning in Wisconsin. The laws of other states define sexual abuse to include any or all of the following acts: "intercourse," "fondling," "molestation," "exhibitionism," "deviant acts," "incest," "sexual assault," "rape" and other similar acts. The Federal Child Abuse Prevention and Treatment Act of 1974 defines sexual abuse to include "...the obscene or pornographic photographing, filming or depiction of children for commercial purposes or the rape, molestation, incest, prostitution or other such forms of sexual exploitation of children under circumstances which indicate that the child's health or welfare is harmed or threatened thereby."

Furthermore, definitions of child sexual abuse differ not only in describing the acts committed on the child but by including factors such as the age of the child and the relationship to the alleged offender. Furthermore, some laws relate only to such acts committed by parents or persons legally responsible for the child's welfare. Some laws include anyone who is acting in the position of a caretaker and others include persons who may be "parent figures" to the child.

The National Center on Child Abuse and Neglect of the U.S. Department of Health and Human Services has provided a tentative definition of child sexual abuse:

...contacts or interactions between a child and adult when a 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 another child.

"Incest," as is noted in Part II, has a specific statutory meaning in Wisconsin limited to nonmarital sexual intercourse with a person who is a blood relative and who is related to the person within certain degrees of kinship. Thus, if the act between relatives is not sexual intercourse, the only criminal sanctions available would be those under the sexual assault law, s. 940.025.

"Sexual exploitation" is, as described in Part II, limited to production of sexually-related materials involving minors.

For purposes of this Paper, "incest" and "sexual exploitation" will include only those acts prohibited under Wisconsin statutes ss. 940.203 and 944.06, Wis. Stats. "Sexual abuse" will have the meaning suggested by the National Center on Child Abuse and Neglect, except as is otherwise noted. "Sexual assault" means sexual contact or sexual intercourse as defined in s. 940.225, Wis. Stats., Wisconsin's sexual assault law.

B. DEVELOPMENT OF DATA

One of the major difficulties in attempting to provide information on these problems is that, until recently, little data was collected to reveal the extent of the problems. Even now, with some efforts being made to collect data on child sexual assault and incest, it is difficult to present, with any degree of confidence, statements about the extent of these problems in Wisconsin or in the United States.

This portion of the Paper summarizes some of the estimates by various writers on the extent of these problems and statistical data provided by national organizations and the Wisconsin Department of Health and Social Services.

1. National Estimates of Sexual Abuse of Children

A wide variance in estimates of the extent of the problem has been presented by various researchers. Child Sexual Abuse: Incest, Assault and Sexual Exploitation (hereafter referred to as "Child Sexual Abuse"), a special report from the National Center on Child Abuse and Neglect, dated August 1978, states, at page 3:

Some researchers believe that sexual abuse is more widespread than the physical abuse of children, which is currently estimated to affect over 200,000 children a year in the U.S. Until recently, incest was thought to be an extremely rare occurrence. A study by Weinberg, published in 1955, estimated the average yearly rate to be 1.9 cases per million people. More recent estimates have been considerably higher: In 1969, Vincent DeFrancis, M.D., and the American Humane Association estimated a yearly incidence of about 40 per million. The number of cases seen at the

Santa Clara County (California) Child Sexual Abuse Treatment Program suggests the true incidence could be as high as 800 to 1,000 per million. The National Center on Child Abuse and Neglect estimates that the current annual incidence of sexual abuse of children is between 60,000 and 100,000 cases per year. [Emphasis added.]

This quotation shows the difficulties in developing data since the estimates refer to both "incest" and "sexual abuse."

Child Sexual Abuse also notes that most estimates do not include estimates of the numbers of children who are the victims of pornographic exploitation and child prostitution.

Child Sexual Abuse also states, at pages 3 to 4:

There are a number of reasons to suppose that reported cases of sexual abuse represent only the "tip of the iceberg." One of these is the reluctance of many parents and family members to report such incidents to the authorities. Fear of social censure, shame, unwillingness to subject the child to embarrassing questioning, and the fact that in most cases no physical harm has been done all contribute to this reluctance. Moreover, children often do not report incidents of sexual abuse to their parents. They may be afraid that their parents will blame them; they may be afraid of reprisal by the perpetrator (who may be one of their parents); or they may feel guilty over any enjoyment they may have had from the sexual contact. In a retrospective study of 1,800 college students, almost a third of the respondents of both sexes reported that they had been subjected to some form of sexual abuse as children. Only half of the females who had such an experience reported it to their parents; only one tenth of the males did so. It is clear that the actual number of incidence of sexual abuse of children is considerably greater than the number of incidents which come to the attention of the authorities. [Emphasis added.]

