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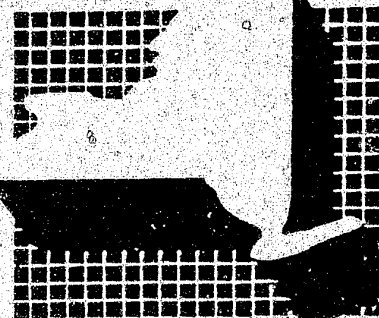
OFFICE OF JUSTICE SYSTEMS ANALYSIS

THE INVESTIGATION AND PROSECUTION OF CRIMES AGAINST
CHILDREN IN NEW YORK STATE

April 1988

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**NEW YORK
STATE**



**DIVISION OF
CRIMINAL
JUSTICE
SERVICES**

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NEW YORK STATE
DIVISION OF CRIMINAL JUSTICE SERVICES
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CHILDREN IN NEW YORK STATE

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NCJRS

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EXECUTIVE SUMMARY

MANDATE FOR STUDY -- CHAPTER 263 OF THE LAWS OF 1986

During 1987, the Division of Criminal Justice Services (DCJS) conducted a study of the methods used by all law enforcement agencies in the State to apprehend individuals who commit crimes against children. DCJS was required to engage in this study, and to develop recommendations based on its research, pursuant to the mandate of Chapter 263 of the Laws of 1986.

This Act conveys the message to jurisdictions that the adult system of justice in New York State must become more responsive to the needs of the child victim and witness of crime. Intended to promote the successful prosecution of these crimes, the legislation establishes a framework for ensuring the cooperation of the victim and his family through provisions aimed at preserving the physical and emotional well-being of the child during involvement with the criminal justice system and process. These provisions amend numerous sections of the New York State Executive Law to provide children under the age of 16 with certain additional rights and assistance during their participation as victims and witnesses in the justice system.

This legislation, both in terms of intent and substance, reflects a significant trend in this State and the country with respect to law enforcement's involvement in the disposition of child victimization cases. In general, the attitude in this country about child victimization is changing. Crimes against children, especially those involving allegations of serious abuse committed by parents or guardians, are no longer viewed as simply family problems and, therefore, outside of the jurisdiction of the criminal justice system. Rather, it has become increasingly clear that in many of these cases the most appropriate disposition for both the victim and the offender involves recourse to criminal in addition to or rather than the traditional domestic or civil proceedings.

To provide for this recourse and to promote the successful resolution of child victimization cases, criminal justice systems across the country have incorporated a number of measures which accommodate procedures and practices to the needs of the child victim and witness. Change has been introduced into these systems at both the investigative and prosecutorial levels of processing through legislative and organizational means. Legislatively introduced change generally has focused on enhancing the prosecution of crimes committed against children and has involved four distinct types of statutory innovations relating to the justice system's management of these cases. For the most part, these reforms are comprised of legislative measures which: seek to alleviate the perceived trauma of giving live, in-court testimony; authorize mechanical interventions to obtain a child's testimony; permit the child witness to have a supportive person present for assistance during court proceedings; and attempts to expedite the adjudication process by giving precedence in trial scheduling to cases where the victim is a minor. While the provisions of Chapter 263 of the Laws of 1986 clearly express legislative activity in each of these four areas, New York State generally has not proceeded to the extreme which some

states have to create statutorily a special set of procedures for all child victims of crime.

Change introduced through organizational means has focused on improving the justice system's response to crimes against children at all levels of the system, or from investigation through adjudication. For example, at the investigation level of the process, police agencies generally have attempted to develop more specialized response capabilities for dealing with crimes committed against children. Specialized child victim units have become more prevalent in the larger law enforcement organizations across the country, with individuals designated as specialists and multi-jurisdictional cooperative arrangements recommended and functioning in many smaller policing agencies.

Regardless of the degree of specialization implemented in organizations, there has been an increased emphasis on coordinating law enforcement's activities with other service providing agencies, such as child protective and mental health services, and on incorporating into the police investigatory repertoire those evidence gathering procedures and techniques that best address the needs presented by crimes committed against children. This emphasis on developing a specialized yet coordinated or multi-disciplinary response capability for handling crimes against children also has been apparent in prosecutorial arrangements and activity across the country.

STUDY METHODOLOGY

The study which DCJS conducted during 1987 began with a selective review of criminal justice literature in the child victimization area to identify the most significant trends, at both the statutory and organizational levels, in law enforcement's response to these offenses. Once these trends in practices had been isolated, two survey instruments were developed, with the assistance of an Advisory Panel of criminal justice and child protective services experts, to assess the degree to which similar practices characterized New York State's law enforcement response to child victimization. The Advisory Panel also recommended that the study be conducted in an exploratory fashion, so as to provide as much descriptive information as possible, and that it focus on law enforcement's handling of incidents of serious child abuse, in particular.

The survey instruments were distributed to the chief executives of all 579 police and sheriffs' departments in New York State and also to the State's 62 district attorneys' offices. The response rates for these two groups of officials were exceptionally high, 73 percent (424) and 80.5 percent (50), respectively. In order to conduct quantitative analyses, five categories of size were created based on the numbers of full- and part-time personnel reported by respondents. The samples available for analyses were generally representative of law enforcement agencies in the State in terms of size. The police and sheriffs' department sample contained a slightly disproportionate number of larger agencies, and for district attorney respondents the smallest size offices were somewhat underrepresented.

Given the assumed variation between police departments statewide in terms of the nature and quantity of incidents involving child victims, a primary objective of this study was to examine responses to survey items according to department resources or size. While it seemed reasonable to expect that smaller agencies coping with relatively fewer incidents would employ a narrower range of investigatory practices, engage in less training, participate in fewer prevention programs, etc., it was considered important to validate this assumption and determine its strength prior to formulating policy recommendations which would affect departmental practices in the child victimization area.

SURVEY FINDINGS

THE USE OF A MULTI-DISCIPLINARY TEAM APPROACH FOR CHILD VICTIMIZATION CASES

While a substantial number of favorable comments were made by New York State's law enforcement community about the highly recommended practice of a multi-disciplinary team approach to child victimization investigations, only 40 percent of the police and sheriffs' departments surveyed by DCJS or 155 law enforcement agencies report membership on teams comprised of representatives from child protective services and the district attorney's office. A much more positive response to the interagency team approach was expressed by the State's district attorneys. In fact, on the basis of survey results, it appears that the interagency team approach has been implemented in one form or another by the vast majority (88 percent) of all sized district attorneys' offices across New York State.

SPECIALIZED CHILD VICTIMIZATION RESPONSE CAPABILITIES

Experts in the child victimization and domestic violence fields stress the importance of law enforcement agencies developing a specialized response capability to deal with crimes committed against children. In larger police agencies, it is suggested that this response be in the form of a specialized unit, and in smaller police and sheriffs' departments, it is recommended that an individual officer be designated and specially trained in the handling of child victimization offenses. Similar response capabilities also are suggested for district attorneys' offices, where the concept of vertical prosecution has become widely accepted as the preferred intervention strategy in both domestic violence and child abuse cases. DCJS survey findings reveal that the degree to which specialized units have been established in police and sheriffs' departments is generally size-related, with specialists available only in larger departments. While the majority of district attorneys who responded to the questionnaire (58 percent or 29 offices) indicate the use of a specialist or special unit to process child victimization cases, this tendency toward specialization is also much more common among larger offices.

SPECIAL POLICY AND PROCEDURES

In addition to specialized units or personnel, the literature also emphasizes the necessity for law enforcement agencies to develop policy and procedures which direct official intervention into child abuse cases. It is

suggested that these guidelines incorporate procedures which reflect a sensitivity to the needs of the child victim and witness, and that they promote a multi-disciplinary response strategy for cases involving child victims. In general, policy and procedure development among law enforcement agencies in this State was found to be quite limited, especially where there is a need to coordinate explicitly roles and functions with other law enforcement and non-law enforcement agencies.

INTERAGENCY COOPERATION IN CHILD VICTIMIZATION INVESTIGATIONS

The survey also attempted to assess the quality of reported interagency arrangements and contact. Overall, the responses received were very encouraging in that most departments indicated very few problems in dealing with other agencies, with larger departments reporting far more problems with more agencies than smaller police departments. An exception to this finding is the degree of cooperation experienced with other criminal justice agencies, for which police and sheriffs' departments report significantly fewer problems than is the case with other organizations regardless of department size. While social services or child protective services generally received a fairly low problem rating by police and sheriffs' departments ranging from "no problems encountered" to "seldom experience problems;" a substantial number of comments were made by departments about troublesome areas of interaction.

LAW ENFORCEMENT CHILD VICTIMIZATION DATA

New York State child victimization data are inadequate to provide a full description of the nature and extent of crimes committed against children. Only a minority of departments (28.4 percent) indicate that they maintain statistical records concerning crimes with child victims and a substantial number of respondents report that the exchange of incident data with child protective services has been problematic. Accurate measurement of child victimization is made difficult by the format of law enforcement data collection instruments themselves; the often overlapping responsibility for child victimization cases between child protective services and law enforcement agencies; and the process by which information is gathered and maintained by police and sheriffs' departments in the State.

SPECIALIZED LAW ENFORCEMENT TRAINING IN THE CHILD VICTIMIZATION AREA

While many law enforcement officers receive some training in the handling of crimes committed against children, a substantial proportion of officers in the State do not. In fact, nearly a third of the departments responding to a question on the extensiveness of training indicated that no one in their department had received special training in the child victimization area. While nearly all of the district attorney respondents report that training has been received in the areas of sexual abuse investigation and interview techniques for the child victim and witness, considerable variation between different sized agencies was found to exist in the remaining training areas rated, such as behavioral indicators of abuse, detecting signs of physical abuse and the use of anatomically correct dolls.

SPECIAL INVESTIGATORY METHODS FOR HANDLING CRIMES AGAINST CHILDREN

With the increased involvement by criminal justice agencies in child abuse investigations and dispositions, significant changes have been introduced into law enforcement operations in order to accommodate the procedures of these organizations to the needs of the child victim and witness. For the most part, the number and variety of special investigatory practices reported by police and sheriffs' departments in New York State is very encouraging. While the employment of the majority of these practices was found to be size-related, smaller agencies generally made a respectable showing, given resources and needs, for both the nature and extent of special methods reported.

The study also indicated, however, that for the majority of the State's police and sheriffs' departments, the translation of theory into practice has not been problem-free. The most prevalent problem reportedly faced by departments in dealing with child victimization cases has been the lack of personnel, followed by lack of training and financial resources. With few exceptions, the remaining problems identified by departments, including jurisdictional problems among law enforcement agencies, restricted access to records, bureaucratic delays in obtaining records and the attitude that child abuse is a family rather than criminal problem, are positively associated with the size of the agency -- as size increases, so too does the reporting of these limitations.

The survey also examined two areas of recommended prosecutorial activity in the child victimization field. The first addressed the use of electronic devices during the investigation and adjudication of these offenses, and, the second dealt with the much wider range of investigatory practices employed by prosecutors to streamline the disposition of cases with child victims. With respect to the first area of activity examined, district attorneys generally report that they never or, at best, very infrequently use closed circuit television to obtain the testimony of child witnesses pursuant to Article 65 of Criminal Procedure Law. The use of videotaped statements for introduction at grand jury proceedings, while showing more variation across different sized offices, also appears to be relatively infrequently used by district attorneys in this State.

In contrast, the majority of district attorneys report the use of the following investigative procedures in cases involving child victims: utilization of interagency team for investigation; use of anatomically correct dolls; supportive person (advocate) present during most proceedings; special pre-trial preparation techniques; interviews conducted jointly with other agencies; special agreement with media that victims' names not be released; and use/provision of drawing materials. As expected, the majority of problems reported by district attorneys were related to legal and evidentiary issues, such as the inability of victims of ongoing abuse to name specific dates and times of incidents as required by law, problems with corroborative evidence and the lack of hearsay exceptions for children.

STUDY RECOMMENDATIONS

MEASURES TO IMPROVE INTERAGENCY COOPERATION AND TO INCREASE THE USE OF MULTI-DISCIPLINARY TEAMS IN CHILD VICTIMIZATION INVESTIGATIONS AND PROSECUTIONS

1. Law enforcement agencies in New York State should ensure that the local child protective services units in their jurisdictions have a clear understanding of the law relating to the use of the multi-disciplinary team approach in child abuse investigations.

2. Law enforcement should establish, in collaboration with local child protective services units, protocols which direct the use of multi-disciplinary teams in child abuse investigations, when appropriate, and which specify the roles and responsibilities of all participants in this process. In smaller sized departments, an officer should be designated as the liaison with child protective services for the purpose of participation on the interagency team.

3. Health professionals should be included as liaisons on multi-disciplinary investigative teams, both for the expertise these professionals bring to certain abuse and maltreatment investigations and also to facilitate improved interactions with the larger medical community.

4. For incidents which entail the criminal victimization of a child by a non-familial member and, as such, preclude child protective services involvement, departments should make arrangements with other service providing agencies in the community, such as medical facility counselors, rape crises or domestic violence centers, to provide necessary assistance in implementing a multi-disciplinary approach to the investigation and disposition of these cases.

5. While it is generally not recommended that the district attorney's office be present at the initial investigative interview of the child victim given personnel limitations, legal implications and the possibly adverse impact on the child of having too many adults involved in early questioning, a representative of the district attorney's office should be available to the law enforcement/child protective investigative team for consultation and advisory purposes with respect to legal procedures regarding child abuse.

6. It is further recommended that the district attorney act to facilitate and coordinate law enforcement's involvement with child protective services. To promote this involvement, the district attorney should initiate, if necessary, and take an active role in a community-wide interagency task force on abuse and maltreatment. District attorneys also should act to coordinate law enforcement's interaction with child protective services by exercising leadership in the implementation of policy and procedures which assure the use of a multi-disciplinary team approach in child victimization investigations and which provide clear definitions of the appropriate roles of each agency in this investigative process.

MEASURES TO PROMOTE SIZE APPROPRIATE SPECIALIZATION FOR RESPONDING TO CRIMES COMMITTED AGAINST CHILDREN

7. Departments should continue to develop their capabilities for a specialized response to crimes involving children. While it appears that larger departments have developed and incorporated into their operations a specialized unit response to child victimization, these departments are cautioned about the proliferation or the more likely exclusionary use of these units to deal with incidents involving children. Where it is necessary for operational purposes to distribute child victim cases to multiple units throughout the agency, departments are advised to develop administrative procedures and mechanisms whereby case and service information can be easily shared between units.

8. For smaller sized agencies without the need for a discrete unit, it is recommended that individuals be designated and trained as specialists in the child victimization area. These specialists should act as the department's liaison with those county or State law enforcement agencies relied upon for investigative purposes.

MEASURES TO INCREASE AND IMPROVE THE DEVELOPMENT OF SPECIAL AND MULTI-DISCIPLINARY POLICY AND PROCEDURES FOR RESPONDING TO CRIMES AGAINST CHILDREN

9. Departments should continue the process of policy and procedure development in the child victimization area, with attention placed on formulating child-specific procedures for the more frequently handled crimes, such as assault, where the range of existing investigative practices may not necessarily address the needs of the child victim. Emphasis also should be placed by local authorities on developing operational guidelines for the handling of school-related crimes, given the reported extent of these offenses and the degree of cooperation necessary with educational personnel and the school district to investigate, reduce and prevent them.

10. The development of written policy and procedures should be accomplished, where appropriate, through collaboration with protective and other service-providing agencies in the community, both to enlist their expertise in the formulation of these standards and to increase their awareness and confidence about police operations in the child victimization area. This collaboration is especially called for when specifying in writing the roles and responsibilities of non-law enforcement agencies in the disposition of child victimization cases.

11. It is apparent that a number of the problems experienced by law enforcement with health professionals are related to concerns about liability issues and ideological differences with respect to the roles and responsibilities of these professionals in abuse and maltreatment investigations. Medical team members should participate in policy and procedure development with law enforcement and child protective services and should coordinate the communication of these guidelines to other health professionals. They also should act as the team's representative in educating the medical community about liability concerns and the importance of these

professionals' cooperation for detecting and substantiating incidents of abuse and maltreatment.

12. Where appropriate, policy and procedures developed by departments should include, but not be limited to, provisions for the following: notification procedures for reporting the case to child protective services and the district attorney's office; arrangements with medical care facilities to examine and treat the victim; the implementation of a multi-disciplinary response capability for these offenses which specifies the roles and responsibilities of all parties involved in this team approach to child victimization; arrangements with other State and county law enforcement agencies relied upon for follow-up investigative purposes which include provisions for the involvement of child protective services, where appropriate, and other victim assistance service groups in non-familial abuse cases; investigatory practices for handling crimes against children including special evidence gathering techniques and interview procedures for the child victim and other family members; and arrangements for providing the victim with community service and treatment referral information.

13. DCJS should encourage and facilitate departmental activity in this area by developing and including in its New York State Law Enforcement Accreditation Program those standards deemed necessary which require policy and procedure development for responding to crimes committed against children. To promote compliance with these standards, the Bureau for Municipal Police should ensure that technical assistance is provided to departments through the Law Enforcement Accreditation Program.

MEASURES TO IMPROVE CHILD VICTIMIZATION DATA COLLECTION AND ANALYSES CAPABILITIES

14. The lack of systematic victimization data in New York State will be addressed through the implementation of the redesigned incident-based Uniform Crime Reporting System. With this system, incidents involving child victims will be identified clearly and, as a result, more accurate counts of these cases will be possible. In addition, the redesigned system's ability to link incidents with case outcomes presents the potential for future evaluation of the effectiveness of law enforcement's response to crimes committed against children.

15. The Uniform Crime Reporting System Redesign Project is still in its initial implementation stage and is not expected to be fully operational throughout the State for about five years. However, a mechanism by which to collect child specific crime victimization data is currently available to departments through the law enforcement referral process instituted by the Department of Social Services. While this information comprises only those reports of criminal victimization received by the State Central Register, it is suggested that departments use the opportunity and format presented by the effort to compile department-wide child victimization data and create an inclusive database of crimes committed against children.

16. The DCJS Missing and Exploited Children Clearinghouse should extend the enhanced data collection efforts of the Missing Children Register to establish and analyze a case database of non-identifying facts and statistics relative to missing and exploited children for the purpose of assisting the State's law enforcement agencies in their investigations of these cases. To provide the State with the necessary information for this important data collection and analysis effort and to improve their own investigative capabilities in the missing children area, local law enforcement agencies should develop and implement procedures whereby apprehended runaways are routinely and systematically questioned about criminal activity experienced prior to their recovery.

MEASURES TO ADDRESS THE NEED FOR SPECIALIZED LAW ENFORCEMENT TRAINING IN THE CHILD VICTIMIZATION AREA

17. The Municipal Police Training Council should act through the Bureau of Municipal Police to enhance and update the coverage allotted to child abuse in its Basic Course for Police Officers. Currently, this coverage is limited to two hours of an 18 hour domestic violence component in the course curriculum. While adequately addressing the etiology and physical and behavioral indicators of abuse and the legal and moral responsibilities of the police officer in handling these cases, little attention is placed on clarifying the roles and responsibilities of non-law enforcement agencies. More importantly, the course predates and, therefore, does not reference the procedures specified in Chapter 263 of the Laws of 1986 for implementing a streamlined, multi-disciplinary approach to the investigation of crimes committed against children.

18. The training provided to patrol officers should be enhanced, given the reliance placed on these officers for responding to child victim cases. Accordingly, it is recommended that the Municipal Police Training Council, through the Bureau for Municipal Police, develop and institute in cooperation with the Department of Social Services, the Governor's Commission on Domestic Violence and the State Police specialized in-service training programs in the child victimization area. This training should be regionally based and emphasize strategies for initiating and implementing a variety of multi-disciplinary, specialist approaches to the investigation of child victim cases. It is further recommended that all in-service training programs be attended and delivered in an interdisciplinary fashion, with participation and instruction provided by representatives from both law enforcement and the local child protective services unit serving the community. In particular, the district attorney should be involved in the training so as to assure the relevance of the program to local community needs and as a means by which to coordinate the practices of law enforcement agencies in the area. It is also important that these training programs be offered on a relatively frequent basis to account for the attrition and mobility of child protective and law enforcement personnel.

MEASURES TO ADDRESS CONSTRAINTS CAUSED LAW ENFORCEMENT BY THE SHARED JURISDICTION FOR CHILD VICTIMIZATION OFFENSES

19. To address complaints about timely access to the hotline and to encourage more complete reporting by mandated reporters, the Department of Social Services should establish a separate toll-free telephone line at the State Central Register for the receipt of calls from individuals required by law to report suspicions of abuse or maltreatment, such as law enforcement, medical and education personnel. The State Central Register should conduct an analysis of the patterns of usage for the hotline to determine those hours of the day or night when the volume of calls is such as to preclude timely access by mandated reporters. For those times when the separate line would not be in service, calls received on this line could be redirected to the main toll-free number for handling by hotline personnel.

20. According to Chapter 718 of the Laws of 1986, a person or official required to make a report of suspected abuse and maltreatment may request, at the time of making the report or any time thereafter, the findings of the investigation conducted by child protective services. On the basis of comments made on this survey, it appears that knowledge about this change in the law may be limited or that the procedures developed for implementing it may be problematic. It is recommended that law enforcement agencies incorporate into their departmental State Central Register reporting procedures the explicit request for feedback as to the disposition of alleged incidents referred to child protection. In addition to addressing the officer's concern about case-specific follow-up actions, this information can also be used by departments as a means by which to assess law enforcement investigatory activity and needs in the child victimization area.

21. With the exception of missing children investigations, the law currently authorizes limited access to law enforcement of reports and information maintained by child protective services. In particular, this access is premised on an investigation being "reasonably related to the allegations contained in the report." While recognizing the importance of confidentiality to victims, offenders, sources and service providers alike, the language of the law is unduly restrictive and counter-productive to law enforcement investigatory activity in the child victimization area. To remedy this situation of limited information-sharing, it is recommended that Section 422 of the Social Services law be amended to provide district attorneys and police and sheriffs' departments with access to child protective services reports and records in situations where these individuals certify that there is reason to suspect that a child, child's sibling, parent, guardian or other person legally responsible for the child is a person named in an indicated report of child abuse or maltreatment and that this information is necessary in order to conduct a criminal investigation or prosecution of the subject of the report.