Katz and Mazur, in Understanding the Rape Victim (John Wiley and Sons, 1979), state, at page 46:

Taking into account all types of adult-child sexual contacts, ranging from verbal approach in exhibition (non-bodily contact) to molestation, fondling, and coitus, Kinsey et al.'s classic study (1953, pp. 116-122) found that almost one-fourth (24%) of adult females in the general population had been childhood (prepuberty) victims of "sexual contact" by an adult male (defined as age 15 or over)...Gagnon's later revision (1956) of the Kinsey study showed an even higher proportion (28%) of child sexual

victimizations among women in the general population, whereas Landis' study of college students (1956) found that 35% of the women had been child victims of sexual assault by an adult male. These three surveys suggest that one out of every three or four female children in the general population has been or may be a victim of sexual assault by an adult. Perhaps, with the increase in all crime rates during the 1960's and 1970's, the risk of child sexual assault today may be even greater than the three 1950 studies reveal. [Emphasis added.]

It should also be noted that most (62%) of the offenses described above were "exhibitionism" and "verbal approaches."

Vincent DeFrancis, Protecting the Child Victim of Sex Crimes Committed by Adults (the American Humane Association Children's Division, 1969) reported, at pages 36 and 37, that a study of the incidence of child sex victimization in Brooklyn, New York reported an annual rate in 1960 of 149.2 sex crimes per 100,000 children in Brooklyn. This was merely the reported rate. He estimated that the unreported incidences could be double the reported number.

The National Analysis of Official Child Neglect and Abuse Reporting, Annual Report, 1978, by the American Humane Association, in conjunction with the Denver Research Institute and the National Center on Child Abuse and Neglect, presents a descriptive analysis on child abuse and neglect reports submitted by 50 states, two territories and the District of Columbia for 1978.

During 1978, 614,291 incidents of alleged child abuse and neglect were reported to the project. Of those reports, 191,739 (31%) contained individual case data, of which 76,809 (40%) were "substantiated" cases of abuse or neglect and 114,935 were "unsubstantiated." A sample of 39,515 "substantiated" abuse cases included 6,078 (15.4%) that were "sexual abuse" ("rape," "molestation," "deviant acts," "incest" and "unspecified" sexual acts). If individual case data had been provided for all 614,291 cases, the projected number of "substantiated" sexual abuse cases would be approximately 19,500 (614,291 divided by 191,739 times 6,078).

2. Wisconsin Data and Estimates on Child Sexual Assault

As will be discussed in Part II of this Paper, Wisconsin law requires certain health care professionals, educators and others to report alleged child sexual assault to law enforcement or social service agencies. The data provided is summarized by the Wisconsin Department of Health and Social Services in an annual report on child abuse and neglect.

Although it was not until May 1978 that state law mandated the reporting of child sexual assault, i.e., violation of Wisconsin's sexual assault law, s. 940.225, Wis. Stats., numbers of alleged incidents of

sexual abuse were voluntarily reported. In the period from 1967 through 1979, a total of 1,703 incidents of sexual abuse or sexual assault of a child were determined by social service agencies to have occurred in Wisconsin.

In 1979, a total of 694 alleged incidents of sexual assault of a child were reported. After investigation by social service agencies in these cases, a total of 318 were determined to be "indicated." A finding of "indicated" for child abuse reports, "shall be supported by a preponderance of the evidence available to the agency...whenever there is less than the required standard of evidence indicating child abuse...the report shall be classified as unfounded" [s. 48.981 (3) (c) 3, Wis. Stats.]. Of all reports of child sexual assault, 45.8% were determined to have been "indicated."

It should be noted that a finding by the social worker investigating the case that a report is "unfounded" does not mean that no sexual abuse actually occurred. It means that after the social worker completed his or her investigation, he or she determined that there was an insufficiency of evidence to establish by a "preponderance of the evidence" that sexual abuse actually occurred. This may be because of a reluctance on the part of the family and other persons, who might potentially be witnesses, to cooperate in the investigation.

Since Wisconsin's child abuse reporting law mandates only that the crime of sexual assault against a child be reported--i.e., "sexual contact" or sexual intercourse (which includes other sexual acts) and not exhibitionism and verbal approaches and other similar acts--it is difficult to obtain an accurate estimate of the extent of "sexual abuse" in Wisconsin. Furthermore, not all persons required to report such assaults may be aware of this responsibility and many assaults may never be brought to the attention of these persons.

3. Data on 1979 Wisconsin Reports

The Wisconsin Department of Health and Social Services, at the request of the Legislative Council Staff, processed reports of child sexual assault submitted in 1979 to the Central Registry maintained by the Department. The analysis was of 694 cases of sexual assault reported to the Department of Health and Social Services, of which 318 (45.8%) were "indicated" and 376 (54.2%) were "unfounded."

Following is a summary of some of the highlights* of this analysis:

- In 314 (46.5%) of the cases, the child was the only child in the home; in 140 cases (20.7%), there were two children in the home. Thus, there were two or fewer children in the home in 67.3% of all cases.

- Males were the alleged victims in 114 cases (16.4%) and females in 580 cases (83.6%).

*Due to rounding of numbers, dropping of insignificant data and multiple referrals, percentages do not equal 100.0% in most cases.

• In 584 (84.1%) of the cases the child's race was white; in 71 (10.2%), black; 10 (1.4%) were Spanish and 14 (2.0%), Native American.

• In 616 cases (88.8%) there was no history of prior abuse of the child reported. The categories of "legally established" or "founded" prior abuse amounted to 23 (3.3%) of all cases.