22. It appears, in light of the nature of the comments received in the survey, that there is considerable misunderstanding and confusion about existing law on the issue of permissible or authorized information-sharing (i.e., that it is even more restrictive than it actually is). Accordingly, it is recommended that jurisdictions devote explicit coverage in their joint law

enforcement/child protective services training programs to the substance and intent of pertinent sections of the law dealing with these issues of confidentiality and access to child protective services records. To reinforce and continue shared understanding about these issues, it is further recommended that departmental policy and procedures specifically address the area of confidentiality and conditions under which law enforcement access to child protective services records is required (i.e., in situations where determinations about protective custody must be made) and allowed.

23. Given the importance of timely and thorough medical involvement in the investigation and disposition of cases of suspected abuse and maltreatment and the problems voiced by law enforcement about the nature of this involvement, it is recommended that the Legislature statutorily require all necessary cooperation by these mandated reporters with law enforcement and child protective services and establish penalties for the failure to do so which are commensurate to those presently authorized for the willful failure to report a case of suspected abuse or maltreatment.

24. The cases which health professionals are required to report to the State Central Register should be expanded beyond those which constitute abuse or maltreatment, as defined by Social Services Law, to include any injury or condition requiring medical attention and treatment which the physician reasonably believes has been non-accidentally inflicted on or caused a child. This would include those cases which involve allegations against a person not legally responsible for the child or those for which doubt as to the identity of the perpetrator exists. Although these cases may lie outside the jurisdiction of child protective services, the law enforcement referral process recently instituted by the State Central Register could be used to forward this information to the law enforcement agency of jurisdiction for investigation. The format for this statutory requirement on health professionals should parallel that which currently exists in Penal Law, Section 265.25 for the mandated reporting of injuries caused by the discharge of a firearm or the use of a sharp instrument, and should include similar penalties for the failure to report these child victimization incidents.

25. Departments expressed a great deal of concern about the limitations placed on criminal investigations by the statutorily mandated State Central Register expungement process for unfounded reports of abuse and maltreatment. It has been documented in numerous studies that a significant number of children who are seriously physically abused and often killed in the home are known to child protective services and have been the subjects of unfounded reports. This was most recently and most dramatically demonstrated by the case involving Elizabeth Steinberg. If child protective services retained unfounded reports and provided investigators with this information upon receipt of additional allegations, certain patterns of abuse or the methods used to evade detection could be more easily discerned. Accordingly, DCJS supports the recommendation developed by the New York State Senate Standing Committee on Child Care that Section 422 of the Social Services Law be amended to provide that unfounded reports of abuse and maltreatment made by identified sources be sealed and retained for a period of five years, rather than expunged, and that the information contained in these reports be made available to law enforcement or child protective services if, during the five-year period, a subsequent report of abuse and maltreatment is received on a subject named in the report.

MEASURES TO STRENGTHEN THE DISTRICT ATTORNEY'S ABILITY TO PROSECUTE CRIMES AGAINST CHILDREN

26. As stated earlier, the vast majority (91.7 percent) of the State's district attorneys identified the law's requirement for specificity as to the times and dates of incidents as a limitation on their ability to prosecute crimes against children. To address this constraint, DCJS supports the reintroduction of a bill formulated by the New York State District Attorneys' Association for the 1987 legislative session (S.5915/A.8017), which amends the Penal Law by expanding the definition of sexual abuse and aggravated sexual abuse to apply to a "course of sexual conduct" with a child under 11 years of age. A "course of sexual conduct" is defined as "more than one act of sexual intercourse, deviate sexual intercourse or sexual contact with the same victim." In addition to addressing the law's requirement for specificity, this expanded definition more accurately reflects what is, in many cases, the actual nature of sexual abuse committed by family members or other adult acquaintances of children (i.e., a variety of acts committed against the child over an extended period of time). Two new felonies for persons who engage in a course of sexual conduct are established by the bill.

27. DCJS also supports the reintroduction of two components of another legislative proposal developed by the District Attorneys' Association for the 1987 legislative session. The first of these involves the amendment of the Penal Law's definition of "serious physical injury" to include those significant injuries normally indicative of the battered child syndrome, and the second consists of language which expands the deadly weapon or dangerous instrument subdivision of Section 120.10 of the Penal Law to include "any means likely under the circumstances of the case, to result in serious physical injury."

Under current law, many parents who consistently and seriously physically abuse their children are often only charged with a misdemeanor because the abuse does not fall within the statutory definition for "serious physical injury" or "create a substantial risk of death or cause protracted disfigurement, protracted impairment of health or protracted loss of impairment of the function of any bodily organ." The proposed revision to the law takes into consideration the greater vulnerability of children to injury as a result of age and also gives recognition to the seriousness of the pattern of injuries typically associated with the battered child syndrome. The child's greater vulnerability is also the rationale for the suggested change to the law's language about deadly or dangerous weapons.

28. While the inclusion of those injuries typically indicative of the battered child syndrome in the Penal Law definition of serious physical injury should address the present deficiency in the State's assault statute with respect to more grievous physical violence committed against children, the District Attorney's Association bill does not provide for less serious crimes of assault and, as a result, the apparent intent of the bill, which is to treat with greater seriousness assaults perpetrated on particularly vulnerable victims, is not fully realized. Senate Bill Number 285 and Assembly Companion Number 438 have been drafted to address this issue and as such are much more expansive in their treatment of crimes involving assaults upon child victims.

There are three components of this bill which DCJS finds particularly valuable and worthy of support. The first deals with the legislation's creation of a new class D felony of assault in the second degree for situations where a person over 18 assaults a child under the age of 13 with the intent to cause physical injury and causes such injury. The creation of this new offense category for child victims of physical assault, as opposed to serious physical assault, is justified given the typical nature of physical abuse committed against children, that it is not usually an isolated occurrence as are many adult assault confrontations, and the unique vulnerability of children to the physical and psychological trauma of abuse.

The second noteworthy component of S.285/A.438 is the creation of a new class B felony of manslaughter in the first degree for situations where a person over 18 acts with intent to cause physical injury to another person and causes the death of a child less than 13 years of age. Presently, the law requires that for such a charge to be lodged, the person must have acted with the intent to cause serious physical injury. While this amendment to the law gives expression to the special vulnerability of children, it also addresses what can be a troublesome issue associated with crimes committed against children, and that is the difficulty of proving the intent of the alleged perpetrator.

This issue of intent is also taken into consideration in the third component of note in S.285/A.438, which creates as a class C felony for assault in the first degree those situations where an adult acts with intent to cause physical injury to another person and instead causes serious physical injury to a child less than 13 years of age. This revision addresses the not so unusual case in child victimization where minor beatings repeatedly administered over a period of time result in serious physical injury, even though the offender acts on each occasion with the intent to cause only physical injury.

29. As an additional means to enhance the district attorney's ability to prosecute crimes against children and to increase the justice system's responsiveness to the needs of the child victim and witness, DCJS recommends that the child victim and witness be permitted to have present at trial a support person, as currently authorized for children 12 years old or younger by Section 190.25 of the Criminal Procedure Law for grand jury proceedings. On the basis of survey findings, it appears that the involvement of such a person in criminal proceedings is preferred by the State's district attorneys to the assistance provided by other means (i.e., electronic devices) to obtain the child's testimony at trial. In addition, such a provision would extend into the courtroom, to some extent, the multi-disciplinary concept which is intended to characterize the child's involvement with the criminal justice process in this State.

30. DCJS also recommends that the Legislature act to extend for a two year period the sunset provision on the statutory authorization for using live, two-way closed circuit television to obtain the testimony of vulnerable child witnesses. It is thought that the statute has been drafted in such a way as to sustain constitutional challenge and that, on the basis of this highly restrictive language, CCTV will not be employed inappropriately in criminal proceedings. More importantly, it is believed that recourse to criminal action

is perhaps most appropriate in the very sensitive cases of child abuse, or for those incidents where the use of CCTV is presently authorized. By allowing this law to sunset, the Legislature would effectively be excluding these cases from the criminal justice process and, therefore, would contribute to the further victimization of the child by that process.

***** RECOMMENDATIONS FOR FUTURE POLICY-ORIENTED RESEARCH *****

This DCJS study of law enforcement's handling of crimes committed against children was intended to be very exploratory in nature and, as such, represents what might be termed a preliminary inquiry into the criminal justice response to these offenses. Such a descriptive focus was necessitated by the lack of statewide research and information detailing both the nature and the specifics of this response. While New York State has engaged in numerous research efforts aimed at assessing the operations at its child protective system in dealing with the abuse and maltreatment of children, comparatively little scrutiny has been made of law enforcement's involvement in the investigation and disposition of these offenses. This situation has existed in spite of the problems of coordination and trust said to exist between these two systems. And, it has continued even as the cooperation required of law enforcement and child protective services has been statutorily increased.

Although the study was designed to acquire as much descriptive information as possible about the criminal justice response in this State to crimes committed against children, the areas of primary interest for the inquiry were determined by recent statutory activity directing a multi-disciplinary emphasis and approach in law enforcement's handling of child victim cases. As such, the study and resulting report essentially present an assessment of the degree to which these legislative innovations to establish cooperative arrangements with child protective and other victim-related services have been implemented by law enforcement agencies in this State. In addition to this preliminary assessment of New York State's law enforcement response to child victimization offenses, the study concludes by discussing those areas in which future policy-oriented research should be conducted. These areas include: intensive case study analyses of police and sheriffs' departments to identify exemplary inter-disciplinary arrangements for replication across the State; examination of the relationship between criminal and family court proceedings in the disposition of abuse and neglect cases and identification of procedures to better coordinate processing and service delivery in both systems; examination of the law enforcement referral process instituted by the Department of Social Services for the transmission of cases not within DSS jurisdiction to police agencies; and given the systemic implications of attitudinal and procedural changes occurring in this State with respect to incidents of child victimization, analyses of judicial involvement and practices in the disposition of cases with child victims.

CHAPTER 1

INTRODUCTION AND GUIDE TO THE REPORT

In accordance with the provisions of Chapter 263 of the Laws of 1986, the New York State Division of Criminal Justice Services (DCJS) conducted a study during 1987 of the methods used by all law enforcement agencies in the State to apprehend individuals who commit crimes against children. This report presents the findings of that study and recommends improvements in law enforcement at both the investigative and prosecutorial levels to prevent, detect and reduce the incidence of the criminal victimization of children in New York State.

The legislative mandate for this DCJS study was broad and inclusive and, as such, provided limited guidance or specificity as to the intended focus of the inquiry. At the outset of the project, it was necessary for research purposes to narrow the scope of this mandate. To determine the most appropriate focus for the study, discussions were held with practicing professionals selected to serve as members of an advisory committee for the project. On the basis of this collective knowledge and experience, it was decided that the primary, though not exclusive, focus of the inquiry would be those crimes committed against children which also involved allegations of serious child abuse or maltreatment. A close review of the literature, legislative history and intent of Chapter 263 of the Laws of 1986 also suggested this direction and emphasis.

Although not all actions defined as abuse or maltreatment in this State constitute criminally offensive behavior, there is considerable overlap in the law between these types of victimization. In addition, there is increasing recognition in the field that the success of official intervention into cases

involving child victims often entails a coordinated response to investigation by law enforcement with other agencies. This is especially true for the serious abuse or maltreatment case, where, in addition to required protective measures, the possibility of criminal prosecution exists.

The necessity for law enforcement to develop a good working relationship with local child protective services has been commented upon by the New York State Senate Standing Committee on Child Care. In its 1986 study of New York's Child Protective Services System, this committee found that the nature of these relationships varied considerably throughout the State, ranging from total cooperation in some counties to virtual nonexistence and even open hostility in other jurisdictions.¹ In addition, the committee took note of the advantages which derive from joint investigations conducted by child protective services and law enforcement. In particular, it was observed that where good cooperation existed in counties, benefits accrued for both the social welfare and criminal aspects of child protective cases.² Cooperative efforts between law enforcement and child protective services were said to have resulted in an increase in the satisfactory resolution of sexual abuse cases.³ The committee also noted as a by-product of cooperation the improvement of casework documentation within child protection units as a result of adherence to the strict evidentiary standards necessary for potential criminal cases.⁴

While a number of the practical concerns associated with the law enforcement response to investigating incidents of abuse or maltreatment are generalizable to other types of crimes against children, such as those involving drugs, school victimizations and offenses committed by strangers, for the most part and for the reasons discussed above, these latter types of crimes are not pursued specifically in the present study. That the study generally

restricted its emphasis in this fashion should not be interpreted as a statement by DCJS of the more pressing need for policy-oriented research into abuse and maltreatment victimization over all other kinds of victimization involving children. There is, in fact, a substantial need in this State for information about the nature and incidence of the full range of crimes committed against children. Specific informational gaps in this area and suggested data collection and research strategies to enhance knowledge about the victimization of children in the State are discussed later in the report.

A. CHAPTER 263 OF THE LAWS OF 1986 -- INTENT AND PROVISIONS

Chapter 263 of the Laws of 1986 was approved on July 1, 1986, and became effective on January 1, 1987. This act, which amended numerous sections of the New York State Executive Law, provides children under the age of 16 with certain additional rights and assistance during their involvement as victims and witnesses with the criminal justice system. Originally, a Governor's Program Bill, Chapter 263 was one of 17 pieces of legislation reported during the 1986 legislative session which dealt with assistance to crime victims.⁵ Fourteen of these bills passed both houses of the Legislature and were signed into law.⁶

On approving Chapter 263 of the Laws of 1986, Governor Mario M. Cuomo indicated that the intent of the legislation was "to establish guidelines for the fair treatment of child victims and child witnesses" and to expressly make "these children and their families eligible for financial assistance from the Crime Victims Board."⁷ The Governor stated that while legislation enacted in 1984 provided for fair standards for the treatment of crime victims, the regulations subsequently promulgated did not distinguish children from adults

in terms of the nature of that treatment.⁸ There was, in other words, little sensitivity in these guidelines to the psychological and emotional impact of crime and the justice system on child victims and their families.

In its declaration of policy and legislative intent for Chapter 263, the Legislature affirmed that special protections for child victims and witnesses were called for in this State, given the significant number of children under 16 victimized by crime and the trauma associated with a child's participation in criminal proceedings.⁹ This expression of legislative intent is apparent in the requirements of the new law which address both the greater vulnerability of children to criminal victimization and the often stressful impact of the justice system on child victims of crime. In order to reduce the rate of criminal victimization of children, the law required DCJS to search for more effective law enforcement methods to combat crimes against children. To minimize the trauma caused by their victimization and subsequent involvement with the criminal justice system, the law afforded child victims and witnesses special services and protection, and required the New York State Crime Victims Board to act as their advocate so as to ensure the provision of this assistance. The Legislature also urged the news media to exercise restraint in revealing the identity of child victims and witnesses, especially in sensitive cases.

As a result of this emphasis on the special needs of child victims, a number of provisions of the new law require or may lead to substantial policy and procedural changes for law enforcement agencies in investigating and prosecuting crimes against children. In his approval message for Chapter 263, Governor Cuomo stressed the benefits these changes would have on law enforcement and public safety in the State noting that "the successful

prosecution of persons who commit crimes against children generally depends on the cooperation of the child victim and the victim's family."¹⁰ The Governor stated that this new law would promote such cooperation through the framework it provided "for preserving the physical and mental well-being" of the victim and his family.¹¹

While the entire text of the law is presented in Appendix A of this report, the section of Chapter 263 with the most direct and greatest impact on law enforcement and the processing of crimes against children is highlighted below. This provision of the law, entitled "Guidelines for fair treatment of child victims as witnesses," adds a new section 642-a to the Executive Law as follows:

Section 642-a. Guidelines for fair treatment of child victims as witnesses. To the extent permitted by law, criminal justice agencies, crime victim-related agencies, social service agencies, and the courts shall comply with the following guidelines in their treatment of child victims:

- o To minimize the number of times a child victim is called upon to recite the events of the case and to foster a feeling of trust and confidence in the child victim, whenever practicable, a multi-disciplinary team involving a prosecutor, law enforcement agency personnel, and social services agency personnel should be used for the investigation and prosecution of child abuse cases.
- o Whenever practicable, the same prosecutor should handle all aspects of a case involving an alleged child victim.
- o To minimize the time during which a child must endure the stress of his involvement in the proceedings, the court should take appropriate action to ensure a speedy trial in all proceedings involving an alleged child victim. In ruling on any motion or request for a delay or continuance of a proceeding involving an alleged child victim, the court should consider and give weight to any potential adverse impact the delay or continuance may have on the well-being of the child.
- o The judge presiding should be sensitive to the psychological and emotional stress a child witness may undergo when testifying.

- o In accordance with the provisions of Article 65 of the Criminal Procedure Law, when appropriate, a child witness as defined in subdivision one of section 65.00 of such law should be permitted to testify via live, two-way closed circuit television.
- o In accordance with the provisions of Section 190.32 of the Criminal Procedure Law, a person supportive of the "child witness" or "special witness" as defined in such section should be permitted to be present and accessible to a child witness at all times during his testimony, although the person supportive of the child witness should not be permitted to influence the child's testimony.
- o A child should be permitted in the discretion of the court to use anatomically correct dolls and drawings during his testimony.

B. RESEARCH DESIGN -- HOW THE STUDY WAS CONDUCTED

1. NOTIFICATION OF STATE LAW ENFORCEMENT ASSOCIATIONS

During the planning process for the study, DCJS advised several statewide law enforcement associations of the changes and requirements in the law and enlisted their cooperation for the conduct of this inquiry concerning crimes against children. The New York State Association of Chiefs of Police was contacted in this fashion, as were the New York State Sheriffs' Association and the New York State District Attorneys' Association. All three associations expressed strong support for the study and, through written endorsements, urged the participation of their memberships in completing the study questionnaires developed and circulated by DCJS.

2. FORMATION OF ADVISORY COMMITTEE

An advisory committee comprised of representatives from major police and sheriffs' departments in New York State, selected district attorneys' offices and child protective services was critical to the planning, design and evaluation stages of the study. The representatives selected for this committee were individuals with expertise and frequent involvement in child

victimization cases. The names, titles and department affiliations of the individuals who served on this committee are listed in Appendix B.

The primary function of the advisory committee was to assist in the development of survey instruments for the inquiry. The committee did this by identifying and describing methods of investigation used by law enforcement agencies throughout the State to apprehend individuals who commit crimes against children. The committee also highlighted issues, areas and resources in law enforcement thought to influence the effectiveness of these investigative methods across departments and communities in the State.

In addition to assisting project staff with the development of survey instruments for the study, the advisory committee also reviewed and commented upon the findings of the DCJS survey. By so doing, the committee contributed to the development of policy recommendations for improving methods of investigating child victimization.

3. LITERATURE REVIEW

Prior to designing the survey instruments for the study, project staff conducted a selective review of the criminal justice, social science and psychological literature dealing with the law enforcement response to the child victim and witness. This literature was surveyed to obtain an understanding of the types and incidence of crimes committed against children at both the national and State levels. In reviewing the literature in this area, particular attention was placed on publications which described and assessed organizational arrangements developed in and between criminal justice and social service agencies to investigate and prevent crimes against children. During this phase of the project, DCJS also identified and reviewed

legislative trends affecting these organizational arrangements and the justice system's processing of cases with child victims and witnesses.

4. CONSULTATION WITH OTHER STATE AGENCIES

In addition to reviewing the literature in this area, project staff in planning this study also contacted other New York State agencies for information pertaining to the victimization of children in the State. Material provided by these agencies assisted DCJS in compiling information on the incidence of abuse and maltreatment in the State, and in developing the report's presentation on the legal and institutional framework for responding to offenses committed against children. The request for information was made of the following agencies and offices:

- Council on Children and Families
- Crime Victims Board
- Department of Correctional Services
- Department of Education
- Department of Health
- Department of Social Services
- Division for Women
- Division for Youth
- Division of Alcoholism and Alcohol Abuse
- Division of Parole
- Division of Probation and Correctional Alternatives
- Division of State Police
- Division of Substance Abuse Services
- Governor's Commission on Domestic Violence

Descriptive information concerning the nature and extent of offenses committed against children was sought from these agencies, as was material relating to any research, prevention efforts or education programs being conducted in the child victimization area.

5. SURVEY OF ALL NEW YORK STATE LAW ENFORCEMENT AGENCIES

The specific results of the extensive survey research conducted by DCJS are presented in Chapters 3 and 4 of this report. A discussion of the survey instruments designed for the study and the related analyses made of findings is provided in Appendices C and D.

It should be noted that for the purpose of the survey, "crimes against children" were defined as: "crimes perpetrated against victims under eighteen (18) years of age, including homicide, assault, assaultive or exploitive sexual crimes (e.g., use of child in sex performance, patronizing or promoting child prostitution) or crimes uniquely directed at children (e.g., custodial interference, abandonment, endangering the welfare of a child, etc.)." This definition was chosen for the inquiry after discussions with the advisory committee and on the basis of the project's literature review and information received from other State agencies.

Nine topic areas were identified as influencing the law enforcement response to detecting, investigating and preventing crimes against children. Numerous questions within each of these topic areas were drafted and included in the survey instruments. The nine areas examined by the survey were the following:

- Resources
- Policy and Procedures
- Reports and Record-keeping
- Training
- Investigatory Practices
- Inter-agency Relations
- Prevention
- Missing Children
- Child Victims and Offenders Statistics

To comply with the law's requirement that DCJS analyze the methods used by all law enforcement agencies in the State to apprehend individuals who commit

crimes against children, survey instruments were distributed to the chief executives of all 579 police and sheriffs' departments in New York State and to the State's 62 district attorneys' offices. Agencies also were asked to forward to DCJS any written policies and procedures they had developed governing the conduct of investigations in this area.

The response rates for both the law enforcement and district attorney surveys were exceptionally high, 73 percent and 80.5 percent respectively. The nature and extent of cooperation shown by this State's law enforcement agencies to the study is an indication of their great concern about the victimization of children and their eagerness to improve investigative methods and practices in this area so as to better combat these crimes.

Extensive statistical analyses were conducted of the survey data. Although the samples available for analyses were generally representative of the State's law enforcement agencies in terms of size, the police and sheriffs' department sample contained a slightly disproportionate number of larger agencies, and for district attorney respondents the smallest size offices were somewhat underrepresented.

The statistical inquiry was guided by themes and trends suggested by the literature review, advisory committee and other State agencies. Furthermore, since law enforcement agencies across the State vary a great deal in terms of the number and nature of incidents demanding their attention, it was decided, given the policy implications of this study, that a key objective of the analyses should be the examination of survey responses according to agency size.

The analyses provided descriptive information about the law enforcement response in this State to crimes against children, as well as more interpretive information concerning the factors influencing this response. In reviewing

this information and the findings presented in the text, it should be noted that questions included in the survey were constructed to allow for multiple and selective response choices and, therefore, the total number of responses available for analyses varied for each individual question. As a result, the percentages of different items under any particular question will not total 100 percent and, unless otherwise specified, are reflective of the number of agencies responding to the question.

6. DEVELOPMENT OF RECOMMENDATIONS

The recommendations which DCJS developed as a result of this study were based on the analyses of survey data and a review of all relevant information acquired during the course of research, including those policies and procedures submitted by departments in response to the survey. It will be noted that these recommendations have been shaped to address the needs of practitioners and policymakers alike. While the majority are directed to the practicing professional and identify ways in which law enforcement agencies can improve their operations to apprehend individuals who victimize children, there also are a good number addressed to the Legislature and other policymaking bodies in the State which are intended to change statewide practice in this area.

Prior to developing the study's recommendations, the chapters of the report which present a description of the survey results were forwarded to the project advisory committee for comment. Subsequently, this committee also was asked to review a draft of the study's general findings and recommendations. Committee members submitted written reactions to the draft and also met as a group in Albany to discuss their individual and collective impressions of these findings and recommendations.

C. FORMAT OF THE REPORT

The report which follows has been developed to address the informational needs of a relatively broad and diverse audience in this State. While the document is intended to provide the practicing professional with material which describes selected state-of-the-art procedures in the child victimization field, it is also meant to inform policymakers about the extent to which these same and other procedures have been implemented by the law enforcement community of this State.

This emphasis on examining the problem of child victimization within the context of diverse informational needs characterizes the format used to present the study's findings in the five main chapters of the report. This is apparent, for example, in the chapter which immediately follows. While this chapter describes what is known about the child victim of crime, both in terms of the nature and reactions to victimization, information is also presented on what the adult system of justice has done to accommodate the child victim so as to process more effectively crimes committed against children. Emphasized in this presentation are the procedural modifications which have been introduced into judicial proceedings to enhance the prosecution of these offenses by lessening the impact of involvement in the justice process on the child victim and witness. Statutory reform measures which have been implemented across the country are reviewed, as are those which are specific to New York's criminal justice process.

The third and fourth chapters of the report extend this examination of changes occurring in the justice system's response to child victimization by focusing exclusively on the innovations being made in law enforcement to improve those practices and strategies associated with the investigation and

prosecution of these crimes. Chapter 3 describes police investigative procedures for dealing with crimes committed against children and Chapter 4 discusses the prosecutorial response to these crimes. Both of these chapters present a selective review of the criminological and social science literature in the child victimization area, and on the basis of this review, identify state-of-the-art arrangements and procedures for enhancing law enforcement's handling of crimes committed against children. New York State's enforcement capabilities are examined within the context of this literature review and identification of exemplary response strategies. It was decided to use this format for the presentation of the results of the DCJS survey of all law enforcement agencies in the State in order to highlight New York's standing with respect to suggested practices for investigating and processing child victim cases. This type of examination also allowed for a more precise identification of the State's strengths and weaknesses in responding to these crimes, and, therefore, provided direction and areas of emphasis in the development of the study's recommendations.

These recommendations are presented along with a statement of the study's general findings in Chapter 5 of the report. For the most part, the presentation of these findings and recommendations topically comports with the organization of the report itself, both for consistency purposes and to provide the reader with a mechanism by which to reference the text of the study. The presentation also adheres to the format used throughout the report, in that the findings and recommendations specified generally represent a composite of the theoretical, or what was learned from the literature reviewed for the study, and the practical, or what was learned as a result of the extensive survey research conducted of all law enforcement agencies in the State.

ENDNOTES

1. New York State Standing Committee on Child Care, Chairman's Report, Child Protective Services: A System Under Stress, (Albany, New York: 1986), p. 35.

2. Ibid.

3. Ibid.

4. Ibid.

5. New York State Senate Committee on Crime and Correction, Annual Report, 1986, (Albany, New York: 1986), p. 3.

6. Ibid.

7. Governor's Memorandum on Approval of Chapter 263, New York Laws (July 1, 1986), reprinted in (1986) New York Laws 3159 (McKinney).

8. Ibid.

9. Chapter 263, Section 1, (1986) New York Laws 457 (McKinney).

10. Governor's Memorandum on Approval of Chapter 263, New York Laws (July 1, 1986), op. cit., p. 3160.

11. Ibid.

CHAPTER 2

OVERVIEW OF THE PROBLEM OF CHILD VICTIMIZATION

With its enactment of Chapter 263 of the Laws of 1986, the Legislature recognized that a significant number of children in this State are victimized by crime. The procedural and organizational changes required of the criminal justice system by the new law are indicative of this recognition, as is the mandate placed on DCJS to conduct a study which analyzes and recommends improvements in the law enforcement response to crimes committed against children.

In order to conduct such a study, it is first necessary to describe what is known and typically done about the problem of child victimization. The chapter which follows provides this information. It begins by reviewing what available data sources indicate about the nature and extent of crimes committed against children both nationally and in New York State in particular. The special needs of the child victim and witness are then described. On the basis of this discussion, it will be seen that these special needs are not just those related to the immaturity or developmental stage of the child but, depending on the nature of the victimization experienced, can be extensive and quite unlike those presented by adult victims. The chapter concludes by examining how the systems responsible for investigating and processing crimes involving child victims address these special needs of children. Emphasis in this discussion is placed on highlighting statutory innovations which have introduced procedural and operational changes into these systems to enhance their responsiveness to the special needs of the child victim and witness.

Before reviewing what is known and done about the victimization of children in this country and across the State, the new law's definition of

"child victim" should be noted and discussed briefly for its relevance to this study. Chapter 263 of the Laws of 1986 defines a child victim as "a person less than sixteen (16) years of age who suffers physical, mental or emotional injury, or loss or damage as a direct result of a crime or as the result of witnessing a crime."

As stated earlier, the primary, though not exclusive, focus of this DCJS study of crimes committed against children is on those offenses which also would constitute serious incidents of abuse and maltreatment according to New York State Law. When data about the incidence of abuse and maltreatment are examined, it will be noted that the definition of an abused or maltreated child in this and most states specifies a different upper age limit for childhood than that of the mandate for the present study. This is true for other data collection sources as well, such as the Uniform Crime Reports, the National Crime Survey Program and the New York State Missing Children Register.

As a result of these differences in the age criteria for childhood, it was not possible in compiling descriptive information about the incidence of crimes committed against children to restrict the focus of the inquiry to the population specified in the mandate for this study (i.e., children under 16 years of age). In fact, in order to achieve consistency with other law in the State, and the Family Court Act in particular, DCJS for the purpose of its survey research adhered to the more extensive, yet more typical, definition of childhood as including individuals under 18 years of age. This minor revision in emphasis was indicated earlier when the study's definition for "crimes against children" was presented.

A. WHO IS THE CHILD VICTIM -- PROBLEMS IN MEASUREMENT

1. MEASURING CRIMES COMMITTED AGAINST CHILDREN -- THE NATIONAL PICTURE

A recent criminological publication dealing with crimes committed against children begins with the statement that "children as victims of criminality is a subject that has often been misunderstood, misdiagnosed, hidden, and underresearched."¹ The lack of comprehensive statistical measures describing the scope of child victimization is said to have compounded this confusion, as there are, in fact, no measurable national statistics that encompass every facet of the criminal mistreatment of children.² In addition, the absence of uniform definitions across jurisdictions and the inconsistent application of those within jurisdictions introduce significant ambiguity into the measures which do exist of crimes committed against children in this country.³

While these limitations in the data present serious problems for obtaining a complete understanding of the nature and extent of crimes committed against children, it is possible to use several major sources of information collected at the national level to describe different aspects of the child victimization problem. The following data sources are reviewed for the information they provide about the victimization of children in this country: the uniform crime reports; national crime survey data; and survey data compiled by the National Committee for the Prevention of Child Abuse.

Uniform Crime Reports

The Uniform Crime Reports (UCR) is generally considered the most authoritative source of information and statistics available on the distribution and frequency of crime in the United States.⁴ Published by the Federal Bureau of Investigation annually since 1930, the UCR presents information compiled by law enforcement agencies throughout the country about

"crimes known to the police."

As the UCR focuses primarily on the offender of crime and not the victim, its utility for providing a measure of the nature and extent of child victimization is extremely limited. The one crime for which the UCR does collect information on the age of the victim is that of murder. On the basis of this information, the FBI has reported that during 1986 nine percent (1,599) of the estimated 20,613 murders committed in the United States involved victims under 18 years of age, representing a one percent increase over the figure reported for 1985 (1,452 of 17,545 victims).⁵

The demographic characteristics of minor victims of murder as compared to adult victims are summarized in Table 1 below. Information about the weapons used by age of the victim is presented in Table 2. Points of interest from these two tables include the similar racial distributions revealed in the data for the two victim age groups and the different patterns seen by age with respect to the weapons used to cause death. Whereas firearms accounted for the majority of deaths for victims 10 years of age and older, personal weapons (hands, fists, feet) were the most frequently reported weapons used for very young victims, or those under five years of age. As the FBI has reported that nearly three of every five murder victims in 1986 were related to or acquainted with their assailants, these facts about weapon use are suggestive of the nature of the violence experienced by children both within the family and by acquaintances.⁶

TABLE 1
DEMOGRAPHIC CHARACTERISTICS OF MURDER VICTIMS, 1986

Age, Sex, Race, and Ethnic Origin of Murder Victims, 1986

Age	Total	Sex			Race				Ethnic Origin		
		Male	Female	Unknown	White	Black	Other	Unknown	Hispanic	Non-Hispanic	Unknown
Total	19,257	14,455	4,774	28	10,199	8,509	452	97	2,841	12,868	3,548
% Distribution	100.0	75.1	24.8	.1	53.0	44.2	2.3	.5	14.8	66.8	18.4
Under 18 ^a	1,599	999	599	1	830	721	41	7	208	1,097	294
18 and over ^a	17,204	13,115	4,087	2	9,109	7,655	404	36	2,542	11,571	3,091
Infant (under 1)	262	140	121	1	148	106	3	5	28	193	41
1 to 4	382	220	162	-	187	181	13	1	34	273	75
5 to 9	124	61	63	-	58	57	9	-	12	85	27
10 to 14	199	107	92	-	129	67	3	-	27	135	37
15 to 19	1,517	1,154	363	-	744	742	26	5	282	970	265
20 to 24	3,166	2,458	707	1	1,551	1,527	84	4	566	2,042	558
25 to 29	3,376	2,622	754	-	1,575	1,718	75	8	542	2,251	583
30 to 34	2,647	2,091	556	-	1,348	1,230	62	7	441	1,758	448
35 to 39	1,980	1,521	459	-	1,042	979	58	1	306	1,330	344
40 to 44	1,335	1,030	304	1	781	519	30	5	203	887	245
45 to 49	911	711	200	-	537	346	26	2	116	637	158
50 to 54	714	548	166	-	399	292	21	2	66	499	149
55 to 59	582	457	125	-	371	197	13	1	53	412	117
60 to 64	458	328	130	-	298	153	7	-	33	341	84
65 to 69	386	258	128	-	224	155	6	1	15	280	91
70 to 74	290	175	115	-	208	79	2	1	13	216	61
75 and over	474	233	241	-	339	128	7	-	13	359	102
Unknown	454	341	88	25	260	133	7	54	91	200	163

^aDoes not include unknown ages.

Source: U.S. Department of Justice, Crime in the United States (1987).

TABLE 2
WEAPONS USE BY AGE OF VICTIM, 1986

Murder Victims - Weapons Used, 1986

Age	Total	Weapons									
		Firearms	Cutting/ stabbing instrument	Blunt objects	Personal weapons	Poison	Explosives	Fire	Narcotics	Strangu- lation	Asphyxia- tion
Total	19,257	11,381	3,957	1,099	1,310	14	16	230	23	341	160
% Distribution	100.0	59.1	20.5	5.7	6.8	.1	.1	1.2	.1	1.8	.8
Under 18 ^a	1,599	602	220	90	387	1	2	60	-	30	61
18 and over ^a	17,204	10,564	3,666	992	880	12	13	157	23	303	97
Infant (under 1)	262	9	12	16	125	1	1	8	-	3	31
1 to 4	382	43	19	28	196	-	-	27	-	6	19
5 to 9	124	48	18	3	23	-	-	12	-	4	2
10 to 14	199	101	32	15	15	-	1	7	-	7	6
15 to 19	1,517	1,009	311	60	57	2	2	8	1	24	9
20 to 24	3,166	2,099	679	108	104	1	-	16	7	55	10
25 to 29	3,376	2,229	710	140	116	2	1	20	4	50	14
30 to 34	2,647	1,705	547	126	119	1	3	13	3	45	12
35 to 39	1,980	1,251	434	101	90	-	3	19	-	32	8
40 to 44	1,335	828	258	76	91	1	2	12	2	14	5
45 to 49	911	549	199	51	51	1	1	16	-	16	1
50 to 54	714	407	152	59	49	1	1	8	1	12	8
55 to 59	582	300	137	56	43	1	-	12	-	16	2
60 to 64	458	202	120	48	44	-	-	11	-	6	5
65 to 69	386	160	95	55	42	-	-	4	1	12	3
70 to 74	290	104	66	46	28	2	-	10	-	9	11
75 and over	474	122	97	94	74	-	-	14	4	22	12
Unknown	454	215	71	17	43	1	1	13	-	8	2

^aDoes not include unknown ages.

Source: U.S. Department of Justice, Crime in the United States (1987).

More specific information about the dynamics of homicides committed against children is provided by the analyses conducted by the Office of Justice Systems Analysis (OJSA) at DCJS of 1986 UCR homicide data reported by New York State law enforcement agencies. These analyses determined that the characteristics surrounding the killing of very young victims suggest that children under 10 years of age usually died in familial settings and that they are almost always killed by a single offender who was a non-stranger, inside the home and under circumstances unrelated to a felony.⁷ Generally, these very young children also were found to have died as the result of a beating and not through the use of other weapons.⁸ Generalizations about the circumstances surrounding the deaths of children 10 years of age and older are more difficult to make, as indicated by the selected offense characteristics summarized in Table 3.⁹ Table 4 provides a demographic description of all 1986 New York State homicide victims and Table 5 presents this information about homicide victim characteristics by age of the victim.

TABLE 3
NEW YORK STATE HOMICIDES
SELECTED OFFENSE CHARACTERISTICS
(BY VICTIM AGE) 1986

OFFENSE CHARACTERISTICS	VICTIM AGE				
	UNDER 10	10-19	20-39	40-59	60 AND OVER
NUMBER OF OFFENDERS INVOLVED					
SINGLE OFFENDER	61	88	502	161	65
MULTIPLE OFFENDERS	7	22	138	31	7
TOTAL	68	110	640	192	72
WEAPON USED					
FIREARMS	6	105	748	139	21
CUT/STAB/BLUNT INSTRUMENT	6	45	320	104	53
PERSONAL (HANDS, FEET, ETC.)	58	9	84	57	44
ALL OTHERS	10	5	14	12	7
TOTAL	80	164	1,166	312	125
VICTIM-OFFENDER RELATIONSHIP					
NON-STRANGER	70	65	339	107	48
STRANGER	0	25	139	60	26
TOTAL	70	90	478	167	74
CIRCUMSTANCE					
FELONY CONNECTED	8	21	233	72	40
ALTERCATION AND OTHER CIRCS.	70	86	452	127	40
TOTAL	78	107	685	199	80
LOCATION					
INDOORS	71	75	588	203	103
OUTDOORS	12	89	571	108	23
TOTAL	83	164	1,159	311	126

Source: Division of Criminal Justice Services, Office of Justice Systems Analysis, New York State Homicide Summary, 1986.

TABLE 4
NEW YORK STATE HOMICIDES
VICTIMS (BY AGE, SEX AND RACE) 1986

VICTIM, AGE SEX AND RACE	1986
<hr/>	
AGE	
INFANT AND NEWBORN	42
1-9	41
10-19	165
20-39	1,168
40-59	312
60 AND OVER	126
UNKNOWN	82
TOTAL VICTIMS	1,936
SEX	
MALE	1,536
FEMALE	397
UNKNOWN	3
RACE	
WHITE	967
BLACK	913
OTHER	43
UNKNOWN	13
<hr/>	

Source: Division of Criminal Justice Services, Office of Justice Systems Analysis, New York State Homicide Summary, 1986.

TABLE 5
NEW YORK STATE HOMICIDES
VICTIMS (SEX AND RACE BY AGE) 1986

VICTIM SEX AND RACE	VICTIM AGE					ROW TOTAL
	UNDER 10	10-19	20-39	40-59	60 AND OVER	
SEX						
MALE	47	132	965	253	73	1,470
FEMALE	36	33	202	59	53	383
TOTAL	83	165	1,167	312	126	1,853
MALE	3.2	9.0	65.6	17.2	5.0	100.0(1,470)
FEMALE	9.4	8.6	52.7	15.4	13.8	100.0 (383)
RACE						
WHITE	26	72	558	187	88	931
BLACK	54	86	584	119	37	880
OTHER	0	7	26	6	1	40
TOTAL	80	165	1,168	312	126	1,851
WHITE	2.8	7.7	59.9	20.1	9.5	100.0 (931)
BLACK	6.1	9.8	66.4	13.5	4.2	100.0 (880)
OTHER	0.0	17.5	65.0	15.0	2.5	100.0 (40)

(PERCENTAGES DO NOT ALWAYS ADD TO 100.0 DUE TO ROUNDING)

Source: Division of Criminal Justice Services, Office of Justice Systems Analysis, New York State Homicide Summary, 1986.

National Crime Survey Program

The United States Department of Justice's National Crime Survey Program (NCS) presents a more useful measure of the criminal victimization of children in this country than that provided by the UCR. Rather than using data provided by police agencies, the NCS compiles its information about personal and household crimes, including crimes not reported to the police, on the basis of a survey of a nationally representative sample of households. The NCS has its own methodological limitations, however, that preclude its ability to describe the full extent of crimes committed against children. The primary limitation of this data set is the exclusion of children under twelve years of age from the survey program. Twelve and 13 year olds also are effectively excluded from NCS data as nearly all the interviews conducted of these children are completed by a knowledgeable adult member of the household.¹⁰

In spite of these methodological limitations which, in all likelihood, result in an under-estimation of crimes committed against children, it should be noted that the NCS has consistently revealed that younger people are much more likely to be victimized by crime than individuals in other age categories. In 1984, the estimated rates of personal victimization were higher for the 12-15, 16-19, and 20-24 year old age groups than for individuals 25 years and older, with the highest victimization rate reported for 16-19 year olds. For the period 1982-1984, the NCS has reported that the most common victimization type for 12-15 and 16-19 year olds was personal larceny without contact (121.7 per 1,000 persons and 119.4 per 1,000 persons, respectively), followed by simple assault (30.9 per 1,000 persons and 34.2 per 1,000 persons, respectively).¹¹

The NCS also has studied the relationship between the offenders and victims of violent crime. A significant finding in this area has been that younger people are far more likely to be victimized by acquaintances than individuals in other age groups. The NCS has noted that this greater propensity for children and teenagers to be victimized by relatives or family friends, is in all likelihood an underestimate, given the reluctance of children to recount these kinds of victimizations and the effective exclusion of 12- and 13-year-olds from the survey interview process.¹² For the period 1982-1984, the NCS has reported the following significant findings concerning the variation by age for victim-offender relationships:

- o Young teenage violent crime victims were the most likely of the three age groups to have known their offenders casually or by sight. In many of these situations, the teenager may have recognized the offender as a fellow student in school or as someone living in the neighborhood.
- o The proportions of older teenagers and adults victimized by persons known by sight were not measurably different. Older teenage violent crime victims, however, were more likely than adults to report that the offenders were casual acquaintances.
- o The proportion of violent crime victims who reported that their offenders were completely unknown was highest for adults (51%) followed by older teenagers (43%) and younger teenagers (32%).¹³

Noting that the likelihood of experiencing a crime at a particular place or time is related to the daily activities of the potential victim, NCS survey data also reveal that approximately nine percent or 1.4 million incidents of violent crime during the period 1982 to 1984 occurred on school property.¹⁴ During this time period, 34 percent of the violent victimizations involving 12-15 year olds and 14 percent of those involving 16-19 year olds occurred in or at school. For crimes of theft, these figures were much larger: 83 percent of those committed against 12-15 year olds and 42 percent of those committed against 16-19 year olds took place in or at school.¹⁵

These NCS findings about crimes committed in or at school are consistent with those of an earlier 1979 study of criminal victimization in urban schools.¹⁶ This 1979 study examined 270,000 victimizations reported to have occurred on urban school grounds in 26 cities across the country. It was found that in-school victimizations had a higher proportion of young victims than did victimizations that took place in any other location. The majority of victims of in-school crime were under 16 years old: two-fifths of the rape victims; one-half of the victims of aggravated assault, simple assault, larceny with contact and larceny without contact; and two-thirds of the victims of robbery were between the ages of 12 and 15. The most frequently reported in-school victimization experience was larceny without contact. The study also found that most victims reported that they had not informed the police about their victimization.

National Committee for the Prevention of Child Abuse - Semi-Annual Survey

Since 1982, the National Committee for the Prevention of Child Abuse (NCPA) has conducted a semi-annual survey of all states in the country in order to assess the funding and scope of child welfare services across the country and to monitor trends in the incidence and characteristics of child abuse reports received nationwide.¹⁷ In presenting this data, the non-uniform definitions for abuse and maltreatment which exist across jurisdictions must be kept in mind. It also should be remembered that while there is overlap in the law between these victimizations and acts defined as criminal, the match between the two is not exact, with a substantial realm of behavior considered abusive or neglectful, but not criminal.

The source of information for the NCPA survey is the Federal government's liaison officer for child abuse and neglect in each state who is contacted twice each year by telephone and asked a series of questions about the nature of child abuse reports in their states.¹⁸ The NCPA's eighth semi-annual survey was conducted in the Fall of 1986. Although representatives of all 50 states and the District of Columbia were contacted during this survey, only 34 respondents knew or were able to project their state's child abuse reporting statistics for the year. Information about fatalities due to maltreatment was even more limited with only 24 state representatives being able to provide statistics in this area for the years 1984, 1985 and 1986.¹⁹

With these limitations of the data set in mind, the NCPA reported that based upon information collected from 33 states and the District of Columbia, an estimated two million reports of maltreatment were made nationwide during 1986, approximately six percent more than had been recorded during 1985.²⁰ Table 6 summarizes the percentage change by state for the years 1984-1985 and 1985-1986.