• Prior neglect of the child was reported in only 11 (1.6%) of the cases.

• In 486 (71.1%) of the cases, the reports were sent to a social services department; 198 (28.9%) were reported directly to law enforcement agencies.

• In 61 cases (8.8%) some or all of the children were removed from the home.

• In 167 cases (24.1%) of the cases, outpatient care was provided to the child and in 16 cases (2.3%) the child was hospitalized. In 508 cases (73.2%) the child received no treatment.

• Few cases included reports of other injuries reported. Bone fractures, dislocations, sprains, internal injuries, malnutrition, burns, scalding, cuts, bruises, welts and other injuries totaled 23 instances (some of which may be instances in which a particular child received several of the above-mentioned types of injuries).

• The most frequently provided services to the family included casework services (451 cases or 65.3%), criminal court referral (126 cases or 18.2%), health services, including mental services (95 cases or 13.7%), referral to juvenile court (90 cases or 13.0%), referral to other service agencies (86 cases or 12.4%), foster care (71 cases or 10.3%) and referral to a mental health [s. 51.42] board (68 cases or 9.8%).

Table I, shown on page 9, titled Age and Sex of Children Reported as Sexually Abused, presents data on the age and sex of children who were found to have been sexually assaulted. The Table shows that for the 50 males who were alleged to have been sexually assaulted, 14 were seven to nine years of age and 16 were 10 to 13 years of age. Thus, 60% of the males were age seven to 13. The largest number of cases where females were sexually assaulted is the age 14 to 17 category (107 cases or 39.9%) and 10 to 13 (81 cases or 30.2%).

Table II, shown on page 9, titled Relationship of Alleged Sexual Abuser to the Child, describes the relationship of the alleged perpetrator to the child for all reported cases of sexual assault.

TABLE I
AGE AND SEX OF CHILDREN REPORTED AS SEXUALLY ABUSED

Sex	Age (in years)						TOTAL
	Less Than 1	1 to 3	4 to 6	7 to 9	10 to 13	14 to 17	
Male	1 (.8%)	10 (8.8%)	21 (18.4%)	27 (23.7%)	33 (28.9%)	22 (19.3%)	114 (16.4%)
Female	1 (.2%)	41 (7.1%)	77 (13.3%)	76 (13.1%)	163 (28.1%)	217 (37.4%)	580 (83.6%)
TOTAL	2 (.3%)	51 (7.3%)	98 (14.1%)	103 (14.8%)	196 (28.2%)	239 (34.4%)	694 (100.0%)

SOURCE: Compiled by the Wisconsin Department of Health and Social Services (1980).

TABLE II
RELATIONSHIP OF ALLEGED SEXUAL ABUSER TO THE CHILD

Relationship	Number of Responses	Percentage of Cases
Sibling	53	8.5%
Natural parent	237	37.8
Adoptive parent	14	2.2
Stepparent	84	13.4
Foster parent	8	1.3
Grandparent	5	0.8
Other relative	23	3.7
Friend	97	15.5
Babysitter--child care	24	3.8
Teacher	2	.3
Other	88	14.0
Unreported/unknown	40	6.4
TOTAL	675	107.7%*

SOURCE: Compiled by the Wisconsin Department of Health and Social Services (1980).

*The total percentage exceeds 100%, since there are 627 cases represented in the Table but there were 675 responses, indicating that there was abuse by more than one person in some of the cases.

The above Table shows that the greatest number and percentages of cases involved natural parents (237 or 37.7% of all cases). "Friends" (97 cases or 15.6%), "stepparents" (84 or 13.4%) and "other" (88 or 14.0%) were the next most frequent categories of perpetrators. "Other" includes persons who are friends of the mother or father.

Table III, Age and Relationship of Male Perpetrators to the Child, shows the age groups of perpetrators for male perpetrators for all reported cases. Table IV, shown on page 11, titled Age and Relationship of Female Perpetrators to the Child, presents this data for female perpetrators. [The information is based on 540 cases; the information is unavailable for 154 of the 694 cases.]

The largest number of male perpetrators were in the 35 to 39 age category; the second largest group of males were age 45 and older. Those in the age category of 20 or younger were the third largest group and were primarily siblings or "friends." Female perpetrators were most frequently in the 35 to 39 age category with the second most frequent age category 30 to 34. Male perpetrators tended to be older than female perpetrators; more than 1/2 of the males whose ages were known were age 35 or older and nearly 1/3rd were age 40 or older. Only four of 65 female perpetrators were age 40 or older.

TABLE III
AGE AND RELATIONSHIP OF MALE PERPETRATORS TO THE CHILD

Relationship	Age (in years)							Unreported or Unknown	TOTAL
	Less Than 20	20 to 24	25 to 29	30 to 34	35 to 39	40 to 44	45 and Older		
Sibling	34	5	3	0	0	0	0	2	44
Natural parent	0	2	4	24	60	41	35	23	189
Adoptive parent	0	0	0	6	5	0	3	0	14
Stepparent	0	1	11	17	17	9	15	12	82
Foster parent	0	0	1	1	0	2	2	0	6
Other relative	5	2	1	1	2	2	1	2	16
Friend	15	6	9	7	11	5	14	8	75
Babysitter--child care	3	0	0	1	0	0	0	2	6
Teacher	0	0	0	0	1	0	0	1	2
Grandparent	0	0	0	0	0	0	4	1	5
Other	12	4	8	6	4	7	12	11	64
Unreported or unknown	0	1	0	0	0	0	0	9	10
TOTAL	69	21	37	63	100	66	86	71	513

SOURCE: Compiled by Legislative Council Staff from data provided by the Wisconsin Department of Health and Social Services (1980).