A dramatic increase in the number of confirmed and suspected fatalities due to maltreatment also was reported. The NCPA noted that for the 24 states that provided information about these cases, the number of fatalities had increased by 29 percent over the number of deaths recorded for 1985.²¹ The NCPA further stressed the impact of this finding by noting that during 1984-1985 these same states had experienced a two percent decline in the number of child fatalities.²² Table 7, which is reproduced from the NCPA report, summarizes this information on child fatalities due to maltreatment.

TABLE 6
ACTUAL/PROJECTED PERCENTAGE INCREASE IN REPORTS
OF CHILD ABUSE AND NEGLECT FROM 1984-1986

STATE	1984-1985	1985-1986
ALASKA	5%	20%
ARIZONA	23%	12%
ARKANSAS	TRACE	8%
CALIFORNIA	18%	20%
CONNECTICUT	11%	1%
DELAWARE	-17%	10%
DISTRICT OF COLUMBIA	- 1%	21%
FLORIDA	15%	9%
GEORGIA	17%	17%
HAWAII	- 3%	1%
IDAHO	7%	2%
ILLINOIS	4%	1%
INDIANA	21%	- 1%
IOWA	1%	8%
KANSAS	9%	- 9%
KENTUCKY	6%	6%
LOUISIANA	36%	- 6%
MAINE	8%	5%
MASSACHUSETTS	6%	5%
MINNESOTA	- 6%	-23%
MISSISSIPPI	64%	13%
NEBRASKA	30%	- 2%
NEVADA	8%	11%
NEW YORK	4%	17%
NORTH DAKOTA	5%	6%
OHIO	35%	6%
OKLAHOMA	12%	9%
OREGON	10%	7%
PENNSYLVANIA	4%	10%
SOUTH CAROLINA	9%	0%
SOUTH DAKOTA	39%	9%
UTAH	17%	3%
WASHINGTON	- 5%	9%
WISCONSIN	46%	10%
AVERAGE	13% ^a	6%

^aThe American Association for Protecting Children found a 10% increase in reports for this period in their detailed analysis of official reporting data from all fifty states.

Source: National Committee for the Prevention of Child Abuse, Semi-Annual Survey (1987).

TABLE 7
REPORTED CHILD DEATHS DUE TO MALTREATMENT

STATE	1984	1985	1986
ARKANSAS	19	9	12 ^a
DELAWARE	0	0	0 ^a
HAWAII	2	1	0 ^a
IOWA	11	9	14 ^a
IDAHO	6	2	4
ILLINOIS	54	54	81
INDIANA	26	37	38 ^a
KANSAS	5	9	21 ^c
MAINE	1	0	2 ^a
MARYLAND	15	10	22 ^a
MASSACHUSETTS	11	13	14 ^a
MONTANA	2	3	0
NEBRASKA	3	4	2
NEVADA	3	6	0 ^a
NEW JERSEY	21	21	0 ^a
NEW MEXICO	5	12	7
NEW YORK **	123	106	162
NORTH CAROLINA	16	8	5
NORTH DAKOTA	0	0	0 ^a
OKLAHOMA	16	16	24
OREGON	3	5	14 ^a
PENNSYLVANIA	42	36	52 ^a
SOUTH CAROLINA	6	21	22
SOUTH DAKOTA	6	4	2
TOTAL	396	386	498
AVERAGE CHANGE BETWEEN 1984 AND 1985	-2%		
AVERAGE CHANGE BETWEEN 1985 AND 1986		+29%	

^aProjections based on the first six months of 1986

^bNumber confirmed or pending

^cSince the survey was conducted, Kansas officials have revised their statistics indicating that a total of 20 suspected deaths due to maltreatment were reported in 1986 and that 12 of these reports were confirmed. The remaining 8 cases were not due to maltreatment.

Source: National Committee for the Prevention of Child Abuse, Semi-Annual Survey (1987).

The NCPA also collected information from 40 of its state representatives on the numbers of reports of abuse substantiated over the past several years. In general, the overall rates of substantiation remained consistent, with approximately 43 percent of all child abuse reports were confirmed in 1985, compared to 42 percent in 1984.²³ As indicated by Table 8, however, states showed wide variation in these rates of substantiation. Survey respondents explained this variation by noting urban/rural differences in substantiating cases of child abuse and maltreatment. Urban areas were said to have low rates of substantiation and rural areas high rates.²⁴

TABLE 8
1985 SUBSTANTIATION RATES

STATE	SUBSTANTIATION RATE
ARKANSAS	37
CONNECTICUT	56
DELAWARE	55
FLORIDA	53
HAWAII	55
IDAHO	47
ILLINOIS	47
INDIANA	32
IOWA	30
KANSAS	38
KENTUCKY	44
LOUISIANA	42
MAINE	51
MARYLAND	60
MASSACHUSETTS	51
MICHIGAN	39
MINNESOTA	39
MONTANA	49
NEBRASKA	61
NEVADA	51
NEW HAMPSHIRE	45
NEW JERSEY	38
NEW MEXICO	39
NEW YORK	37
NORTH CAROLINA	36
NORTH DAKOTA	47
OHIO	24
OKLAHOMA	35
OREGON	52
PENNSYLVANIA	37
PUERTO RICO	48
SOUTH CAROLINA	30
SOUTH DAKOTA	44
TEXAS	56
UTAH	33
VERMONT	52
VIRGINIA	17
WEST VIRGINIA	38
WISCONSIN	33
WYOMING	42
AVERAGE	43

Source: National Committee for the Prevention
of Child Abuse, Semi-Annual Survey
(1987).

2. MEASURING CRIMES COMMITTED AGAINST CHILDREN -- THE STATE PICTURE

The limitations present in State level sources of data for crimes committed against children are similar to those which exist at the national level. Statewide data sources contain little information about victims of crime and those that do tend to be limited in focus to particular types of criminal activity. In spite of these limitations, it is possible to use several different sources of data to describe and provide a measure of certain aspects of the criminal victimization of children in New York State. The following data sources are reviewed below: arrest data for identifiable crimes against children; allegations and reports of abuse and maltreatment received by the New York State Child Abuse and Maltreatment Register; and descriptive case information for children reported as missing to the New York State Missing Children Register.

Arrest Data

DCJS collects arrest data compiled by law enforcement agencies statewide. As with UCR data, however, this data source focuses for the most part on alleged offenders and provides very little information about the victims of crime. It also should be noted that arrest data provides less a measure of crimes committed than it does law enforcement activity. Given what survey data has shown about the reluctance of children to report crimes to the police, this is particularly true with respect to those crimes committed against children.

With these limitations in mind, arrest data can be useful for providing a measure of the frequency of certain types of crimes involving children. In New York State there are a number of identifiable crimes against children or crimes for which age of the victim is an element of the offense. Those offenses in New York State Penal Law which specifically identify children as victims are

listed below. As indicated by this presentation, these identified crimes against children can be categorized into three distinct groups: sexual assault offenses; other sexual offenses; and non-sexual offenses.

IDENTIFIABLE CRIMES AGAINST CHILDREN AS DEFINED BY NYS PENAL LAW

NYS Penal Law Citation

Description

Sexual Assault Offenses

Penal Law, Section 130.25(2)	Rape 3 ⁰
Penal Law, Section 130.30	Rape 2 ⁰
Penal Law, Section 130.35(3)	Rape 1 ⁰
Penal Law, Section 130.40(2)	Sodomy 3 ⁰
Penal Law, Section 130.45	Sodomy 2 ⁰
Penal Law, Section 130.50(3)	Sodomy 1 ⁰
Penal Law, Section 130.60(2)	Sexual Abuse 2 ⁰
Penal Law, Section 130.65(3)	Sexual Abuse 1 ⁰

Other Sexual Offenses

Penal Law, Section 263.05	Use of Child in Sex Performance
Penal Law, Section 263.10	Promoting Obscene Sexual Performance of Child
Penal Law, Section 263.15	Promoting Sexual Performance of Child
Penal Law, Section 235.21	Disseminating Indecent Material to a Minor
Penal Law, Section 230.04	Patronize a Prostitute 3 ⁰
Penal Law, Section 230.05	Patronize a Prostitute 2 ⁰
Penal Law, Section 230.06	Patronize a Prostitute 1 ⁰
Penal Law, Section 230.30(2)	Promoting Prostitution 2 ⁰
Penal Law, Section 230.32	Promoting Prostitution 1 ⁰

Non-Sexual Offenses

Penal Law, Section 135.45(1)	Custodial Interference 2 ⁰
Penal Law, Section 135.55	Substitution of Children
Penal Law, Section 260.00	Abandonment of Child
Penal Law, Section 260.05	Non-Support of Child
Penal Law, Section 260.10	Endangering the Welfare of a Child
Penal Law, Section 260.20	Unlawfully Dealing with a Child
Penal Law, Section 100.05(2)	Criminal Solicitation 4 ⁰
Penal Law, Section 100.08	Criminal Solicitation 3 ⁰
Penal Law, Section 100.13	Criminal Solicitation 1 ⁰
Penal Law, Section 105.05(2)	Conspiracy 5 ⁰
Penal Law, Section 105.10(2)	Conspiracy 4 ⁰
Penal Law, Section 105.13	Conspiracy 3 ⁰
Penal Law, Section 105.17	Conspiracy 1 ⁰
Penal Law, Section 115.00(2)	Criminal Facilitation 4 ⁰
Penal Law, Section 115.01	Criminal Facilitation 3 ⁰
Penal Law, Section 115.08	Criminal Facilitation 1 ⁰

Sexual assault offenses include crimes such as rape, sexual abuse, and sodomy. Sexual assault offenses committed against children involve sexual intercourse, deviate sexual intercourse, and sexual contact, such as touching for gratification by either the actor or the victim. These offenses are also included as part of the Family Court Act's definition of an abused child which is discussed below.

Other sexual offenses include crimes involving the sexual exploitation of a child, such as for use in sexual plays, motion pictures, photographs, dances or any other visual representation exhibited before an audience. The child victimized by these sexual exploitation offenses could also be defined as an abused child according to the Family Court Act. Other sexual offenses include patronizing a prostitute who is a child, and promoting the prostitution of a child. Promoting prostitution offenses are also included in the definition of child abuse.

Non-sexual offenses against children include: custodial interference where someone, who without legal right, takes, or entices a child from the legal custodian; substituting a child less than one year old with another to deceive the legal custodian; abandoning a child by a legal custodian; failing to provide support for the care of a child which the person is legally charged to provide; endangering the welfare of a child where a person commits or encourages or authorizes acts likely to physically, morally or mentally injure the child, or where the legal custodian of the child allows the child to become an abused child, a neglected child, a juvenile delinquent or a person-in-need of supervision; and unlawfully dealing with a child by tattooing, selling alcoholic beverages, selling tobacco, or permitting a child to enter or remain in a place wherein illicit sexual or illegal narcotics activity is

conducted or maintained. Other non-sexual offenses include: soliciting a child to commit a crime; conspiring with a child to commit a crime; and aiding a child in the commission of a crime.

Table 9 presents arrest data compiled for these identifiable crimes against children for the years 1981-1986. This table indicates that during the period 1981-1986, arrests for crimes committed against children increased by 41.5 percent or from a reported 3,459 to 5,911. Arrests for "other sexual offenses" increased the most (20.2 percent), followed by arrests for "sexual assaults" which showed a 10.6 percent increase.

Of the total number of arrests for identifiable crimes against children made in 1986, 4,161 arrests or 70.4 percent of the total involved "non-sexual offenses" against children, 1,620 or 27.4 percent dealt with "sexual assaults" and 130 or 2.2 percent involved "other sexual offenses."

Tables 10, 11 and 12 summarize 1986 data on each of these categories of crimes by the severity of the offense committed. Of the "non-sexual offenses" committed against children (see Table 12), 2,143 arrests or 51.5 percent were for the Class A misdemeanor of endangering the welfare of a child (Penal Law, Section 260.10), and 1,770 arrests or 42.5 percent were for the Class B misdemeanor of unlawfully dealing with a child (Penal Law, Section 260.20).

Table 11 indicates that approximately 50 percent of the 130 arrests involving "other sexual offenses" against children were for the Class A misdemeanor of patronizing prostitution 3⁰ (Penal Law, Section 230.04). As indicated in Table 10, the majority (85.9 percent) of 1986 arrests for "sexual assault" crimes against children were at the felony level. Approximately 44 percent or 710 of these arrests were for the Class D felonies of Rape 2⁰ (Penal Law, Section 130.30), sodomy 2⁰ (Penal Law, Section 130.45) and sexual abuse 1⁰

(Penal Law, Section 130.65). Rape 1⁰ (Penal Law, Section 130.35) and sodomy 1⁰ (Penal Law, Section 130.50), both Class B felonies, accounted for approximately 25 percent of these arrests.

TABLE 9
ARRESTS REPORTED^a INVOLVING
CRIMES AGAINST CHILDREN
NEW YORK STATE

	1981	1982	ARREST YEAR		1985	1986
			1983	1984		
SEXUAL ASSAULTS	786	888	993	1,440	1,736	1,620
OTHER SEXUAL	43	48	54	51	69	130
NON-SEXUAL	2,630	2,618	3,046	3,354	3,482	4,161
TOTAL	3,459	3,554	4,093	4,845	5,287	5,911

^aOffenses defined in the Penal Law as having a victim under the age of 16 years.

Source: Division of Criminal Justice Services, Office of Justice Systems Analysis, March 1987.

TABLE 10
PENAL LAW SPECIFICATION OF ARRESTS REPORTED^a
INVOLVING SEXUAL ASSAULT OFFENSES AGAINST CHILDREN
1981 - 1986
NEW YORK STATE

	NUMBER OF ARRESTS					
	1981	1982	1983	1984	1985	1986
	786	888	993	1,440	1,736	1,620
CLASS B FELONIES	161	164	202	323	384	397
RAPE-1° (PL 130.35)	55	55	74	112	153	145
SODOMY-1° (PL 130.50)	106	109	128	211	231	252
CLASS C FELONIES	12	13	15	25	19	13
ATT. RAPE-1° (PL 130.35)	6	7	11	17	16	5
ATT. SODOMY-1° (PL 130.50)	6	6	4	8	3	8
CLASS D FELONIES	338	383	430	643	782	710
RAPE-2° (PL 130.30)	91	100	109	135	151	146
SODOMY-2° (PL 130.45)	66	62	55	93	132	96
SEXUAL ABUSE-1° (PL 130.65)	181	221	266	415	499	468
CLASS E FELONIES	167	186	178	212	274	265
ATT. RAPE-2° (PL 130.30)	4	3	6	7	5	8
RAPE-3° (PL 130.25)	110	133	128	144	188	181
ATT. SODOMY-2° (PL 130.45)	6	5	2	5	8	6
SODOMY-3° (PL 130.40)	38	41	39	55	65	66
ATT. SEXUAL ABUSE-1° (PL 130.65)	3	4	3	1	8	4
CLASS A MISDEMEANORS	108	140	166	233	274	234
ATT. RAPE-3° (PL 130.25)	3	4	2	5	1	5
ATT. SODOMY-3° (PL 130.40)	0	3	0	2	4	2
SEXUAL ABUSE-2° (PL 130.60)	105	133	164	226	269	227
CLASS B MISDEMEANORS	0	2	2	4	3	1
ATT. SEXUAL ABUSE-2° (PL 130.60)	0	2	2	4	3	1

^aOffenses defined in the Penal Law as having a victim under the age of 16 years except PL 130.25 and 130.40 which specify that the victim be less than 17 years.

Source: Division of Criminal Justice Services, Office of Justice Systems Analysis, March 1987.

TABLE 11
PENAL LAW SPECIFICATION OF ARRESTS REPORTED^a
INVOLVING OTHER SEXUAL OFFENSES AGAINST CHILDREN
1981 - 1986
NEW YORK STATE

	NUMBER OF ARRESTS					
	1981	1982	1983	1984	1985	1986
	43	48	54	51	69	130
CLASS B FELONIES	0	0	1	1	3	0
PROM. PROSTITUTION-1° (PL 230.32)	0	0	1	1	3	0
CLASS C FELONIES	20	21	25	24	25	24
PROM. PROSTITUTION-2° (PL 230.30)	15	19	17	15	18	13
USE OF CHILD IN SEXUAL PERFORMANCE (PL 263.05)	5	2	8	9	7	11
CLASS D FELONIES	13	4	3	9	7	21
PATRONIZING PROSTITUTION-1° (PL 230.06)	1	0	1	2	0	3
ATT. PROM. PROSTITUTION-2° (PL 230.30)	0	1	0	1	0	1
ATT. USE OF CHILD IN SEXUAL PERFORMANCE (PL 263.05)	0	0	1	0	0	0
PROM. SEXUAL PERFORMANCE BY CHILD (PL 263.15)	5	2	0	5	5	11
PROM. OBSCENE SEXUAL PERFORMANCE (PL 263.10)	7	1	1	1	2	6
CLASS E FELONIES	8	19	21	11	10	15
PATRONIZING PROSTITUTION-2° (PL 230.05)	7	19	20	10	6	11
DISSEMINATING INDECENT MATERIAL (PL 235.21)	1	0	1	1	4	4
CLASS A MISDEMEANORS	2	4	4	6	24	70
PATRONIZING PROSTITUTION-3° (PL 230.04)	2	4	4	6	24	70

^aOffenses defined in the Penal Law as having a victim under the age of 16 years except PL 230.04 which specify that the victim be less than 17 years.

Source: Division of Criminal Justice Services, Office of Justice Systems Analysis, March 1987.

TABLE 12
PENAL LAW SPECIFICATION OF ARRESTS REPORTED¹
INVOLVING NON-SEXUAL OFFENSES AGAINST CHILDREN
1981 - 1986 NEW YORK STATE

	NUMBER OF ARRESTS					
	1981	1982	1983	1984	1985	1986
	2,630	2,618	3,046	3,354	3,482	4,161
CLASS A FELONIES	3	11	5	1	6	8
CONSPIRACY-1° (PL 105.17)	3	11	5	1	6	8
CLASS B FELONIES	0	3	1	0	4	5
CRIM. FACILITATION-1° (PL 115.08)	0	3	1	0	0	5
ATT. CONSPIRACY-1° (PL 105.17)	0	0	0	0	4	0
CLASS C FELONIES	0	2	0	2	1	2
CRIM. SOLICITATION-1° (PL 100.13)	0	2	0	2	1	2
CLASS D FELONIES	8	23	13	20	6	9
CONSPIRACY-3° (PL 105.13)	8	23	13	20	6	9
CLASS E FELONIES	37	55	54	62	58	83
CONSPIRACY-4° (PL 105.10)	2	22	5	10	12	24
CRIM. SOLICITATION-3° (PL 100.08)	12	12	21	14	11	10
CRIM. FACILITATION-3° (PL 115.01)	14	6	6	19	10	18
SUBSTITUTION OF CHILDREN (PL 135.55)	0	0	1	2	1	2
ABANDONMENT OF A CHILD (PL 260.00)	9	15	21	15	24	29
ATT. CONSPIRACY-3° (PL 105.13)	0	0	0	2	0	0
CLASS A MISDEMEANORS	1,801	1,665	1,892	2,032	2,166	2,277
ATT. CONSPIRACY-4° (PL 105.10)	0	0	0	0	0	1
CONSPIRACY-5° (PL 105.05)	6	8	10	2	9	2
CRIM. SOLICITATION-4° (PL 100.05)	6	15	10	12	7	4
CRIM. FACILITATION-4° (PL 115.00)	10	8	1	3	3	6
CUSTODIAL INTERFERENCE-2° (PL 135.45)	109	84	118	129	100	109
NON-SUPPORT OF A CHILD (PL 260.05)	3	6	8	6	2	10
ENDANGERING WELFARE OF A CHILD (PL 260.10)	1,657	1,544	1,745	1,880	2,045	2,143
ATT. ABANDONMENT (PL 260.00)	0	0	0	0	0	2
CLASS B MISDEMEANORS	781	859	1,081	1,237	1,241	1,777
UNLAWFULLY DEALING WITH CHILD (PL 260.20)	774	854	1,071	1,233	1,235	1,770
ATT. CUSTODIAL INTERFERENCE-2° (PL 135.45)	1	1	0	1	0	1
ATT. ENDANGERING WELFARE (PL 260.10)	4	2	6	3	2	6
ATT. UNLAWFULLY DEALING WITH CHILD (PL 260.20)	2	2	4	0	4	2

¹Offenses defined in the Penal Law as having a victim under the age of 16 years.

Source: Division of Criminal Justice Services, Office of Justice Systems Analysis, March 1987.

New York State Child Abuse and Maltreatment Register -- Allegations and Reports of Abuse and Maltreatment

The New York State Child Abuse and Maltreatment Register, referred to as the State Central Register (SCR) is operated by the New York State Department of Social Services (DSS). The SCR compiles and maintains reports of abuse and maltreatment which are received through the State's Child Abuse Hotline. Allegations of abuse and maltreatment are registered as reports if the evidence given on the case presents "reasonable cause to suspect" that a child has been abused or maltreated by a parent or other person legally responsible for the child. The report, which is classified as either a case of abuse or maltreatment by the SCR, is then immediately provided to the Child Protective Services (CPS) Unit of the County Department of Social Services with jurisdiction. The local CPS must begin an investigation into the case within 24 hours and make a determination as to whether there is an indication that the report was founded ("indicated") or unfounded within 90 days.²⁵

While not all of the acts and omissions included in this State's legal definitions of abuse and maltreatment would constitute or be treated as criminal activity by law enforcement agencies, an examination of the reported occurrence of child abuse and maltreatment does provide another measure of the extent of child victimization in New York State. In way of an introduction to this examination of data, the statutory definitions for abuse, maltreatment and neglect are presented below. In order to establish the distinction between abuse and maltreatment which could be considered criminal from that which could not, this presentation of the Family Court Act's definitions indicates those actions which overlap with criminal behavior by incorporating references to pertinent sections of the New York State Penal Law.

The New York State Family Court Act, Section 1012 defines an abused child as a person less than 18 years of age whose parent or other person legally responsible for the care of the child:

- o inflicts or allows someone to inflict physical injury which causes or creates a substantial risk of death, or serious or protracted disfigurement, or protracted impairment of physical or emotional health or protracted loss or impairment of the function of any bodily organ (Penal Law, Section 120.10); or
- o creates a substantial risk of a physical injury which would be likely to cause death or serious injury (Penal Law, Section 120.10); or
- o commits or allows to be committed a sex offense against the child such as sexual misconduct (Penal Law, Section 130.20), rape (Penal Law, Sections 130.25 - 130.35), consensual sodomy (Penal Law, Section 130.38), sodomy (Penal Law, Sections 130.40 - 130.50), and sexual abuse (Penal Law, Sections 130.60 - 130.65); or allows, permits or encourages such child to engage in promoting prostitution (Penal Law, Sections 230.25, 230.30, 230.32), incest (Penal Law, Section 25.25), or allows sexual exploitation of a child such as their use in sexual plays, motion pictures, photographs, dances or any other visual representation exhibited before an audience (Penal Law, Article 263).