TABLE IV
AGE AND RELATIONSHIP OF FEMALE PERPETRATORS TO THE CHILD

Relationship	Age (in years)							Unreported or Unknown	TOTAL
	Less Than 20	20 to 24	25 to 29	30 to 34	35 to 39	40 to 44	45 and Older		
Sibling	3	0	0	0	0	0	0	0	3
Natural parent	0	10	6	13	18	1	0	0	48
Stepparent	0	0	0	0	1	0	0	1	2
Foster parent	0	0	1	1	0	0	0	0	2
Other relative	0	1	0	0	0	0	0	0	1
Friend	1	1	0	0	0	0	0	1	3
Babysitter--child care	2	0	0	0	0	0	0	0	2
Other	2	0	0	0	1	0	1	0	4
TOTAL	8	12	7	14	20	1	1	2	65

SOURCE: Compiled by Legislative Council Staff from data provided by the Wisconsin Department of Health and Social Services (1980).

C. FAMILY AND SOCIAL BACKGROUND

Numerous studies have reviewed the family and social background of children who are victims of sexual assaults and incest. Child Sexual Abuse states, at page 7:

In what type of family does incest occur, and under what conditions? One researcher identified five family conditions which could lead to father-daughter incest: 1) the emergence of the daughter as the central female figure of the household, in some respects taking over the role of the mother; 2) the relative sexual incompatibility of the parents; 3) the unwillingness of the father to seek a partner outside the nuclear family; 4) pervasive fears of abandonment and family disintegration; such that the family is desperately seeking an alternative to disintegration; and 5) unconscious sanction by the mother, who condones or fosters the assumption by the daughter of a sexual role with the father. Another researcher differentiates three types of incestuous fathers: fathers for whom the incest is part of a pattern of "indiscriminate promiscuity"; fathers with an intense craving for young children (pedophilia); and fathers who choose a daughter as a sexual partner because they do not cultivate sexual contacts outside their own families.

The report also notes that social isolation is often a characteristic of incestuous families and the existence of the incestuous relationship may tend to isolate such families even further. Furthermore, it notes that a number of researchers have noted the association of alcohol intoxication with many incestuous incidents.

An analysis by the American Humane Association on factors present in each family on 1976 sexual abuse cases identified the following as the major factors: "broken family" (40.7% of the families); "family discord" (47.9%); "alcohol dependence" (23%); "mental health problem" (28.4%); and "insufficient income" (27.9%). It was noted that in 19.4% of the families, there was a history of physical abuse of the spouse and in 13.5% of the families, the abuser had a history of abuse as a child.

Understanding the Rape Victim states, at page 69, that:

Numerous studies of children who were victims of rape and other sexual assaults have indicated that a high degree of familial and social pathology, dysfunctional families, broken homes, inadequate parents, child neglect, illegitimacy, psychosocial disturbances and poor intra-family relationships exist among them. These findings led many investigators to conclude that these factors were the major causes of child sexual victimization.... Without controlled data, it is impossible to co-relate any one or group of factors contributing to childhood sexual assault....

It is also noted that people from the backgrounds described above are vulnerable not only to sexual assault, but to all violent crime and that the President's Commission on Law Enforcement and Administration of Justice (1967) found that violent crime, its offenders and victims are found most often in urban areas characterized by "low income, physical deterioration, dependency, racial and ethnic concentrations, broken homes, working mothers, low levels of education and vocational skills, high unemployment, high proportions of single males, overcrowded and substandard housing, low rates of home ownership or single-family dwellings, mixed land use and high population density."

PART II

WISCONSIN LAWS

This Part contains a brief description of Wisconsin laws relating to sexual abuse, incest, sexual exploitation of minors and related laws.

A. INCEST

Section 944.06, Wis. Stats., provides that:

Whoever marries or has nonmarital sexual intercourse with a person he or she knows is a blood relative and such relative is in fact related in a degree within which the marriage of the parties is prohibited by the law of this state is guilty of a Class C felony.

A Class C felony, under s. 939.50 (3) (c), Wis. Stats., is punishable by a fine not to exceed \$10,000 or imprisonment not to exceed 10 years, or both.

Section 245.03 (1), Wis. Stats., prohibits marriage between persons who are "nearer of kin" than "second cousins," (marriage may be contracted between first cousins where the female has attained the age of 55 or years of where either party at the time of application for marriage license submits an affidavit signed by a physician stating that either party is permanently sterile).