A maltreated child is defined by Family Court Act, Section 1012 as a child under 18 years of age who is a neglected child; or who has had a non-accidental serious physical injury inflicted on him/her. A neglected child is defined as a child whose physical, mental or emotional condition has been or is in imminent danger of becoming impaired due to the failure of a legal custodian to provide:

- o adequate food, clothing, shelter, or education; or
- o proper supervision by inflicting excessive corporal punishment (Penal Law Sections 120.00 - 120.50), misusing drugs or alcohol resulting in the loss of self control, or any other similar acts.

A neglected child also includes a child who has been abandoned by his/her parent. Abandonment exists when a parent fails to visit or communicate with the child if the parent is able to do so.

For the purposes of the present discussion, it is necessary to comment briefly on the impact which these legal definitions can have on obscuring information about the nature and extent of the child victimization problem in New York State. The potential for overlap in the classification of a report as abuse or maltreatment should be noted first. This is particularly the case with respect to the infliction of serious injury. While it would seem that the

degree of harm experienced should distinguish these two types of behavior from each other, this is not readily apparent from the similar language used in the law for each. Although it did not comment directly on this particular issue, the Legislative Commission on Expenditure Review did address the problems caused by the language of the law in its March 1987 assessment of the State Central Register when it observed that there was considerable inconsistency in the classification of allegations received at both the State and county levels of the system.²⁶

The considerable overlap of behaviors which comprise both abuse and maltreatment according to the Family Court Act and criminal offenses under the Penal Law should also be noted. Because of the extent of this overlap, it is not possible to directly relate findings of abuse or maltreatment with any particular criminal offense, such as assault or reckless endangerment. For example, whereas one would think that information pertaining to the more serious designation of abuse would also provide an indication of the extent to which children are physically assaulted in the home, this would, in fact, only be a partial indication without the inclusion of data relating to those physically abusive behaviors classified as maltreatment or neglect. The range of harms covered by the designations of abuse and maltreatment, which include emotional impairments as well as the risks and neglect associated with inadequate supervision, present further difficulties in using this data to make specific statements about the nature of child victimization in New York State.

In spite of these limitations, reports received and data maintained by the State Central Register do provide an indication of the degree to which children are victimized through abuse or maltreatment in the home. According to the SCR, there were 95,626 reports registered involving 157,027 children in 1986.²⁷ These totals include new reports received at the SCR plus subsequent reports on cases already active in the Register. The Department of Social Services also

has reported that the number of reports registered by the SCR has increased every year since the implementation of the Child Protective Services Act of 1973 which established the State's 24-hour hotline for the receipt of abuse and maltreatment allegations.²⁸ The magnitude of these increases has ranged from a high of 22.6 percent in reports and 21.1 percent in children in 1975, to a low of 2.8 percent in reports and 1.5 percent in children in 1976. There was a 13.7 percent increase in the number of reports registered in 1986 as compared to 1985 and a 12.9 percent increase in the number of children involved.²⁹ Data summarizing information on the reports registered in New York State each year from 1974-1986 is presented in Table 13.

Table 14 provides information on the number of new cases registered annually for the period 1974-1986. The table indicates that this figure also has increased each year, ranging from a high of 13.2 percent in 1975 to a low of 1.9 percent in 1985. The number of cases registered in 1986 represented a 10 percent increase over the number registered in 1985.³⁰ That the increase in the number of reports registered each year since 1974 has been due primarily to incidents of maltreatment rather than abuse is indicated in Table 15. Given the variety of behavior encompassed by the broad definition of maltreatment in the law, the overrepresentation of these cases as compared to incidents of abuse is understandable.

TABLE 13
REPORTS REGISTERED - NEW YORK STATE
1974-1986

YEAR	# Reports Registered	# Children Involved	% Increase # Reports Previous Year	% Increase # Children Previous Year
1974	29,912	59,636		
1975	36,666	72,195	22.6%	21.1%
1976	37,698	73,288	2.8%	1.5%
1977	39,682	75,762	5.3%	3.4%
1978	45,337	85,640	14.3%	13.0%
1979	51,845	92,404	14.4%	7.9%
1980	55,937	97,483	7.9%	5.5%
1981	64,421	112,662	15.2%	15.6%
1982	69,739	120,207	8.3%	6.7%
1983	74,120	125,288	6.3%	4.2%
1984	80,990	134,478	9.3%	7.3%
1985	84,119	139,032	3.9%	3.4%
1986	95,626	157,027	13.7%	12.9%

1986 Source: SCR #301 Report (Database as of 04/04/87).

1983-1985 Source: SCR Reporting Highlights 1974-1985.

Previous Years Source: NYS DSS, Child Protective Services Annual Report for 1982, page 11.

This Table does not include data for children in congregate care facilities for the period October 1, 1986 - December 31, 1986.

Source: Department of Social Services, State Central Register Reporting Highlights 1974-1986.

TABLE 14
CASES REGISTERED - NEW YORK STATE
1974-1986

YEAR	# Cases Registered	# Children Involved	% Increase # Cases Registered Previous Year	% Increase # Children Previous Year
1974	27,597	54,866		
1975	31,248	63,364	13.2%	15.5%
1976	33,608	63,931	7.6%	0.1%
1977	34,918	64,713	3.9%	0.1%
1978	39,494	71,958	13.1%	11.2%
1979	44,090	75,854	11.6%	6.4%
1980	46,717	78,846	6.0%	3.9%
1981	51,795	87,755	10.9%	11.3%
1982	55,308	91,703	6.8%	4.5%
1983	58,690	96,011	6.1%	4.7%
1984	63,621	101,731	8.4%	6.0%
1985	64,819	103,206	1.9%	1.4%
1986	71,292	112,818	10.0%	9.3%

1986 Source: SCR #301 Report (Database as of 04/04/87).

1983-1985 Source: SCR Reporting Highlights 1974-1985.

Previous Years Source: NYS DSS, Child Protective Services Annual Report for 1982, page 11.

This Table does not include data for children in congregate care facilities for the period October 1, 1986 - December 31, 1986.

Source: Department of Social Services, State Central Register Reporting Highlights 1974-1986.

TABLE 15
ABUSE AND MALTREATMENT
REPORTS REGISTERED - NEW YORK STATE
1974-1986

YEAR	NUMBER TOTAL REPORTS REGISTERED	NUMBER ABUSE REPORTS REGISTERED	ABUSE % OF TOTAL REPORTS	NUMBER MALTREATMENT REPORTS REGISTERED	MALTREATMENT % OF TOTAL REPORTS
1974	29,912	5,295	17.7%	24,617	82.3%
1975	36,666	6,603	18.0%	30,063	82.0%
1976	37,698	7,224	19.2%	30,474	80.8%
1977	39,682	8,303	20.9%	31,379	79.1%
1978	45,337	8,832	19.5%	36,505	80.5%
1979	51,845	7,753	15.0%	44,092	85.0%
1980	55,937	7,478	13.4%	48,459	86.6%
1981	64,421	7,087	11.0%	57,334	89.0%
1982	69,739	7,746	11.1%	61,993	88.9%
1983	74,120	6,755	9.1%	67,365	90.9%
1984	80,990	8,913	11.0%	72,077	89.0%
1985	84,119	8,556	10.2%	75,563	89.8%
1986	95,626	8,999	9.4%	86,627	90.6%

1986 Source: SCR #301 Report (Database as of 04/04/87).

1983-1986 Source: SCR Reporting Highlights 1974-1985.

Previous Years Source: NYS DSS, Child Protective Services Annual Report for 1982, page 12.

This Table does not include data for children in congregate care facilities for the period October 1, 1986 - December 31, 1986.

Source: Department of Social Services, State Central Register Reporting Highlights 1974-1986.

An indication of the number of cases founded and unfounded and, therefore, a more accurate estimate of the actual incidence of reported abuse and maltreatment in the State is presented in Tables 16 and 17. Table 16 gives this information for each reporting source, but does so only for those cases for which a determination made at the local district level has also been formally cleared at the State Central Register level. Table 17 presents information on the indicated/unfounded rates for all cases submitted to the SCR by the local districts, regardless of the status of their processing at the State level. It should be noted from these tables that the majority of abuse/maltreatment reports made in this State during 1986 were "unfounded" or did not have their allegations sustained upon investigation. There was little variation between New York City and the upstate region with respect to this high percentage of unfounded cases. What does appear to influence the rate for unfounded cases is the nature of the reporting source. As expected, reports received from mandated reporters were indicated significantly more often than those received from non-mandated reporters. Law enforcement fared generally well with respect to indicated cases - the second largest mandated source of reports, their indication rate was above the average for all mandated reporters and over double that of non-mandated reporters. Information about fatalities due to abuse and maltreatment is provided in Table 18. It should be noted that in 1986, 190 children were alleged to have died as a result of child abuse and maltreatment, an increase of 53.2 percent over 1985.

TABLE 16

CASES OF CHILD ABUSE/MALTREATMENT BY DETERMINATION STATUS
BY REPORTING SOURCE BY REGION, 1986

Reporting Source	New York State					New York City					Upstate				
	Percent Indic.	Percent Unfoun.	Total Deter.	Deter. Pndg.	Total Cases	Percent Indic.	Percent Unfoun.	Total Deter.	Deter. Pndg.	Total Cases	Percent Indic.	Percent Unfoun.	Total Deter.	Deter. Pndg.	Total Cases
Mandated															
Medical Ex/Cor	100.0	0.0	2	2	4	100.0	0.0	2	2	4	0.0	0.0	0	0	0
Social Services	37.1	62.9	2,062	3,600	5,662	34.7	65.3	700	1,820	2,520	38.3	61.7	1,362	1,780	3,142
Physicians	46.2	53.8	680	1,339	2,019	55.3	44.7	360	928	1,288	35.9	64.1	320	411	731
Public Health	44.2	55.8	190	306	496	51.9	48.1	54	131	185	41.2	58.8	136	175	311
Hospital Staff	51.8	48.2	2,216	4,388	6,604	58.4	41.6	1,305	3,394	4,699	42.4	57.6	911	994	1,905
Mental Health	47.8	52.2	550	1,203	1,753	56.2	43.8	210	730	940	42.6	57.4	340	473	813
Law Enforcement	45.9	54.1	2,353	3,011	7,364	44.4	55.6	991	2,962	3,953	47.0	53.0	1,362	2,049	3,411
School Staff	38.3	61.7	3,613	6,496	10,109	41.7	58.3	1,053	2,992	4,045	37.0	63.0	2,560	3,504	6,064
Total Mandated	49.2	50.8	11,666	22,345	34,011	47.7	52.3	4,675	12,959	17,634	40.2	59.8	6,991	9,386	16,377
Non-Mandated															
Neighbor	16.9	83.1	1,198	1,953	3,151	20.2	79.8	267	706	973	16.0	84.0	931	1,247	2,178
Other	22.4	77.6	6,094	9,686	15,780	28.3	71.7	1,936	4,726	6,662	19.6	80.4	4,158	4,960	9,118
Relative	23.8	76.2	4,481	7,468	11,949	35.0	65.0	1,418	3,596	5,014	21.4	78.6	3,063	3,872	6,935
Anonymous	15.1	84.9	2,261	4,146	6,407	17.6	82.4	714	1,950	2,664	14.0	86.0	1,547	2,196	3,743
Total Non-Mandated	21.8	78.2	14,034	23,253	37,287	28.2	71.8	4,335	10,978	15,313	19.0	81.0	9,699	12,275	21,974
All Reporters	31.5	68.5	25,700	45,598	71,298	38.3	61.7	9,010	23,937	32,947	27.8	72.2	16,690	21,661	38,351

Source: SCR 401 Report (Database as of 04/04/87)

Note A: "Percent Indicated" and "Percent Unfounded" are percentages of "Total Determinations" made by local districts and verified by SCR monitoring on 1986 cases as of 04/04/87. "Determination Pending" (Pending) includes those cases determined by the local district and awaiting verification by SCR monitoring as well as cases not yet determined. For a calculation of Indicated/Unfounded rates for all cases determined by the local district, see Table 10.

Note B: The number of Indicated and Unfounded cases has been omitted to simplify this Table, but can be easily derived by applying respective percentages against the cases in the "Total Determination" column.

This Table does not include data for children in congregate care facilities for the period 10/1/86 - 12/31/86. See Table 21 for information regarding children in congregate care facilities.

Source: Department of Social Services, State Central Register Reporting Highlights 1974-1986.

TABLE 17
CASES OF CHILD ABUSE/MALTREATMENT BY
DETERMINATION STATUS FOR ALL DETERMINED CASES, 1986

	NEW YORK STATE		NEW YORK CITY		REST OF STATE	
Total Cases	71,298		32,947		38,351	
Indicated	18,679	34.4%	7,594	36.2%	11,085	33.3%
Verified by SCR	6,939		3,072		3,867	
Awaiting SCR Verification	11,740		4,522		7,218	
Unfounded	35,559	65.6%	13,359	63.8%	22,200	66.7%
Verified by SCR	17,597		5,555		12,042	
Awaiting SCR Verification	17,962		7,804		10,158	
Delinquent Determinations	17,060	23.9%	11,994	36.4%	5,066	13.2%

Source: SCR 310 Report (Database 04/04/87).

Note: This table combines both those cases determined by the local district which have been verified through SCR monitoring and those which are still pending in SCR monitoring on the database date.

This Table does not include data for children in congregate care facilities for the period October 1, 1986 - December 31, 1986.

Source: Department of Social Services, State Central Register Reporting Highlights 1974-1986.

TABLE 18
FATALITIES DUE TO ALLEGED AND ACTUAL
CHILD ABUSE OR MALTREATMENT - 1985/86

REPORTS

	NEW YORK STATE		NEW YORK CITY		UPSTATE	
	<u>1985</u>	<u>1986</u>	<u>1985</u>	<u>1986</u>	<u>1985</u>	<u>1986</u>
Alleged	117	181	78	117	39	64
Confirmed	41	86	22	59	19	27
Unfounded	26	46	17	26	9	20
Pending	50	49	39	32	11	17

CHILDREN

	NEW YORK STATE		NEW YORK CITY		UPSTATE	
	<u>1985</u>	<u>1986</u>	<u>1985</u>	<u>1986</u>	<u>1985</u>	<u>1986</u>
Alleged	124	190	79	123	45	67
Confirmed	43	93	22	65	21	28
Unfounded	28	46	17	26	11	20
Pending	53	51	40	32	13	19

Source: Manual records of New York State Department of Social Services Child Protection Services as of March 9, 1987 for 1986 data and as of January 27, 1987 for 1985 data.

This Table does not include data for children in congregate care facilities for the period October 1, 1986 - December 31, 1986.

Source: Department of Social Services, State Central Register Reporting Highlights 1974-1986.

New York State Missing Children Register

Another measure of what may involve the criminal victimization of children is that provided by the New York State Missing Children Register. The Missing Children Register, created pursuant to Chapter 627 of the Laws of 1984, is a component of the State's Missing and Wanted Person System and is linked to the National Crime Information Center under the terms of the Federal Missing Children Act of 1982.

While most children who are reported missing would fall into the runaway category, cases reported to the Missing Children Register may also involve abductions by strangers or the non-custodial guardian and what are referred to as throwaway children, or children who are subject to such limited supervision that they are in effect abandoned or on their own. Research has generally shown that while out of the home or on the street, runaways are often exploited or victimized by adults, a situation which was recognized recently by the Legislature with the enactment of Chapter 263 of the Laws of 1986.³¹ This legislation amended the Executive Law by establishing the rebuttable presumption that a child reported missing for more than 30 days is a victim of crime. Research has also found that for a significant number of children who run away, the primary push out of the home is the existence of an abusive situation in the family.³² The Legislature has also been responsive to these findings with the recent amendment made to the Social Services Law which allows a criminal justice agency investigating a missing child case conditional access to child protective information maintained by DSS.

The database for the Missing Children Register consists of reports of missing children filed at local law enforcement agencies by individuals responsible for the child's care.³³ Law enforcement agencies, through their communication networks, must place entries of missing children cases into the State and national registers immediately upon receiving these reports.

Additional identifying information, such as physical description data and supporting documents, including fingerprints, blood type, medical/optical and dental information are submitted by these agencies subsequent to the report. Access to this case material is provided to authorized agencies when it is suspected that a child under their care is a missing child, all case information is retained on the register and remains active until the child is located and the reporting agency has cancelled the case with the Missing Children Register.

For 1986 cases entered into the Missing Children Register, a missing child was defined under the law as "any person under the age of 16 years missing from his or her normal or ordinary place of residence and whose whereabouts cannot be determined." Pursuant to a change in the law, since September 1, 1987, the age criteria for entry on the register has been extended to include all reports of missing persons under the age of 18 (Chapter 652 of the Laws of 1987). It should also be noted that for cases reported in 1986, the Missing Children Register cannot provide data about the circumstances surrounding the child's disappearance (such as abducted, voluntarily missing or lost). Similarly, information supplied to the Missing Children Register upon cancellation of a case did not include the circumstances surrounding the recovery or the physical well-being of the located child. Recognizing the need to improve the amount and quality of information supplied by reporting agencies, DCJS recently redesigned the capability of the Missing Children Register to capture this vital information. All missing children cases reported to the Register after February 16, 1987 include information on the circumstances of the disappearance and the reasons why a case was cancelled. These data will not only increase overall understanding of the nature and extent of the missing children problem in New York State, but are also essential to the development of prevention strategies and the planning and coordination of law enforcement's response to

this problem.

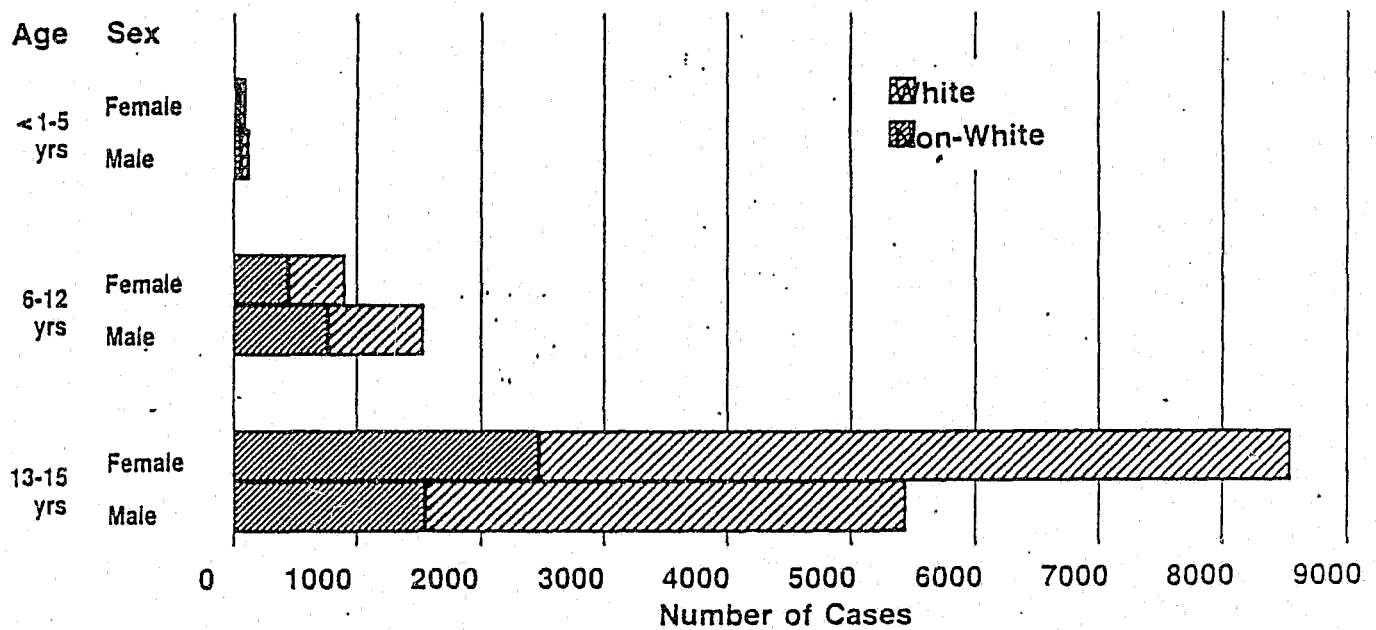
While these limitations in the data place serious parameters on the level of analysis currently possible, descriptive information concerning the volume, location and certain demographic characteristics of cases is available from the Missing Children Register. Looking first at the volume of reported cases over the past year, the Missing Children Register received 16,658 reports of missing children during 1986.³⁴ These missing children reports were concentrated in New York's largest urban areas, with 30 percent of the reports received from New York City, and 25.1 percent from the suburban New York City areas of Nassau, Rockland, Suffolk and Westchester counties.³⁵ As stated earlier, pursuant to the enactment of Chapter 263 of the Laws of 1986, children who are missing for more than 30 days are presumed to be victims of crime. Of the 734 missing children cases which were active on the Register on December 31, 1986, 430 of these cases or 58.6 percent had been active for more than 30 days.³⁶ Active cases are those which have been entered or reported to the Register but are not yet disposed, that is, the child is still being sought.

Figure A presents demographic characteristics of cases reported during 1986. It will be noted that the majority of children reported missing in 1986 were teenaged white females. Other significant findings indicated by this figure include the following:

- o Statewide, older children accounted for the largest proportion of missing children cases. During 1986, 84 percent of reported missing children cases involved 13 to 15 year olds. Children aged 6 to 12 years comprised 14.7 percent of the total cases, while reports of missing children under 6 years old were relatively rare (1.3 percent).
- o Of the 16,658 cases reported, 9,553 (57.3 percent) involved females, and 7,105 (42.7 percent) involved males.
- o There were twice as many reports of white children missing from the State (68 percent of cases) than non-white children (32 percent).
- o The single largest group of missing children cases entered during 1986 involved white females aged 13 to 15 (43.5 percent). The smallest group involved non-white females less than 6 years old (0.3 percent).³⁷

FIGURE A

DEMOGRAPHIC CHARACTERISTICS OF REPORTED MISSING CHILDREN CASES, 1986



Source: NYS Division of Criminal Justice Services, Office of Justice Systems Analysis, Bulletin (September 1987).

B. THE SPECIAL NEEDS OF THE CHILD VICTIM

The enactment of Chapter 263 of the Laws of 1986 represents formal recognition in this State of the significant number of children victimized by crime. The provisions of the new law that establish guidelines for the fair treatment of child victims also give expression to the special needs of children who must function as witnesses or whose cases are disposed of in adult criminal court proceedings.

While children are not miniature adults, the American justice system traditionally has treated them as such during their involvement as victims or witnesses in criminal investigations and proceedings.³⁸ In fact, until relatively recently, the system had few formalized procedures or practices which took into consideration the most common-sensical limitations presented by children to the conduct of criminal proceedings -- limitations which are related to the child's immaturity or stage of development.

The low volume of child victimization cases resolved through recourse to these proceedings does not, in and of itself, explain this lack of responsiveness of the criminal justice system to the needs of the child victim. In fact, the system's continued lack of responsiveness may have more to do with the low volume of cases which go forward to criminal prosecution than the other way around.

This reverse causal order is suggested throughout the literature. For example, the New York State Assembly Republican Task Force on Sexual Assault detailed how the State's criminal justice system and procedures were unresponsive to the special needs presented by the child and, as a result, obstructed the successful investigation and prosecution of sexual abuse cases involving child victims.³⁹ Presented as particularly problematic to the disposition of these cases were: the repeated interviews conducted during an

investigation by different agencies with overlapping informational needs; the typically lengthy process involved in the investigation and adjudication of these offenses; and the child's unfamiliarity and resultant discomfort with courtroom procedures and language.⁴⁰

In an insightful article which places this issue of the system's lack of responsiveness to the child victim and witness in its historical context, Goodman notes that intuitive beliefs, often based on cultural biases and misconceptions about the inability of the child witness to provide truthful and accurate testimony, have affected all levels of the legal processing of child victimization cases.⁴¹ In particular, Goodman examines how early twentieth century psychological studies of the child witness were influenced by the legal profession's stereotypes of children as being "the most dangerous of all witnesses," and discusses how these beliefs contributed to the creation of the special laws and standards which have served to regulate or restrict the testimony of children (e.g., competency, corroboration requirements) in the courts of this country.⁴² In addition to providing an historical perspective and explanation for the system's lack of responsiveness to the child witness, this article also discusses the apparent trends in current psycho-legal research involving children, noting that courts and legislatures have begun to reassess the laws that govern child witnesses and have displayed a greater openness to social science research for information and advice on the issue.⁴³ This openness of the courts and lawmakers is attributed to several factors: the activism of the 1960s; the court's changing attitudes toward civil and criminal rights; the court's increased familiarity with and acceptance of the testimony of psychological experts; and, society's heightened concern with children's rights and protecting children from abuse and maltreatment.⁴⁴

Berliner also has commented on the system's increasing responsiveness to identifying and addressing the needs posed by the child victim and witness and

traces this change in orientation to the increased emphasis in this country on victimology, in general, and the domestic violence and rape victims advocacy efforts of the late 1970s, in particular.⁴⁵ It also is noted that as public awareness about crimes committed against children has increased so, too, has the expectation that the criminal justice system must handle these cases as serious crimes and make it possible for children to cooperate with the criminal justice process.⁴⁶

The changes made in law enforcement and criminal proceedings to accommodate the needs of the child victim and witness will be examined in subsequent chapters of this report. The impetus for these changes or the special needs of children now being addressed by the system are discussed briefly below. In general, these needs have been grouped into two overlapping categories: needs which manifest themselves as a result of the child's age or immaturity and needs which are related to a child's reactions to victimization.

1. AGE-SPECIFIC NEEDS

Immaturity has its most telling effect on the child's ability to understand, answer and, in some cases, endure the series of questions which typically comprise the investigation and prosecution of criminal offenses.⁴⁷ A child's stage of cognitive development, or the extent of his mastery of adult terms and concepts, determines comprehension skills and the ability to precisely describe events with the factual, or time and space, perspective so critical to investigative case development. While these developmental inabilities can limit the effectiveness of the child witness, research generally has discounted the historical conception of children as having easily distorted memories and as being, therefore, "the most dangerous of all witnesses" in criminal proceedings.⁴⁸ Studies have shown, for example, that

while children may recall less than adults, what they do remember is, in fact, quite accurate, with errors occurring in the direction of omission rather than commission.⁴⁹

The National Center for Missing and Exploited Children states that an investigator must be fully knowledgeable of a child's cognitive, emotional and behavioral stage of development in order to plan an effective interview strategy and accurately evaluate the results of investigative interviews.⁵⁰ In its instructional manual for the interviewing of child victims, this organization notes that the child's stage of development at the time of the interview, as well as at the time of victimization, not only affects the child's ability to recount the facts of the incident, but also has a great impact on how the child perceives his victimization.⁵¹ For example, the child who emotionally is still at the stage of complete dependence on the family is typically unable to perceive him or herself as blameless in a situation of familial abuse. As a result of this dependence or out of fear of disrupting the family structure, the child is often reluctant to disclose complete or, in some cases, consistent information about the incident to investigating officials.⁵²

Along these same lines, the literature also advises investigators that the child's emotional stage of development will greatly affect reactions to the interviewer and his questions during the investigation and adjudication process. Emotionally, children progress from perceiving themselves as the "center of the universe" to conceding all authority to adults.⁵³ A child who is at the stage of development where adults are vested with total authority may accept an adult's questions at face value or may be easily pressured into embellishing a story in order to win the approval of the interviewer.⁵⁴ Research has demonstrated that while children are not necessarily more suggestible than adults, they can be so in situations where their memory is

somewhat weak or the questioner is of relatively high status compared to the child.⁵⁵ Permitting the child to recount the incident in his own words and in the absence of leading questions guards against the occurrence of this suggestibility.⁵⁶

2. REACTIONS TO VICTIMIZATION

In most cases of crimes committed against children, the victimization of the child does not end with the actual maltreatment, but extends into a variety of short- and long-term effects. The after-effects associated with abuse and maltreatment include problems related to physical health, growth retardation, psychological and neurological damage and antisocial or delinquent behavior.⁵⁷ For the purposes of this discussion, the short-term psychological impact of victimization on the child will be examined as it is the primary determinant of the child's reaction to involvement with the criminal justice system.

The National Institute of Justice report, When the Victim is a Child, has stated that there are three major factors which affect a child's ability to cope with the trauma of abuse, neglect or molestation: (1) the child's stage of development prior to being victimized; (2) the specific circumstances surrounding the incident; and (3) the reactions of trusted adults to the disclosure of abuse.⁵⁸

The impact of the child's stage of development on emotional and psychological reactions to victimization was alluded to in the previous section. A number of the points made in this section have been used by theorists to explain why victims of child sexual abuse often lie, change their stories or recant allegations. One such theorist has developed a five concept model to describe how a child's psychological reactions to abuse typically effect the child's willingness or readiness to disclose information about the victimization experienced.⁵⁹ These five concepts or psychological reactions to

victimization include the following: feelings of entrapment and responsibility for the abusive situation, especially where the offender is a parent or other authority figure; fears of blame or rejection which result in a tendency to appear and be secretive about the abuse; feelings of helplessness which often manifest themselves in compliant or retreatist behavior; compensatory or socially unacceptable behavior which makes the disclosure appear unconvincing; and feelings of isolation and victimization by the system which make the retraction of statements and return to the abusive situation seem safer and more predictable than continued involvement in proceedings against the offender.

The specific circumstances surrounding the incident which are said to influence a child's reaction to abuse include the relationship between the child and the offender, whether the abuse or assault is an isolated incident or an ongoing occurrence, the degree of violence involved, and, in cases where the abuse is sexual in nature, how the offender engages the child in sexual activity.⁶⁰ In general, there is agreement in the literature that as emotional distance between the offender and child increases, the degree of trauma experienced by the child victim decreases. A similar pattern is suggested for the number of incidents and length of time over which these incidents occur. It has generally been found that a single incident, although emotionally disruptive for the child victim, is easier to integrate and recover from than a series of incidents occurring over an extended period of time.⁶¹

In contrast, the crime of incest places the child in a particularly precarious position and compounds the problems which immaturity present for investigative and prosecutorial activity. Because of the dependent relationship of the child on the offender and the special ways in which the child is engaged in sexual activity, which often include the offender's use of threats to withdraw affection or cause injury to other family members, timely

reporting of the crime by the child is the exception rather than the rule.⁶² Guilt and shame are the typical reactions for victims of incest, especially if the child experienced any degree of gratification or secondary gain as a result of the sexual relationship.⁶³ According to Burgess et al.:

In many cases, the sexual relationship may have been a positive one for the child, or at least a neutral experience on balance. Termination of such a special relationship may well result in a sense of loss for the victim, especially if the perpetrator was a relative or even a parent. The child's feelings of grief or loss may be aggravated by temporary or permanent physical separation from the perpetrator. In certain situations, the child may literally never see the perpetrator again. The degree of trauma to the child can be expected to be directly related to the degree of disruption produced by the separation in such cases.⁶⁴

The impact which these circumstantial factors may have on the child's psychological willingness and readiness to disclose information about the victimization should be apparent, especially when examined in the context of the five concept model of barriers to disclosure presented earlier.

The NIJ report states, however, that the most influential factor on a child's reaction to victimization is the response of those to whom the child reports the incident, whether they be doctors, police, attorneys or parents.⁶⁵ The National Center for Missing and Exploited Children indicates that the skepticism and shock typically displayed by parents who learn of an incident of abuse are very frightening to the young child and convey a threat of disbelief, disapproval, mistrust and withdrawal of affection.⁶⁶ Accordingly, the initial reaction of the child to this actual or perceived response by the family is to deny or recant the disclosure.

3. IMPACT OF OFFICIAL INTERVENTION -- TRADITIONAL BARRIERS TO SUCCESSFUL INVESTIGATION AND PROSECUTION

In general, the literature stresses the need for the criminal justice system to adopt special techniques which encourage the cooperation of the child victim and acknowledge the inherent limitations on a child's ability to

cooperate or perform as a witness both before and during criminal proceedings. Without such practices that accommodate the system and its procedures to the special needs of the child victim, official intervention has the potential to result in two negative effects: (1) further traumatization of the child by investigation and court procedures can occur; and (2) unsuccessful prosecutions are more likely because the child witness is unable to convey consistently or completely the information necessary to corroborate charges in court.⁶⁷

In conducting the research for its study on procedures and practices used to prosecute and adjudicate child victimization cases, the National Institute of Justice posed the following question to professionals experienced in working with child victims and witnesses: "What exactly is it about the criminal justice system that is difficult or troublesome for the child victim/witness?"⁶⁸ The most common response to this question emphasized the fear expressed and experienced by the victim about facing the defendant in court. Respondents also indicated that children tended to react to and often were overwhelmed by certain physical attributes of the courtroom setting, such as the size and positioning of the witness and judge's chairs and the presence and obtrusiveness of microphones.⁶⁹ Other characteristics of criminal proceedings mentioned by respondents as troublesome for children included: cross-examination, the audience, being removed from home, the jury, the judge, fear of retaliation or retribution by the defendant and general fear of the unknown.⁷⁰

This NIJ study also pointed out that the anxiety experienced by children is not confined to the courtroom setting or to the act of testifying itself, but extends to pretrial investigative activity as well. In particular, respondents reported that

[h]aving to repeat their stories so many times was...difficult and confusing to children. Because they do not understand the different roles and obligations of all the people who interview them, children do not understand why they must tell their stories

for police, social workers, doctors, prosecutors, and, ultimately, the court. As one child said to a prosecutor, "Can't I just tell you?" While this is simply exasperating for some children, it causes others to relive the traumatic event repeatedly. Still others feel partially relieved of some of the trauma upon telling the story the first time and proceed to block out important details in subsequent sessions. The problem is exacerbated when the case is prolonged by seemingly endless continuances.⁷¹

A recent study which examined the impact of official intervention on cases involving child sexual assault found that the court process can be as much of a crisis for the child and family as the actual assault.⁷² Victims and their families developed a multitude of intense reactions in going through this process and experienced the magnification of several general psychological responses as a result of the involvement.⁷³ Burgess and Holmstrom describe the following as typical reactions of the victim and his family to participation in criminal court proceedings:

First, time becomes suspended. The energies to continually go to court, to endure the court delays that interrupt schooling and family life are upsetting to the child. Victim and family become preoccupied by court and have difficulty going about their normal activities.

Second, the rape or assault is relived. The court process recapitulates, in a psychological manner, the original assault situation. The child must relive the assault mentally and verbally in a public setting at least three times: at the hearing for probable cause, before the grand jury, and at superior court level. Court is a very formal protocol that is new and unfamiliar. The child does not know how the court system works and has to rely on preparation by the district attorney who often may not have the time to explain or prepare the child. In cross-examination, the defense counsel may try to discredit the child's story by implying that the child made up the story.

Third, victims become aware that people are skeptical about their story, and a feeling of silent suspicion is felt. Few people, except in the courtroom, may be so blatant as to tell the child they do not believe her, but this suspicion is communicated in subtle ways. And fourth, the child and family may feel betrayed by people previously considered supportive.⁷⁴

Other researchers who have examined the impact of law enforcement investigation practices and court procedures on the emotional reaction patterns in young victims of incest and non-incest sexual assault have found that the

recovery of the child from victimization is often prolonged when legal proceedings are involved in the resolution of these cases.⁷⁵ Repeated questioning during the law enforcement process, and the fear and disruption of routine associated with numerous trips to the police station, court buildings and other unfamiliar places are particularly traumatic for the child.⁷⁶ Grand jury proceedings are stress-provoking and confusing, as is the process of cross-examination at trial. In both cases, the child is likely to misperceive the purpose of the proceedings and, as a result of their formality or confrontational tactics intended to discredit testimony, has a tendency to assume responsibility and blame for the offender's actions.⁷⁷

C. LEGISLATIVE REFORMS WHICH ADDRESS THE SPECIAL NEEDS OF THE CHILD VICTIM AND WITNESS

State legislative bodies in this country have not ignored the problems that arise when seeking justice for young victims. In fact, in recent years, the extent and plethora of activity in this area has become so widespread that it represents a distinct trend in the criminal justice system's response to crimes committed against children. While many of the statutory innovations introduced or being considered today have their origins in the recommendations made by the Attorney General's Task Force on Family Violence in 1984, a significant number of the legislative actions taken by the states have gone far beyond the procedural modifications suggested by this group.⁷⁸

An overview of the statutory procedural reforms introduced into the criminal justice system at the national and New York State levels is provided below. For the most part, the substance and format of the discussion of national legislative activity is derived from a recent paper prepared for the American Bar Association Child Sexual Abuse Law Reform Project by the primary researcher for the NIJ report cited earlier, Debra Whitcomb.

1. OVERVIEW OF NATIONAL STATUTORY REFORM MEASURES

Review of State Statutes

Statutory innovations relating to the justice system's management of child victimization cases can be grouped into four distinct categories. Generally, these reforms are comprised of legislative measures which:

- o seek to alleviate the perceived trauma of giving live, in-court testimony;
- o authorize mechanical interventions to obtain the child's testimony;
- o permit the child witness to have a supportive person present for assistance during court proceedings; and
- o attempt to expedite the adjudication process by giving precedence in trial scheduling to cases where the victim is a minor.⁷⁹

Statutory innovations made by states in each of these four areas are described below. While the next section of this report deals exclusively with significant legislative changes made to New York State Law, its coverage of these changes employs a somewhat different focus and extends beyond the four areas of reform highlighted here. Accordingly, a brief statement of New York's standing with respect to each of these areas of statutory reform is included in the descriptions which follow. This statement appears at the conclusion to each of the four areas reviewed.

Statutory Measures Which Seek to Alleviate the Perceived Trauma of Giving Live, In-Court Testimony

Statutory measures to alleviate the trauma associated with giving live in-court testimony include those which exclude spectators from the courtroom during the testimony of a sexual abuse victim; statutes which create a special hearsay exception for child sexual abuse victims; and measures which revise competency criteria for allowing the testimony of child witnesses.⁸⁰ A description of the extent and nature of state activity in each of these areas follows.

Exclusion of Spectators. As of 1985, 20 states had enacted laws which barred some portion of the audience from the courtroom during the testimony of child sexual abuse victims. A number of these statutes are worded generally so as to exclude everyone except persons necessary to the conduct of the trial, and others specify exceptions to exclusion, such as the child's parents, guardian ad litem or attorney, or other supportive person.⁸¹ Only four states provide an exception for representatives of the media or allow the media to remain in the courtroom during the child's testimony (Arizona, Florida, Illinois and South Dakota).⁸² Four states provide for such public access by making a transcript of the private testimony available (Alaska, Arizona, California and New Hampshire).⁸³

Special Exceptions to Hearsay. As of 1985, nine states were said to have statutorily created a special hearsay exception explicitly limited to child sexual abuse victims. These laws typically indicate that a child's out-of-court statement is admissible as evidence if the court finds sufficient indicia of the reliability of the statement and the child either testifies or is found unavailable as a witness.⁸⁴ Seven states require corroboration if the child does not testify and only one state (Kansas) stipulates that such corroboration is not required.⁸⁵ Five states direct the government to give notice of its intent to introduce an out-of-court statement by the child.⁸⁶

Competency Provisions. Since 1974, with the enactment of the Federal Rules of Evidence and the subsequent adoption in many states of the Uniform Rules of Evidence, there has been a trend in this country away from competency criteria or significant modification of the common law rule establishing the presumption of competence only for children over 14 years of age.⁸⁷ The following information summarizes statutory activity relating to competency provisions:

- o Twenty states dictate that every person is competent, the standard found in Federal Rule 601.

- o Thirteen states presume that anyone is competent if he or she understands the oath or the duty to tell the truth, regardless of age.
- o In 13 states, a child above the age of ten is presumed competent. In two of these states, a child under 12 must show an understanding of the oath.
- o Five states stipulate that a child is competent to testify if he or she understands the nature and obligation of the oath, or, in some states, understands the duty of the witness to tell the truth.
- o Case law in five states suggests they most likely use the common law standard which holds that a child above the age of 14 is presumed competent.⁸⁸

While New York State has introduced significant statutory reform measures to alleviate the trauma of a child's in-court appearance, it has not implemented a number of the more extreme innovations described above. With respect to the exclusion of spectators from the courtroom, New York law provides, pursuant to Section 4 of the Judiciary Law, that while the sittings of every court within the State are public, the court may, in its discretion, exclude persons who are not directly interested, excepting jurors, witnesses, and officers of the court, from proceedings and trials in cases for divorce, seduction, abortion, rape, assault with intent to commit rape, sodomy, bastardy or filiation. In addition, Chapter 263 of the Laws of 1986, while it does not speak directly to this issue of the exclusion of spectators from the courtroom, "urges restraint on the news media in revealing the identity of child victims and witnesses." With respect to competency provisions, New York State has modified the common law presumption of competence only for children over 14 years of age, to permit children under 12 years of age to give sworn testimony providing the court finds the child understands the nature of the oath.

Statutory Measures Which Authorize Mechanical Interventions to Obtain the Child's Testimony

Legislative activity in this area generally includes measures which permit the introduction of a child's videotaped testimony or statement into judicial proceedings, and statutes which authorize judges to allow physically or

sexually abused children to give their testimony using closed-circuit television.

Videotaped Testimony. As of 1985, 13 states had enacted legislation which authorized the introduction of videotaped testimony taken at a deposition or preliminary hearing, with three of these states also acting to explicitly prohibit the government from calling the child to testify at trial if the videotape is introduced.⁸⁹ Recognizing the legal implications presented by the use of videotaped testimony, a number of states have established statutory conditions which either limit its introduction or prescribe procedures for the taking of the child's testimony including the following:

- o Eleven states require the defendant to be present during the videotaping, although two of those states (Kentucky and Texas) specify that the child must not be able to hear or see the defendant.
- o Six states stipulate that the defendant be provided a full opportunity to cross-examine the child.
- o Two states require the child's testimony to be taken under the Rules of Evidence; and
- o Eight states require a showing that testifying will be traumatic or that the witness is medically or otherwise unavailable; only Arkansas merely provides that good cause must be shown.⁹⁰

Closed-Circuit Television (CCTV). As of 1985, only three states (Texas, Kentucky and Louisiana) statutorily authorized judges to allow physically or sexually abused children to provide their testimony on closed-circuit television for the court and jury. While the defendant and video equipment operators are allowed in the room during the taking of this testimony, it is specified in the law for all three states that their presence should be unobtrusive and that the child should not be able to see or hear them, only the judge, attorneys and support person can be present and visible to the child during these proceedings.⁹¹

Videotaped Statements. The same three states which authorize the use of closed circuit television were also the only jurisdictions which had enacted

laws as of 1985 which permitted the introduction into evidence of a videotape made of the child's first statement, provided that the statement was given to a non-attorney and both the interviewer and child are available at trial for cross-examination.⁹²

While New York State has introduced significant statutory measures which authorize mechanical interventions to obtain a child's testimony, these measures have generally been drafted very carefully or with an acute awareness of the legal implications attendant upon the use of this technology in judicial proceedings. As such, New York's statutes establish certain explicit criteria which govern the use of mechanical interventions and also prescribe the specific procedures for taking a child's testimony under these conditions.

Chapter 804 of the Laws of 1984 amended Section 190.30 of the Criminal Procedure Law in this State to permit the introduction of videotaped testimony into grand jury proceedings for a child under 12 years of age who is the victim of a sex crime, incest, or several other crimes involving endangerment of the welfare of a child. This law also allows the use of videotaped testimony for persons who are found by the court to be "special witnesses" (i.e., persons over 12 years of age, but unable to attend proceedings because of physical illness or incapacitation, or who are likely to suffer very severe emotional and mental stress if required to testify in person concerning sex offenses or crimes relating to the endangerment of a child). In addition to setting these limiting criteria for the use of videotaped testimony, Chapter 804 of the Laws of 1984 also established very specific procedural requirements for the taking of this testimony.

This emphasis on specificity is also apparent in Article 65 of this State's Criminal Procedure Law, which authorizes the use of live, two-way closed circuit television to obtain the testimony of vulnerable child witnesses. The use of this procedure is limited to children 12 years old or

less who are called to testify in a criminal proceeding, other than a grand jury, concerning certain sexual offenses and incest.

For the use of CCTV to be authorized, the court must first determine by clear and convincing evidence that the child is a "vulnerable witness," and as a result of extraordinary circumstances will suffer severe mental or emotional harm if required to testify at a criminal proceedings without the use of live, two-way, closed-circuit television. In addition, the court must find that the use of the CCTV procedure "will help prevent, or diminish the likelihood or extent of such harm." Criminal Procedure Law also specifies procedures which are to be employed in an application to the court for the use of CCTV and indicates the grounds for the court's determination in such applications. In addition, very detailed special testimonial procedures are delineated in the law, which specify how and where the child's testimony is to be taken, who is to be present with the child during this testimony and what is to be transmitted both to and from the courtroom.