Although the statute does not specify who would be "nearer of kin" than second cousins, presumably the rules contained in s. 852.03 (2), Wis. Stats., for computing degrees of kinship for purposes of probate would be used in determining whether persons were nearer of kin than second cousins. Thus, it would appear that it would be illegal under s. 944.06, for a person to have sexual intercourse with his or her child, grandchild, great-grandchild or the next two generations of grandchildren, his or her parents, brothers and sisters, nephews and nieces, grand nephews and nieces or great-grandnephews and nieces and his or her grandparents, uncles and aunts, first cousins and first cousins once removed.

B. ENTICING A CHILD FOR IMMORAL PURPOSES

Section 944.12, Wis. Stats., provides that:

Any person 18 years of age or over, who, with intent to commit a crime against sexual morality, persuades or entices any child under 18 years of age into any vehicle, building, room or secluded place is guilty of a Class C felony.

[As noted previously, a Class C felony is punishable by a fine not to exceed \$10,000, or imprisonment not to exceed 10 years, or both.]

C. SEXUAL EXPLOITATION OF CHILDREN

Section 940.203, Wis. Stats., penalizes sexual exploitation of children. Under the statute, the following activities are prohibited and punishable as a Class C felony:

1. Knowingly employing, using, persuading, inducing, enticing or forcing a child to engage in sexually explicit conduct for the purpose of photographing, filming or displaying such conduct.

2. Photographing, filming or displaying a child engaged in sexually explicit conduct.

3. In the case of a parent, legal guardian or other person exercising temporary or permanent control of the child, knowingly permitting the child to engage in sexually explicit conduct which is filmed, photographed or displayed in any way.

The statute defines child as any person under the age of 18 years. "Sexually explicit conduct" is defined as actual or simulated sexual intercourse; bestiality; masturbation; sexual sadism or sexual masochistic abuse or lewd exhibition of the genitals or pubic area.

The above statute includes photography, film videotape and recording the sounds of, as well as displaying, any of the above conduct.

Furthermore, the statute also prohibits the sale or other commercial distribution of products or "fruits" (photographics, tape recordings and other reproductions) of such prohibited conduct.

The above law, enacted as Ch. 356, Laws of 1977, was based in part on federal legislation, P.L. 95-225, dealing with sexual exploitation of children. This federal law has served as the basis of legislation enacted in a majority of the states in the United States.

D. LEWD, OBSCENE OR INDECENT MATERIALS, PICTURES AND PERFORMANCES

Section 944.21, Wis. Stats., prohibits the importation, printing, advertisement, sale, possession for sale, publishing, exhibition or transferring commercially any lewd, obscene or indecent written matter, pictures, sound recording or film and advertising, producing or performing in any lewd, obscene or indecent performance. In addition, it prohibits having in possession, with intent to transfer or exhibit to a person under the age of 18 years, any of the matter described above.

Violation of this statute is a Class D felony. A Class D felony is punishable, as provided in s. 939.50 (3) (d), Wis. Stats., by a fine not to exceed \$10,000 or imprisonment not to exceed five years, or both.

E. EXPOSING MINORS TO HARMFUL MATERIALS

Section 944.25, Wis. Stats., creates a procedure to commence a civil proceeding in circuit court to determine whether any person is engaged in selling or exhibiting harmful materials to minors or may become engaged in selling or exhibiting harmful materials to minors. The procedures specified in the statute include the commencement of a civil proceeding and filing of a complaint. The complaint includes a request that whether the material is harmful to minors be adjudicated and, if so, that a permanent injunction be issued against the respondent prohibiting him or her from selling commercially, distributing or exhibiting or giving away such material to minors or permitting minors to inspect such material.

Under the statute, the court examines the material and if there is probable cause to believe the material is harmful to minors, a trial will be set to determine whether the material is harmful. After the trial, if the court or jury finds the material is harmful, the court must enter such a judgment. It may, in subsequent orders of enforcement, enter a permanent injunction against any respondent to prohibit him or her from selling, commercially distributing or giving away such materials to minors or from permitting minors to inspect such materials.

If a person or an officer, agency, servant, employe or attorney of that person or any person in cooperation with the person named in the original complaint disobeys any of the provisions, the person is guilty of contempt of court and, upon conviction, is guilty of a Class A misdemeanor. A Class A misdemeanor is penalized as provided in s. 939.51 (3) (a), Wis. Stats., by a fine not to exceed \$10,000 or imprisonment not to exceed nine months, or both.

The statute also contains criminal provisions relating to regular sales of harmful materials to minors. If the person had a written notice from the Attorney General or district attorney that the material which is the subject of the proceeding had been adjudged harmful to minors or the person had been subject to a court order prohibiting him or her from selling, commercially distributing or exhibiting or giving away or permitting minors to inspect such material, the person can be convicted and, if so, is guilty of a Class A misdemeanor.

Certain defenses are created by the statute which relate to situations in which the defendant had reasonable cause to believe that a minor was 18 years of age or more, the minor was accompanied by a parent or guardian or accompanied by an adult and the defendant had no reason to suspect that the adult accompanying the minor was not the minor's parent or guardian, or the defendant is a bona fide school, museum or public library or is acting in the capacity as an employe of such organization or

as a retail outlet affiliated with serving the educational purposes of such an organization.