Statutory Measures Which Permit the Child to Have a Supportive Person Present for Assistance During Court Proceedings

Under the terms of the 1974 Child Abuse Prevention and Treatment Act, states seeking federal funds are required to appoint a guardian ad litem to represent the interests of a minor in judicial proceedings involving allegations of abuse or neglect. While nearly every state has enacted legislation complying with this requirement, the mandate for the presence of such a support person for the child has traditionally been interpreted to apply to civil abuse and neglect proceedings under juvenile or family court jurisdiction only, and not to include proceedings initiated at the criminal court level.⁹³

For these latter proceedings, most jurisdictions provide victim/witness services for the child victim through victim assistants located in the district attorney's office. It is said, however, that these services often "fall short"

or are inappropriate for use in child victimization cases, as victim assistants usually become involved in a case only after it has been accepted for prosecution, or after the victim has undergone a series of investigative interviews.⁹⁴ For the child victim, contact with an assistant at this juncture is considered too late, given the impact which the initial investigative process can have on the child's willingness and ability to go forward to prosecution. Complicating this situation is the fact that victim assistants typically do not have sufficient familiarity with the particular aspects and procedures associated with child victimization cases, which in addition to criminal court action often entail proceedings and actions taken in juvenile or family court as well.⁹⁵ It also has been observed that the victim assistant, as an employee of the district attorney's office cannot represent the interests of the child alone.⁹⁶

Whitcomb notes that three states (Florida, Iowa, and Oklahoma) have enacted laws which explicitly provide for the appointment of guardians ad litem for children in criminal proceedings and two other states (New Hampshire and Vermont) have court rules with a similar intent. These measures generally leave unstated or remain vague, however, with respect to the boundaries of this support person's role during criminal proceedings.⁹⁷ Whitcomb suggests that the following five roles comport with the guardian ad litem's mandate to represent the best interests of the child: counselor and interpreter for the child; protector against system-related trauma; lynchpin connecting several agencies; voice for the child; and advocate for the child's legal rights.⁹⁸

New York State has been somewhat responsive to this issue of the child victim's need for support during his involvement in the justice process, but only explicitly so for the grand jury level of that process. For example, in 1985, Section 190.25 of Criminal Procedure Law was amended to allow a support person, such as a social worker, rape crisis counselor, psychologist, or other

professional, to accompany a child 12 years old or younger called to testify before the grand jury concerning charges of a sex offense, incest or endangering the welfare of a child. In 1987, this section of the law was further amended and authorization for the presence of a support person was extended to children giving testimony before the grand jury concerning charges of homicide or assault in the first degree.

Chapter 263 of the Laws of 1986 deals with the issue of a support person, but again only explicitly in terms of grand jury proceedings, or more specifically, videotaped examinations for these proceedings conducted pursuant to Section 190.32 of the Criminal Procedure Law. New York's statute on the use of live, two-way closed circuit television is silent on the issue, and apparently leaves it to the court's discretion to permit either a parent or support person to be present in the testimonial room with the child during questioning.

Measures to Expedite the Adjudication Process by Giving Precedence in Trial Scheduling to Cases Where the Victim is a Minor

Whitcomb begins her coverage of these measures by stating that more often than not the effect of repeated continuances in child victimization cases is devastating, both to the child victim himself and to the quality of his testimony.⁹⁹ A statement attributed to psychiatrists working with child witnesses to parental homicides is particularly descriptive of this impact: "each trial postponement can cause renewed anxiety until, perhaps, anxiety related to the original memories of the event is shifted to the court proceeding."¹⁰⁰

While Whitcomb acknowledges the emphasis placed on expediting child victimization cases by the National Conference of the Judiciary on the Rights of Victims of Crime (1983) and the Attorney General's Task Force on Family Violence (1984), she reports that as of 1985 only three states (California, Colorado, and Wisconsin) had enacted legislation intended to expedite cases

involving child witnesses.¹⁰¹ The pertinent text of two of these statutes is reproduced below:

In all criminal cases and juvenile fact-finding hearings... involving a child victim or witness, ...the court and the district attorney shall take appropriate action to ensure a speedy trial in order to minimize the length of time the child must endure the stress of his or her involvement in the proceeding. In ruling on any motion or other request for a delay or continuance of proceedings, the court shall consider and give weight to any adverse impact the delay or continuance may have on the well-being of a child victim or witness.

However, all criminal actions wherein a minor is detained as a material witness, or wherein the minor is the victim of the alleged offense, ...shall be given precedence over all other criminal actions in the order of trial. In such actions continuations shall be granted by the court only after a hearing and determination of the necessity thereof....¹⁰²

With its enactment of Chapter 263 of the Laws of 1986, New York State also gave explicit recognition to the need to expedite child victimization cases through the justice process. A statement of this need is included in the provision of the legislation which specifies guidelines for the fair treatment of child victims as witnesses. This provision amends Section 642-a of the New York State Executive Law and states: "To minimize the time during which a child victim must endure the stress of his involvement in the proceedings, the court should take appropriate action to ensure a speedy trial in all proceedings involving an alleged child victim. In ruling on any motion or request for a delay or continuance of a proceeding involving an alleged child victim, the court should consider and give weight to any potential adverse impact the delay or continuance may have on the well-being of the child."

Practical Considerations Associated with the Implementation of Statutory Reforms

To assess the actual implementation and outcomes of these statutory innovations on the justice system's management of child victimization cases, NIJ conducted a telephone survey of prosecutors and victim advocates across the country. Site visits also were made to four jurisdictions (Des Moines, Iowa;

Ventura, California; Milwaukee, Wisconsin; and Orlando, Florida) where interviews were conducted with the wide range of personnel usually involved in the investigation and disposition of these cases, including prosecutors, defense attorneys, victim/witness advocates, child protection workers, law enforcement officers and judges.¹⁰³ A brief description of what was learned as a result of this research follows.

In general, the NIJ examination of statutory innovations revealed that professionals consistently indicate that the most useful and effective techniques for child victimization cases are those that do not involve the introduction of electronic technology into proceedings (category #2 above). In fact, on the basis of extensive interviews with prosecutors, victim advocates and judges across the country, NIJ found that the new electronic recording techniques authorized in some jurisdictions are rarely invoked or used in providing testimony for the most sensitive cases only.¹⁰⁴

In addition to expressing concerns about the legal implications of these techniques or their ability to withstand judicial scrutiny, prosecutors also indicate that there are a number of practical considerations which affect their willingness to use the new measures in child victimization cases. For example, with respect to the use of closed-circuit television to broadcast the child's testimony given in a setting removed from the courtroom, prosecutors and judges indicate that resources often preclude a jurisdiction's ability to implement this procedure. Concerns also are expressed about the impact that this measure can have on the perceptions of the jurors (i.e., that CCTV lends an unreal or staged quality to the child's testimony).¹⁰⁵ Prosecutors also report that they prefer not to use videotaped testimony, stating that the production behind such testimony is often more traumatizing for the child victim and witness than the public appearance in court. Accordingly, NIJ researchers concluded that:

Videotaped testimony is another technique that is often hailed, yet seldom used. The prosecutors we interviewed noted, particularly,

that the physical milieu of depositions can be more traumatic than that of a trial. Depositions take place in small rooms, thereby bringing the child and defendant into much closer physical proximity. The judge may not be there to monitor the behavior of the defendant or his counsel, and victim advocates may not be permitted to attend. If the state requires a finding of emotional trauma or unavailability before this technique can be used, the child may be subjected to a battery of medical and/or psychiatric tests by examiners for the state and the defense. Prosecutors also believed that a child who successfully endures all the proceedings leading up to the deposition or preliminary hearing can succeed at trial as well; indeed, by that point the videotaped deposition merely substitutes one formal proceeding for another.¹⁰⁶

Of the technological innovations authorized by law, NIJ research found those statutes which allowed the introduction of extrajudicial videotaped statements into proceedings more promising, especially for the impact this device was reported to have on encouraging guilty pleas.¹⁰⁷ Respondents indicate, however, several limitations and potentially negative consequences associated with the use of these statements in criminal proceedings and note that:

The principal drawback of these videotape statutes is their failure to protect child victims from the presumed trauma of testifying at trial and confronting the defendant, since the children must be available for cross-examination. Unless the videotapes are placed under a protective order, they may become public property, perhaps even appearing on media broadcasts, causing incalculable trauma for the child and family. Also, the tapes may become a liability if the child volunteers contradictory information.¹⁰⁸

In concluding her discussion of the study conducted by NIJ of the statutory innovations which have been made to modify the justice system's response to child victimization cases, Debra Whitcomb cautions against the "drastic intervention of electronic technology" for all but extreme cases and states that much of the attention now focused on these interventions might be more productively directed toward alternative techniques that are less dramatic, yet equally, or more effective.¹⁰⁹ In particular, prosecutors are advised to make better use of their internal resources, through the creation of specialized units and the provision of training, and to coordinate services and resources available in the community so as to develop a rational, cohesive

approach to the adjudication of crimes against children.¹¹⁰

2. LEGISLATIVE ACTION IN NEW YORK STATE

Over the past several years, there have been significant changes in those provisions of New York State Law which regulate the law enforcement response to the criminal victimization of children. In general, these changes have introduced into the justice system and criminal proceedings a greater sensitivity to the psychological and emotional needs of the child victim and his family. To this end, the law also has been used to create linkages and encourage dialogue among agencies which often share jurisdiction over cases involving crimes against children, such as child protective services and police departments, but traditionally have held conflicting orientations about the successful resolution of such cases.

The changes in New York State law relating to child protection can be explained, in part, by what has become a greater responsiveness on the part of the criminal justice system to the victims of crime in general. Legislative changes in this area also have been influenced by the dramatic three-fold increase over the past decade in the reported cases of suspected child abuse and maltreatment; the greater numbers, specialization and, often times, fragmentation of agencies dealing with child protection cases and issues; and an enhanced understanding of the needs of child victims as a result of increased experience and research in the areas of child protection and domestic violence.

A selective overview of recent trends in New York law pertaining to the criminal justice system's response to crimes against children follows. Three of the most significant legislative trends in this area have been the following: (1) the responsibilities of child protective services have been expanded to include abuse and maltreatment committed by care-givers outside of

the family or home setting; (2) there has been an increased emphasis on the use of case information maintained at the State level in efforts to prevent the occurrence of child abuse and maltreatment; and (3) increasing attention has been focused on modifying the approach and involvement of law enforcement in cases involving crimes against children through the emphasis of a team approach to the processing of such crimes and the incorporation into police investigations of intervention strategies traditionally associated with the social service and mental health fields.

Selected examples of legislation enacted over the past four years in each of these three areas are presented below. It should be stressed that this presentation is not intended to be exhaustive or inclusive of all statutory measures enacted in this State which relate to these three areas of activity. Rather, it highlights only examples of significant legislation which are considered representative of the trends being discussed.

Expansion of Child Protective Responsibilities and Jurisdiction

Chapter 600 of the Laws of 1982 amended the Child Protective Services Act of 1973 to expand the categories of those individuals, beyond parents and guardians, who were to be considered legally responsible for a child, and, therefore, could be subject to a report and investigation by child protective services. More specifically, with this revision to the law, child protective services became responsible for the disposition of allegations of abuse and maltreatment involving individuals in institutional settings, day-care centers and family day-care programs. The Legislature's expansion of child protective services' jurisdiction to include cases in these out-of-the-home settings appears to have been motivated by the recognition of changes in family structures and responsibilities and the increased reliance on persons not within the family to act as caretakers of children.

The Child Abuse Prevention Act of 1985, enacted as Chapters 676 and 677 of the Laws of 1985, further enhanced the protection of children in institutional settings or residential care from abuse and maltreatment by specifying reporting and investigation procedures for suspected incidents of abuse and maltreatment in these settings. The Act also required the development of corrective action plans in response to indicated reports of abuse and maltreatment in residential care and provided for more stringent background checks by agencies to increase standards and improve screening for prospective child-care employees.

Chapters 717 and 719 of the Laws of 1986 also increased the responsibilities of child protective services in situations involving abuse or maltreatment of children by nonfamilial members. Chapter 717 delineated the Statewide Central Register's obligation to accept reports of abuse against persons "regularly in the home" of a child and to refer reports outside the jurisdiction of child protection to the appropriate law enforcement agency having such jurisdiction. This latter provision of the law, which required the State Central Register to establish a law enforcement referral process for allegations of abuse outside of DSS jurisdiction, remedied a situation that had become particularly troublesome since the institution of the hotline to the SCR and law enforcement agencies alike. A substantial number of calls received at the SCR lie exclusively within the jurisdiction of the criminal justice system and do not prompt action or involvement by child protective services. Prior to the establishment of the law enforcement referral process, the source of a call involving such criminal allegations was merely advised by SCR personnel to contact a police agency with the information. As no further action was required of the SCR, law enforcement awareness of the case was dependent solely on the source's willingness to contact and disclose information to the police. It should be evident that this lack of an effective referral process to law

enforcement probably resulted in a significant number of cases being lost to official intervention. While reporting sources are usually not reluctant to divulge information to child protective services, they are generally less likely to do so if involvement with the criminal justice system is required.

Chapter 719 of the Laws of 1986 clarified the interagency relationships necessary for the investigation of allegations of abuse and maltreatment in residential care settings and specified that the corrective action taken to remedy and prevent abuse in private child-care agencies must be monitored by the appropriate State licensing agency. This Chapter also mandated training in child abuse prevention for day-care workers and required screening by the New York City Health Department of family day-care providers.

Use or Exchange of Case Information to Prevent or Investigate Child Abuse and Maltreatment

For the most part, legislative activity in this area has focused on establishing requirements for the screening or running of background checks on prospective employees in various kinds of child- and day-care agencies to rule out of consideration for employment those individuals with any prior involvements in reported cases of abuse or maltreatment. The enactment of these requirements on agencies and institutions has been a relatively recent phenomenon, given jurisdictional issues and the need for a usable database. Legislation requiring the use, sharing and maintenance of information to prevent child abuse and maltreatment has involved other areas of protection activities as well, especially in the coordination and continuation of investigations of victimized and missing children.

Looking first at the legislative measures which established requirements for the screening of employees in certain child care agencies, Chapter 677 of the Laws of 1985, part of which was included in the Child Abuse Prevention Act of 1985, is of significance. This legislation required stringent background checks for prospective employees to enhance screening and increase standards in

out-of-the-home care settings. More specifically, the Act required screening of individuals through the State Central Register for current or past involvement as subjects of indicated reports of abuse or maltreatment. Such background checks are to be conducted of employees of day-care centers, the Division for Youth, authorized agencies (which include local social services districts and voluntary child-care agencies) and prospective foster care and adoptive parents. Chapter 268 of the Laws of 1987 extended this requirement for the screening of employees for past histories of child abuse or maltreatment to Special Act School Districts and Residential Schools. Along similar lines, Chapter 675 of the Laws of 1985 provided, in part, for the disqualification of school bus drivers for the conviction of certain violent or sexual crimes or crimes involving the illegal use of drugs or alcohol.

In examining legislative measures which have required the sharing and maintenance of information for prevention purposes and to coordinate investigations in child victimization cases, it should be noted at the outset that the law generally emphasizes the strict confidentiality of DSS records and has established very specific and stringent criteria for obtaining access to these records. For example, while Chapter 677 of the Laws of 1985 included law enforcement personnel as parties having access to records maintained by DSS, the nature of this access was conditional and limited to those situations where a sworn officer of a police agency in the State "certifies that the records and reports are necessary in order to conduct a criminal investigation of the subject of the report and that such investigation is reasonably related to the allegations contained in the report." Chapter 677 of the Laws of 1985 used similar language to extend access to information maintained by child protective services to district attorneys in the State. According to the legislation, such access is permitted "when the district attorney certifies that the records, reports and other information are necessary in order to conduct a

criminal investigation of the subject of the report or to prosecute the subject of the report and that such investigation or prosecution is reasonably related to the allegations contained in the report."

The sharing of SCR case information for preventive purposes is evident in the provision made in Chapter 677 of the Laws of 1985 for releasing information about a subject's determination status to the following: agencies responsible for obtaining clearances from the SCR of prospective adoptive and foster care parents and of prospective or current employees of authorized agencies, the Division for youth and licensed day care centers.

This emphasis on allowing the exchange of child protective case information for prevention purposes is also apparent in Chapter 554 of the Laws of 1984. This legislation amended Social Services Law to allow probation services conducting investigations for habeas corpus or custody proceedings access to information contained in the State Central Register where there is reason to suspect that the child may have been abused or maltreated and that information is necessary for making a recommendation to the court.

The sharing of information for investigative and follow-up or tracking purposes is stressed in Chapter 718 of the Laws of 1986. This legislation requires other departments of local social services districts to cooperate with the child protective services unit in providing information relevant to investigations. The legislation also specified that a person or official required to make a report of suspected abuse and maltreatment may request, at the time of making the report or any time thereafter, the findings of the investigation conducted by child protective services.

Chapter 652 of the Laws of 1987 represents a somewhat more significant statutory measure taken with respect to information-sharing for investigative purposes, as it is intended to coordinate this exchange of information at an interagency level. More specifically, this legislation amends Section 422 of

the Social Services Law to allow access to child protective information maintained by DSS to "a criminal justice agency conducting an investigation of a missing child where there is reason to suspect such child or such child's sibling, parent, guardian or other person legally responsible for such child is a person named in an indicated report of child abuse or maltreatment and that such information is needed for further investigation."

Recognizing the importance of maintaining indicated reports of abuse and maltreatment to the protection of the children named in these reports, the Legislature enacted Chapter 717 of the Laws of 1986 which clarified the expungement process for reports indicated by child protection agencies so that expungement occurs only after a child named in a case and any younger siblings reach 18 years of age.

Modification of Law Enforcement's Investigative Approach to Cases of Alleged Abuse and Maltreatment

The New York Child Protective Services Act of 1973 placed the responsibility for investigating suspected cases of child abuse and maltreatment on the local child protective services program, which is a unit of the local social services district.¹¹¹ The Act emphasized that a social services approach be used in this intervention to provide protection for the child and rehabilitative services for the family.¹¹²

In a 1974 legislative document describing the child protection system in New York State, a great deal of emphasis was placed on the commitment of this State to the use of child protective services to deal with cases of abuse and maltreatment. The report contrasted this system with the law enforcement approach to the investigation and prosecution of crimes against children and used the basis of this contrast to justify the State's commitment to a "non-criminal" approach to such crimes.¹¹³

From policing through prosecution, the criminal justice process was seen, according to this document, as presenting an ineffective and often counter-productive response to what were essentially "social and psychological ills."¹¹⁴ It was stated that the police and community relied on the child protective service in dealing with crimes of this nature because the police were "often blind to the danger signs that may be present in a home situation," and, "except for protective custody and criminal prosecution, the police can do little to protect the long-term interests of the child or the community."¹¹⁵ About the courts and criminal prosecution, the document stated:

The slow and cumbersome, harshly punitive procedures of the criminal courts are incapable of dealing effectively with the problems of abuse and maltreatment. The feasibility and usefulness of criminal prosecution, except in unusual or severe cases, is quite limited. Put bluntly, it is exceedingly difficult to prove a case of alleged abuse or maltreatment in criminal court. Because most abuse takes place in the home-without witnesses-circumstantial evidence is the only proof ordinarily available. The criminal court burden of proof -- beyond a reasonable doubt -- and many other constitutional strictures often impose insurmountable obstacles to successful criminal prosecution. Indeed, much more may be lost through a criminal prosecution than is gained. Subjecting parents to the criminal court process may so embitter them that they become "hostile and resentful of the child and the legal authorities." If a parent is acquitted, he may regard the acquittal as approval of his conduct and he may continue the maltreatment. If he is convicted, his behavior will probably not be altered by a prison term or a suspended sentence. In either situation, the parent has received little or no rehabilitative treatment for his underlying problems. Nothing prevents him from again maltreating his children, often more severely, and rehabilitative work, at this point, becomes virtually impossible.¹¹⁶

In addition, criminal justice involvement in cases of abuse and maltreatment was seen as a possible deterrent to parents seeking needed medical treatment for their children and to individuals reporting abuse and maltreatment cases of which they are aware.¹¹⁷

This early assessment of the differences and potential tensions between child protection and the law enforcement approach to child abuse has become less tenable and less accepted in recent years. Many child protective services

in New York and across the country have begun to work more closely with law enforcement officials, combining elements of the criminal justice approach with that of social services.¹¹⁸ As stated in a Department of Social Services report to the Human Services Sub-cabinet, this shift in approach by child protective services has resulted from years of experience in working with involuntary clients and a recognition of the need for more authoritative intervention to engage families in rehabilitative treatment to help children.¹¹⁹ Both the child protection and criminal justice systems have been affected by this coordination of efforts in dealing with crimes against children. These procedural and operational changes have been reflected in the law, as has the emphasis on the need for a team approach to child abuse. Examples of changes to the law in these areas follow.

In 1984, a number of legislative reforms pertaining to criminal proceedings and the disposition of crimes committed against children were enacted in this State. A significant measure in this regard was Chapter 89 of the Laws of 1984, which eliminated the corroboration requirement for a victim's testimony in sexual abuse cases where lack of consent results solely from incapacity to consent on the basis of the victim's age. Under the prior law, child victims of sexual abuse were required to provide witnesses or other physical evidence to prove that they were in fact, victimized. In direct contrast to the limitation in sexual abuse cases, children in this State were allowed to testify without corroboration in cases involving a murder, kidnapping, robbery, arson, assault, forcible rape or sodomy.

As a result of the strict evidentiary and corroboration rules which existed in Penal Law with respect to sexual abuse cases, it was extremely difficult to successfully prosecute these cases in New York State. In fact, according to testimony provided at a joint legislative and executive hearing on the bill, the majority of cases of child sexual abuse initiated as criminal

prosecutions in the State were typically dismissed. It should be noted that there were a number of other provisions to this legislation, referred to as the Child Sex Abuse Reform Act of 1984, which were not enacted. For the most part, these provisions upgraded, clarified or created certain offenses against children.