Material that is "harmful to minors" includes any description or representation, in any form, of nudity, sexual conduct, sexual excitement or sadomasochistic abuse (terms which are defined in the statutes) when it:

1. "Predominantly appeals to the prurient, shameful or morbid interest of minors";
2. Is "patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors"; and
3. Is "utterly without redeeming social importance for minors."

Included in "harmful material" are pictures, photographs, drawings, sculptures, motion picture films or similar visual representations or images of a person or any book, pamphlet, magazine, printed material, however reproduced, or sound recording which contains any of the above matter.

F. REPORTING OF SEXUAL ABUSE

Since 1967, Wisconsin has had a law requiring reports by certain categories of health care, social service and educational personnel of suspected abuse of children. In 1978, Ch. 355, Laws of 1977, became effective. This law made major changes in the child abuse reporting law and expanded it to include reporting of neglect and sexual intercourse and sexual contact. The new law defined "abuse" to include "any physical injury inflicted on a child by other than accidental means or sexual intercourse or sexual contact under s. 940.225...." [Emphasis added.] [Section 940.225 is Wisconsin's sexual assault law.]

Thus, if any of the persons required to make a report believes that a child has had sexual intercourse or sexual contact, he or she must make a report to certain agencies.

Persons required to report include physicians or surgeons, nurses, dentists, social workers, school administrators, coroners, medical examiners, chiropractors, optometrists or any other medical or mental health professionals, public assistance workers, school teachers, school counselors, child care workers in any day care centers or child caring institutions and police and other law enforcement officers. Any other person may make a report, but is not required to do so.

All reports, whether by persons who are reporting mandatorily or voluntarily, must be made by telephone or personal contact with a county child welfare agency or sheriff or police department. The report must

provide the facts or circumstances contributing to the suspicion of the child abuse. Furthermore, sheriffs and police departments are required within 24 hours, exclusive of Saturdays, Sundays or legal holidays, to refer to the county child welfare agency all cases reported to them.

Any person reporting suspected abuse may request an immediate investigation by the sheriff or police department if the person has reason to believe that the child's health or safety is in immediate danger. Upon receiving such a request, the sheriff or police chief must immediately investigate to determine if there is reason to believe that the child's health or safety is in immediate danger and must take the necessary action to protect the child.

The county child welfare agency is required, within 24 hours of receiving an initial report, to commence an investigation to determine whether abuse has occurred. The investigation, if possible, includes a visit to the child's home or usual place of abode, observation of the child and an interview with the child or the child's parents or custodian.

If a child has been delivered to the county child welfare agency by law enforcement authorities, the agency may hold temporary physical custody of the child for 24 hours or a longer period as necessary, not to exceed 72 hours if the custody period extends over a weekend or holiday. The agency must immediately notify the parent, guardian or legal custodian and the juvenile court that it is holding the child in physical custody. Within the time period specified, the agency must either apply to the court for emergency legal custody or return the child to the parent or guardian.

Within 72 hours after receipt of an initial report from a sheriff, police department or other person, the county child welfare agency must complete and forward to the Department of Health and Social Services (DHSS) a preliminary investigative report which contains name, address, age and sex of each child involved and the type of abuse suspected. The preliminary report shall not contain any information which identifies any person other than the child.

Within 60 days after receipt of initial report, the agency is required to file an investigative report with DHSS. The investigative report will be classified as "indicated" or "unfounded." For child abuse, the indicated report must be supported by a "preponderance of the evidence available to the agency." If there is less than the required standard of evidence, the agency must classify the investigative report as "unfounded."

If the agency classifies the report as "indicated" the report must include a description of the services being provided to them and those responsible for his or her care as well as other relevant information and must be updated at six-month intervals.

The investigative report is required by law to include: (a) the name and address of the child, (b) the child's parents or persons responsible for the child's care, (c) the child's age, sex and race, (d) the nature and extent of the child's abuse, including evidence of prior injuries or abuse or neglect to the child or the child's siblings, (e) the name of the persons alleged to be responsible for the abuse, (f) the family composition, including names, ages, sexes and races of other children, (g) demographic data, (h) the source of the report, (i) name and occupation of the person making the report and (j) medical, legal and social disposition of the case, including a description of services provided. If the incident of child abuse or neglect is determined to be unfounded, the investigative report does not contain any names of persons, but contains the other information specified above.

The information from the investigative report is, if the case is an "indicated" report, maintained in a confidential statewide Central Registry of child abuse and neglect, maintained by the DHSS. The Department receives and maintains written reports from county agencies and transmits information to certain authorized persons and agencies.

There are provisions in the law maintaining confidentiality of reporters and limiting access to the Central Registry, which is maintained to provide historical information to aid local child protective service agencies, determining adequate necessary services for abused children and their families, including immediate identification and location of prior reports of child abuse and neglect, serving as a case management tool for the Department in reviewing the adequacy of local child protective efforts and aiding research efforts aimed at increasing the general knowledge of child abuse and neglect.

The data compiled from these reports, both under the previous law which did not require reporting of child sexual abuse, but under which many incidents were reported, and the present law which requires reports of sexual assaults, are summarized in Part I of this Staff Brief.

In addition to the above-described laws, there are two other laws which relate directly or indirectly to the topic of sexual abuse and sexual exploitation of children. These include:

1. Wisconsin's sexual assault law, s. 940.225, Wis. Stats., and
2. Wisconsin's new laws relating to treatment of sex offenders, Ch. 117, Laws of 1979.

The above laws are described in Staff Brief 80-21, Sexual Assault: A Background Report, dated October 3, 1980.

PART III

WISCONSIN ORGANIZATIONS AND PROGRAMS

This Part briefly describes some of the Wisconsin organizations and programs that provide services to children who are victims of sexual assault and abuse or incest and to their families. This Part does not describe all services provided by each of the organizations and programs mentioned nor is an attempt made to provide a comprehensive list of all organizations in Wisconsin that may provide services to victims and their families.

A. FAMILY HOSPITAL OF MILWAUKEE

Since September 1976, Family Hospital of Milwaukee has operated a Sexual Assault Treatment Center for victims of sexual assault. The program provides medical intervention and referral of victims to other services in the community. The services include medical examinations and short-term psychiatric counseling.

During the period from September 1976 to the present, the program has provided services to approximately 1,975 victims of sexual assault. According to personnel at Family Hospital, approximately 8% of the victims were children.

Based on this experience, on August 11, 1980, Family Hospital began a program for children who are victims of incest and who have not been victimized during the past 48-hour period. [The Sexual Assault Treatment Center assists victims within 48 hours after the crisis. That program will continue to provide services to children as well as to adults who have been victims of sexual assault.]

The new program will provide up to three sessions of counseling with medical social workers and additional medical services on an "as-needed" basis for the child, and where possible, the family. The counseling sessions will be on a one-to-one basis rather than group treatment.

B. LA CROSSE LUTHERAN HOSPITAL CHILDREN'S PROTECTIVE SERVICE PROJECT

In January 1979, Lutheran Hospital established the Children's Protective Service Project, funded through a two-year grant from the Wisconsin Council on Criminal Justice. A team consisting of a pediatrician, child psychiatrist, two pediatric nurses, an emergency ward nurse, a social worker, an administrator and the team coordinator (who is also a social worker) evaluates each child referred to the project who has been the victim of child abuse. The team evaluates each case and refers the child and family to appropriate services. During the period from

January 1979 to the present, approximately 44 children have been treated for child abuse and neglect, of whom five have been victims of sexual abuse.

C. PARENTS ANONYMOUS

Parents Anonymous is a self-help organization for abusive parents. The organization began in California in 1970. Presently, there are 30 chapters of Parents Anonymous in Wisconsin with eight more currently in the process of being established. The emphasis in the Parents Anonymous program is on self-help groups and networking of services so that parents requesting help have access to other treatment, counseling and family services available in the community in which they reside.

There are, at present, at least two Parents Anonymous programs relating to incest:

1. The Total Family Treatment Program in Milwaukee was established approximately 2-1/2 months ago. This Program has created three self-help groups for children, teenagers and parents.

The group meetings are held in a confidential setting on one day each week for two hours. The meetings are free of charge. Working with each group is a professional therapist/group facilitator.

2. The Oasis Program, for adolescent incest victims, has been established at the Stress Center in Madison. This Program includes a self-help group for incest victims aged 13 to 17. Presently, approximately 12 persons are participating in the group.

Individual counseling and legal advocacy services are also available to the victims. In addition, a clinical social worker is available to work with the entire family unit.

The parental stress "hotline," in Madison, is also available for use by juvenile victims of sexual assault and abuse, including incest.

D. MILWAUKEE COUNTY CHILD SEXUAL ABUSE TEAM

On September 2, 1980, the Milwaukee County Department of Social Services, in cooperation with the Milwaukee County District Attorney's office and other organizations, created a multi-disciplinary team. The team is to accept referrals and to review all child sexual abuse cases, to develop a treatment plan for each individual case, to recommend a plan for disposition of the case and to provide long-term monitoring, at six-month intervals, of the disposition of that case.

The team presently consists of two social workers and one coordinator/unit supervisor from the County Department of Social Services,

a counselor with the Sexual Assault Unit in the District Attorney's office, the Assistant District Attorney with administrative responsibilities for the Sensitive Crimes Unit and the Coordinator of Parents Anonymous of Greater Milwaukee. In the near future, the may also include a representative of the Corporation Counsel's office who is involved with the children's court. In addition, any person who is required by law to report child sexual abuse will be involved in the review of the case by this unit.

It is intended that the team provide both an on-going review of the progress in each case and a formal review at intake and, subsequently, at six-month intervals. The team will help decide whether the case should be treated through the juvenile justice, criminal justice, social service or treatment systems or a combination of these systems.

The objectives of the program, as described by the Milwaukee County Department of Social Services, are:

1. The reduction of trauma to the child victim and family through joint interviews wherever possible;

2. The coordination of services through continuity in provision of services; and

3. Consistency in approach for all families regardless of the point of intake/disclosure.

The philosophy of the program is described as "the utilization of the reporting law to maintain a family in treatment while protecting the child from further abuse."

E. WISCONSIN TRI-COUNTY COMMUNITY-BASED CRISIS SUPPORT SYSTEM

Family Hospital of Milwaukee, the Red Caboose Day Care Center of Madison and Community Coordinated Child Care in Racine have cooperated to establish the Wisconsin Tri-County Community-Based Crisis Support System.

This program, funded by a grant from the National Center on Child Abuse and Neglect for the period October 1978 to October 1981, provides respite services for families in crisis or where child abuse or neglect, including sexual abuse, may occur.

The Family Hospital Day Care Center in Milwaukee provides day care for a child when the parent contacts the Day Care Center in a crisis or indicates that he or she has a need for intervention and respite from the children and that child abuse or neglect may occur. The facility provides counseling for the parent and places the child in the Center for the day. The facility provides services for children aged three months to six years. Counseling and intake services are available from Monday to Friday, 6:30 a.m. to 5:30 p.m. No transportation is provided.

The Racine program serves children from birth to age 12. Care is provided for children in a network of family homes licensed as foster homes. Intake, counseling and transportation services are available from 8:30 a.m. to 4:30 p.m., Monday to Friday. Child care is available for up to 28 consecutive days.

The Madison program provides care at the Respite Emergency Crisis Child Center which is licensed as a day care center and as a foster home. Care is available for up to five days (Wednesday to Sunday). Intake, counseling and transportation are available, 24 hours per day, on those days.

F. OTHER PROGRAMS

In addition to the above programs, there are also therapy groups for women who were victims of incest during childhood. These include programs such as that by Bread and Roses Health Center for Women in Milwaukee and a Parents Anonymous-sponsored program in Appleton. The Victim Support Group on Incest, established by the Waukesha County Technical Institute as part of the "People to People program," is a self-help group for past and present victims of incest.

PART IV

POSSIBLE APPROACHES TO THE PROBLEMS

This Part summarizes some suggestions for legislation or programs to alleviate the problems of sexual abuse, incest and sexual exploitation of children and to learn more about these problems.

These suggestions include:

1. Establishing uniform state laws on reporting of sexual abuse, incest and exploitation of children, using common definitions and establishment of standardized treatment and penalties for these crimes.
2. Establishing a toll-free, statewide hotline for victims to report these crimes and receive services and referrals to services or, alternatively, creating local hotlines in each separate geographic area of the state or each community.
3. Creating public education programs, to (a) educate the public about the extent of these problems, (b) reshape public attitudes towards these offenses and reporting of the offenses and (c) develop educational programs for children within the school system.
4. Establishing community treatment programs to treat the entire family, including the offender and all members of the family.
5. Coordinating services between county social service departments, the juvenile court system, the criminal justice system, schools, etc., to insure that a complete range of services are offered to the family and that the services offered are consistent with one another.
6. Training of health care professionals, school personnel, law enforcement personnel and others to recognize potential crimes of this nature, to understand them and to report them and to sensitize these persons to the emotional and psychological problems of the child and his or her family.
7. Conducting sex education programs in schools that include information on these crimes. [Some persons have suggested that the most important thing in preventing abuse is teaching children that they have a right to say "no" and that certain parents cannot be expected to teach their children this.]
8. Expanding research programs to improve both identification of potential offenders and to learn how to more effectively treat offenders and the victim and the other members of the family.
9. Expanding family services such as day care, homemaker services, family counseling and parenting education to strengthen the family.

10. Establishing screening programs in which trained psychologists and psychiatrists review each case to determine whether it would be more appropriately handled within the juvenile justice, criminal justice or social service systems or a combination of these systems.

11. Establishing adequate emergency shelter for children or, alternatively, shelter for alleged perpetrators so that they can be removed from the family.

12. Establishing broader family treatment systems, including self-help groups and groups for prior victims.

13. Evaluating the effectiveness of various treatment system needs, to be performed by, and shared within, the social services and criminal justice systems.

14. Establishing, in each community, a specialized team of workers specifically trained in handling crimes affecting children, to respond to those cases in a comprehensive manner. The specialized team should be engaged in community outreach and cooperative working arrangements between the various other agencies and disciplines to become involved in such cases.

15. Developing clear guidelines to determine which cases are to be referred to the juvenile court system for formal or informal disposition or prosecuted through the criminal justice system.

16. Developing deferred prosecution programs, in cooperation with treatment agencies, for appropriate cases.

17. Enacting legislation to create a protective system for children who are victims of or witnesses to sexual abuse.

18. Informing all persons required by law to report child sexual abuse, through the appropriate licensing or regulatory agency, of their statutory responsibility to report, that confidentiality is guaranteed to them by law, that they are given immunity from civil suits for reporting and that there are criminal penalties for failure to report.

19. Amending the sexual exploitation law [s. 940.203, Wis. Stats., described in Part III] to prohibit possession of the materials described in the statutes, as well as producing such materials.

These suggestions do not represent an exhaustive list of possibilities for responding to these problems but highlights some of the suggestions made by various authors and groups for more effectively dealing with these problems.

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