Another significant legislative reform enacted in 1984 which dealt with the disposition of child abuse cases in criminal proceedings was Chapter 804 of the Laws of 1984. This Act amended the Criminal Procedure Law to permit the introduction of videotaped testimony of children 12 years old and under and other special witnesses into grand jury proceedings involving sex offenses and offenses relating to children of which the person was a victim. This legislation was intended to minimize the traumatic impact upon vulnerable witnesses caused by repeatedly testifying in criminal proceedings. To protect the rights of defendants in these proceedings, the law also outlined specific procedures relating to the taking and use of videotaped testimony for introduction to the grand jury.

While the major focus of the Child Prevention Act of 1985 was on improving the investigation, prevention and treatment of child abuse and maltreatment in residential and institutional care settings, there also were a number of provisions in the Act which dealt with enhancements to the coordination between child protective services and law enforcement in investigations of crimes against children, generally. For example, as stated earlier, this legislation added law enforcement officials to the list of those individuals who have access to information maintained by the State Central Register or local departments. The officials named in the law as having such access were the following: district attorneys, assistant district attorneys, investigators employed in the office of a district attorney, sworn officers of the Division of State Police or the New York City Police Department, sworn officers of a

city, county, town or village police department or county sheriff's department, and the New York City Department of Investigation. Limitations to the access provided these officials also were specified. In general, the law provided for access to child protection information if it was necessary to a criminal investigation or prosecution of the subject which was reasonably related to the allegations contained in the report. In addition, Chapter 6/7 of the Laws of 1985 amended the Social Services Law to include district attorneys and investigators employed in the office of a district attorney as mandated reporters of child abuse and maltreatment.

The Child Abuse Prevention Act also required the Department of Social Services and local departments to conduct a continuing publicity and education program for all mandated reporters, including those just named, to encourage the full reporting of abuse and maltreatment and to provide information on legal responsibilities, obligations and powers. Training also was required in the diagnosis of child abuse, the procedures of child protection and the family court and methods for the prevention, treatment and remediation of abuse and maltreatment in residential care settings. In addition to providing for the training of law enforcement officials, the Child Abuse Prevention Act of 1985 also specified that standards be established for the provision of training to institutional employees charged with investigating child abuse in the residential care setting. Training for these investigators was to address at least the following areas:

- o basic training in the principles and techniques of investigation, including relationships with other investigative bodies;
- o legal issues in child protection including the legal rights of children, employees and volunteers;
- o methods of identification, remediation, treatment and prevention;
- o safety and security procedures; and,
- o the principles of child development, the characteristics of children in care, and techniques of group and child management including crisis

intervention.

Intended to facilitate the implementation of the Child Abuse Prevention Act of 1985, Chapter 719 of the Laws of 1986 further clarified the interagency relationships and coordination necessary for the investigation of child abuse reports received from residential care settings.

An additional element of this legislation which addressed the issue of coordination between law enforcement and child protective services was the provision amending the Criminal Procedure Law to require the disclosure to the State Central Register of evidence obtained during a grand jury proceeding which provides reasonable cause to suspect that a child has been abused or maltreated. The law specifies that the court must authorize such disclosure unless there is a finding that disclosure "would jeopardize the life or safety of any person or interfere with a continuing grand jury proceeding."

While Chapter 263 of the Laws of 1986 was discussed in great detail in the first section of this report, the major provisions of this legislation which affect the law enforcement response to or processing of crimes against children are highlighted again briefly below. A multi-disciplinary team approach to investigation is emphasized in order to minimize the number of times that a child victim will be called upon to recite the facts surrounding his victimization. The law also recommends that a jurisdiction employ "vertical prosecution" or that the same prosecutor handle all aspects of a case involving a child victim. Speedy trials for cases involving children are emphasized in the legislation as are procedures intended to ease the child's involvement with criminal proceedings, such as the use of testimony via live, two-way closed-circuit television, anatomically correct dolls and drawings, and persons supportive of the child witness.

As a final example of legislative action to accommodate the justice system in this State to the needs presented by child victims and witnesses Chapter 613

of the Laws of 1987 should be noted. This legislation amended the Criminal Procedure Law by expanding the list of offenses for which a support person may accompany a child called to testify before the grand jury. Originally limited to charges of a sex offense, incest or endangering the welfare of a child, the law now allows that when testifying in cases involving homicide or assault in the first degree a child twelve years or younger may be accompanied into the grand jury room by a social worker, rape crisis counselor, psychologist or other professional providing emotional support.

The following two chapters describe major innovations and trends in law enforcement practices relating to the investigation and prosecution of crimes committed against children. Chapter 3 examines the police role in investigating crimes against children. In this presentation, emphasis is placed on describing the changes made in the organization and practice of police agencies to improve the law enforcement response to the difficult investigative problems presented by these crimes. Trends and innovations in the prosecution of child victimization cases are reviewed in Chapter 4. The discussion in this chapter highlights the organizational and procedural changes being made in prosecutors' offices across the country which adapt investigative and case preparation activities to the special needs of the child victim and witness.

The format of the two chapters is essentially the same and entails the following organization. Presented first are the significant trends in law enforcement's response to crimes committed against children based upon a selective review of the literature. Throughout this discussion, attempts are made to identify exemplary investigative methods, procedures and organizational arrangements initiated nationally in the child victimization area. The presentation also includes a statement as to New York State's standing with respect to each of the trends identified from the literature. The information

included in this statement is derived from the findings of the comprehensive survey conducted by DCJS of all law enforcement agencies in the State relating to investigative resources and procedures used for the disposition of crimes against children. Both chapters conclude with a description of several model New York State programs in the child victimization area. These programs have been identified on the basis of descriptive material provided in response to the DCJS survey and as a result of discussions with project advisory panel members.

ENDNOTES

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7. Gibling, Robert. New York State Homicide Summary 1986, New York State Division of Criminal Justice Services, Office of Justice Systems Analysis, (Albany, New York: 1986), p. 8.

8. Ibid.

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10. U.S. Department of Justice, Bureau of Justice Statistics, Teenage Victims -- A National Crime Survey Report, (Washington D.C.: November 1986), p. 5.

11. Ibid., p. 6.

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13. Ibid.

14. Ibid., p. 2.

15. Ibid., p. 7.

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18. Ibid., pp. 1-2.

19. Ibid., pp. 2-3.

20. Ibid., p. 3.

21. Ibid., p. 5.

22. Ibid.

23. Ibid., pp. 9-10.

24. Ibid., p. 10.

25. For a general description of the organization and process of Child Protective Services in New York State, see New York State Senate Standing Committee on Child Care, op. cit.

26. Legislative Commission on Expenditure Review, Memorandum Report to the Legislature, State Child Abuse and Maltreatment Register -- Child Abuse Hotline (Albany, New York: March 23, 1987).

27. New York State Department of Social Services, Child Protective Services, State Central Register Reporting Highlights 1974-1986, (Albany, New York: 1987), p. 1.

28. Ibid.

29. Ibid.

30. Ibid.

31. See, for example, D. Kelly Weisberg, Children of the Night (Lexington, MA: Lexington Books, 1985).

32. See, for example, Jennifer James, Entrance into Juvenile Prostitution (Washington, D.C.: National Institute of Mental Health, 1982); Donald M. Allen, "Young Male Prostitutes: A Psychosocial Study," Archives of Sexual Behavior, Vol. 9, No. 5 (1980): p. 400; and Jennifer James, "Motivations for Entrance into Prostitution," Laura Crites (ed.), The Female Offender (Lexington, MA: Lexington Books, 1976).

33. Descriptive material about the operation and database for the New York State Missing Children Register is derived from New York State Division of Criminal Justice Services, Office of Justice Systems Analysis, Bulletin -- Children Reported Missing in New York State 1986 (September 1987).

34. Ibid.

35. Ibid.

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CHAPTER 3

THE POLICE ROLE IN INVESTIGATING CRIMES COMMITTED AGAINST CHILDREN -- A REVIEW OF THE LITERATURE, THEORY AND PRACTICE

A. THE POLICE RESPONSE TO CHILD VICTIMIZATION -- SIGNIFICANT CHANGES AND TRENDS IN INVESTIGATIVE PROCEDURES

Over recent years, there have been a number of significant changes and emerging patterns in the police response to investigating crimes against children. These changes have taken place both within police agencies themselves and at an inter-organizational level, involving law enforcement with other criminal justice and non-criminal justice agencies in the investigatory process.

In general, the major trend has been for police agencies to revise procedures and organizational practices and structures in a manner which reflects and incorporates a greater sensitivity to the special needs of the child victim. This same orientation has been seen at the inter-organizational level where law enforcement agencies increasingly are employing a variety of linkages with other organizations having special expertise in investigating crimes against children.

1. SPECIALIZATION AND TRAINING

The use of specialized units to deal with offenses involving children has been recommended in the literature and, in recent years, has become more common in larger police organizations across the country. Officers in these units, which often are located organizationally in the juvenile divisions of departments, generally are provided with multi-disciplinary training in the psychology of child development and the sociology and psychology of child abuse and domestic violence. This specialized training also makes these officers

aware of the variety of services and resources available in the community for referral and victim assistance purposes.

Some of the earliest examples of specialized child abuse units in police departments include those that were formed in Los Angeles, San Diego, Tucson and Jackson, Mississippi.¹ The Los Angeles unit was formed in 1973 with 17 staff and is believed to be the first specialized child abuse detail in the country.² While staff size and budgetary support differed across these early units, there were significant commonalities in each with respect to the approach used for investigating crimes committed against children. For the most part, this involved what has been termed a combined authoritative/supportive approach.

This approach, which is described by Suzanne Sgroi as being the state-of-the-art or most effective intervention strategy for physical and sexual abuse cases, represents what is, in a sense, a compromise position between the intervention strategies traditionally associated with law enforcement (i.e., prosecution and punishment) and those associated with social services (i.e., helping and maintenance of the family unit).³ The intervention strategy entailed by the authoritative/supportive approach is favored by theorists and practitioners in this field because of the nature of the clients who sexually victimize children and the dynamics of these offenses. It has been observed that the clients in sexual abuse cases are, for the most part, involuntary clients -- they are not likely to seek help for their problem and they tend to be resistant and unmotivated if intervention and help are offered to them.⁴ With respect to the nature of the offense, while child sexual abuse traditionally has been classified as a sexual problem or variation it is, in fact, more appropriate to regard such abuse as a "power problem" and to design

and plan intervention strategy accordingly.⁵ Research supports this perception of sexual abuse as being a power rather than sexual problem and has found that individuals who are sexual offenders against children do not seem to be motivated primarily by sexual desires but, rather, engage in sexual behavior with children for nonsexual needs, especially the need to feel powerful and in control.⁶

In describing the need for and effectiveness of the authoritative/supportive approach in dealing with child sexual abuse cases, it has been stated that:

[A]lthough great initial resistance may be shown, most clients respond well (sometimes with relief), to 'being told what to do'.....[U]ntil helping professionals are willing to join forces with professionals with statutory authority, little effective treatment for child sexual abuse is likely to occur. It is manifestly unrealistic to suppose that individuals who depend upon abuse of power first to engage children in sexual activity and then to conceal the sexual abuse from others are likely to respond to nonauthoritative intervention.⁷

While the authoritative/supportive approach to intervention has been given its fullest expression only recently in the multi-agency response team, which is discussed below, it was very apparent in the practices engaged in by specialized child abuse units formed in law enforcement agencies during the mid-1970s. This was particularly true for the special unit established in the Tucson Police Department, which stressed the need for flexibility, or a supportive as well as authoritative stance, in the law enforcement response to abuse and maltreatment cases. Detectives in this unit received specialized training in crisis intervention and child psychology and were instructed to use a "low-key or calm approach" as an investigatory strategy in dealing with abuse cases.⁸ By avoiding an accusatory or punitive stance in dealing with parents, defensiveness was precluded and the idea of counseling, if appropriate, could

be introduced by the officer.⁹ The low-key approach also was found to be the most effective way to obtain a confession.

The use of this approach enhanced the relationship of the Tucson unit to social welfare agencies and hospitals in the area which in turn improved the effectiveness of the unit in the investigation of cases for prosecution. Social welfare agencies and hospitals in the area developed a sense of trust toward the police in cases of abuse and, consequently, reported a greater number of cases to them more rapidly. This permitted the unit to become involved in serious incidents soon after their occurrence and facilitated the investigative process and the collection of evidence necessary to initiate criminal proceedings.¹⁰

The Baltimore County Police Department Child Abuse Unit, which was established in 1975, provides another example of the specialization begun in law enforcement in the 1970s to conduct child abuse investigations.¹¹ Multi-disciplinary training was provided to the detectives who comprised this unit, and operational procedures and arrangements were established with the State Attorney's office and Protective Services to direct the unit in its investigation and evaluation of child abuse cases.

The unit was responsible for thoroughly investigating abuse cases to determine the most appropriate course of action with respect to disposition, i.e., criminal prosecution or referral to Protective Services in the county. Approval from the State Attorney's office was necessary for referrals to Protective Services, which was facilitated by the assignment of a full-time attorney for the review of all physical and sexual abuse cases. This attorney also was to be available for consultation on a 24-hour basis and was to be kept fully informed at all stages of the police investigation.¹²

In addition to this close working relationship with the State Attorney's office, the Baltimore unit also developed a multi-disciplinary approach in its review of child abuse cases. This approach included representatives of all agencies involved with a case reviewing the facts of the case and making a joint determination as to the services or assistance needed. At the end of its first year of operation, the unit reported an increase of over 20 percent in the number of child abuse cases prosecuted and a conviction rate of 99 percent for those cases prosecuted in 1976.¹³ While becoming common-place today, this inter-agency team approach to case management in the child abuse area was quite innovative in the mid-1970s. The concept of the multi-disciplinary team and the changes that it has introduced into the investigative process for law enforcement are discussed in greater detail below.

The Crimes Against Children (CAC) Unit in the Pinellas County Sheriff's Department (Florida) presents a somewhat different model of how law enforcement agencies are organizing and using their investigative resources to handle crimes committed against children.¹⁴ As formed in 1981, this unit was solely responsible for the investigation of all crimes committed against children, which included cases of child abuse and maltreatment, but also extended to all other property and personal offenses involving victims under 18 years of age.

The unit, which was comprised of a team of detectives, employed an aggressive prosecution approach in its investigation of these crimes.¹⁵ In 1983, the CAC unit began to concentrate its efforts on the sexual exploitation of children. A centralized data depository was authorized with the CAC unit acting as the clearinghouse for information concerning sex offenders countywide. In addition, an inter-organizational task force was formed, comprised primarily of members from the 17 law enforcement agencies in the

county and State Attorney's office, as well as child welfare representatives. This Interagency Child Sexual Assault Investigation Association had as its goal the provision of multi-agency professional support to the child victim and the alleviation of the child's sense of victimization through involvement in the justice process. The stated objectives of the Association stressed its law enforcement/investigation orientation, and included the following:

- o Creation of a centralized information center consisting of: sex offender modus operandi, mug shot photo file of known sex offenders, and descriptive information on sex offenders and their vehicles.
- o Coordination of mutual interests between law enforcement and related agencies such as the Health and Rehabilitation Services Department, the State Attorney's Office, the Victim Advocate, etc.
- o Organization of Mutual Aid Act between all Pinellas County police agencies concerning child victimization so as to enhance the availability of law enforcement resources throughout the county.
- o Service as a legislative monitor on current and proposed laws.¹⁶

While the types of specialized units described above are becoming much more prevalent in police organizations, staffing limitations often have precluded their development in small departments or circumscribed their use in other departments. These limitations make it difficult for designated units to be totally involved in every aspect of processing cases with child victims from the initial report through investigation and prosecution. The inconsistent use of these special units to handle all crimes with child victims also has been problematic in some departments. Weisberg and Fisher have commented on this situation, especially with respect to the treatment of offenses involving extrafamilial sexual exploitation, including molestation, child pornography and adolescent prostitution. These researchers have observed that in many law enforcement agencies, crimes committed by adults outside of the family are distinguished from child abuse and neglect for investigation purposes, with the

juvenile division being assigned responsibility for the latter and the vice division responsibility for the former.¹⁷

This division of responsibility has been said to result in several problems for departments, especially with respect to the disposition of cases involving juvenile prostitution. While juvenile divisions have tended to work closely with community child protective service units in responding to intrafamilial sexual abuse, it only has been recently that police vice divisions have organized specialized units to deal with child sexual exploitations involving non-family members. As a result, the predominant orientation to handling these cases, especially in the area of juvenile prostitution, has been the same as that used with adults, and that is, punitive, treating the juvenile as an offender rather than a victim.¹⁸ In addition to this different philosophy regarding treatment, the vice or traditional police response to these types of crimes for the most part does not make recourse to community resources in attempts to resolve on a short- or long-term basis a juvenile's problems as there is typically limited awareness among vice officers of the availability of these resources and programs in the community.¹⁹

In their discussion of the special units created in the police departments of Washington D.C. and Louisville, Kentucky to deal with child sexual exploitation, Weisberg and Fisher describe how two police agencies have organized their resources so as to avoid this traditional vice response to adolescent prostitution. These units employ a service orientation in the investigation and disposition of cases involving juveniles who have been sexually exploited or have run away. Both involve a team approach in investigating child sexual exploitation and juvenile prostitution and both

provide officers with special multi-disciplinary training on issues relating to these offenses.²⁰ In the Louisville Police Department Unit, the first director of the special Exploited and Missing Child Unit (EMCU) was a social worker. The Louisville EMCU also includes social workers on its staff and uses teams comprised of one police officer and one social worker to investigate cases of sexual exploitation and missing children.²¹

Both specialized units also view the juvenile in these cases as a victim and employ investigative methods which are shaped by this orientation. For example, in the Washington, D.C. unit, the adolescent prostitute is typically charged as a status offender or as a run-away so as to avoid the stigmatization associated with a criminal charge.²² The Louisville EMCU concentrates its efforts on providing support services to juvenile victims and on developing investigations which will lead to the arrest and conviction of perpetrators. Adolescent prostitutes are housed in the county children's group homes where staff from the unit are present around the clock to protect the youth by apprehending pimps who attempt removal and to provide an absolute sense of support.²³

- o DCJS Survey Results -- Personnel/Skill Resources in New York State Police and Sheriffs' Departments for Responding to Crimes Against Children

While the DCJS survey instrument addressed these issues of specialization and training, it also was designed to collect as much information as possible from law enforcement agencies in New York State about the type and availability of resources committed by these agencies to the investigation of crimes against children. In particular, the instrument sought information from departments which would address the following series of questions:

- o What kinds of personnel resources do agencies have to investigate crimes committed against children?

- o Do specialized officers or units respond to these crimes?
- o How are existing resources, both specialized units and routine patrol, deployed by departments to respond to crimes against children?

It should be evident from these questions that the primary focus of the survey was descriptive or aimed at determining the nature of the use and deployment of personnel in responding to the problem of child victimization. The adequacy or effectiveness of these resources to apprehend individuals who commit these crimes could not be examined directly by the study, as case outcomes were not collected from departments for the purpose of analysis. Survey findings which describe the nature and extent of resources available to New York State's law enforcement community for responding to crimes against children are presented below. For a more detailed discussion of the analyses conducted by DCJS of these findings and an explanation for how department size categories were determined, the reader is directed to Appendix C.

Personnel Resources: Specialized Units and Basic Coverage

The first item of the survey relating to personnel resources was designed to assess the extent of specialized units in New York State's law enforcement agencies. Respondents were asked to identify the means by which their organizations handled crimes committed against children from the following response choices:

- o Specialized Juvenile Unit which handles crimes against children
- o Detective/Investigative Unit
- o Sex Crime Unit
- o Other Specialized Unit -- Title: _____
- o Missing Persons/Missing Child Unit
- o Specialized Officer(s) -- no unit per se
- o Any available officer -- no specialized officers

Upon analyses, detective/investigative units were found to be the most frequent response category selected by New York State's law enforcement agencies, with 41 percent (156) of the respondents indicating that such units

typically handled investigations of crimes against children. Eighty percent of the macro departments (i.e., departments with more than 501 full-time sworn officers) reported the use of detective/investigative units, as did 63 percent of the large (i.e., departments with 101-500 full-time sworn officers) and 71 percent of the medium departments (i.e., departments with 26-100 full-time sworn officers). These figures were found to be in marked contrast with those obtained for small (i.e., departments with 6-25 full-time sworn officers) and micro departments (i.e., part-time and full-time departments with no more than 5 full-time sworn officers), which were 44 percent and 3 percent respectively.

Thirty-three percent or 125 departments indicated that juvenile units typically responded to crimes in which children were the victims. As with detective/investigative units, the use of juvenile units was very much size related, with the majority of large and medium departments reporting the use of such units. The reported use of other types of units was relatively infrequent in comparison with responses received for detective/investigative and juvenile units. Approximately 6 percent (23) of the departments responding to this item indicated the use of some "other specialized unit," such as a juvenile aid bureau or division. Only three percent (13) reported having sex crimes units and three percent (12) missing persons units.

The reported use of these units across different sized departments is depicted in Table 19. As indicated above, this kind of response to crimes involving child victims was much more prevalent in larger departments than the smaller sized agencies, where both the resources and demand do not appear to support the development of such specialized operations to handle these cases. It was apparent from the comments received in response to this survey item, that as an alternative to specialization smaller sized departments often make

use of the resources available in county or State law enforcement agencies to conduct follow-up investigations into offenses involving children. For example, one small department representative stated:

All cases of crimes against children in this jurisdiction are handled by the...County Police Department Juvenile Aid Bureau and the Detective Division. With these services rendered by the County Police Department it is unnecessary for us to maintain any of the special units.

It also should be noted that while only 7 percent (25) of the responding departments reported the use of specialized officers who did not comprise a unit per se, this response was most prevalent in the small and micro departments, indicating a degree of what is perhaps the size-appropriate specialization for these agencies.

TABLE 19
DEPARTMENTS USING SPECIALIZED UNITS
TO INVESTIGATE CRIMES AGAINST CHILDREN BY AGENCY SIZE

Specialized Units						
Dept. Size	Detective Unit	Juvenile Unit	Sex Crimes Unit	Missing Persons Unit	Other Unit	Total
Micro (N=109)	3.0% (3)	6.5% (7)	0 (0)	0 (0)	3.0% (3)	2.6% (10)
Small (N=141)	44.0% (62)	23.0% (33)	2.0% (3)	2.0% (3)	6.0% (8)	26.6% (101)
Medium (N=100)	71.0% (71)	67.0% (67)	3.0% (3)	3.0% (3)	4.0% (4)	38.0% (144)
Large (N=19)	63.0% (12)	74.0% (14)	16.0% (3)	10.5% (2)	21.0% (4)	8.2% (31)
Macro (N=10)	80.0% (8)	40.0% (4)	40.0% (4)	40.0% (4)	40.0% (4)	5.3% (20)
TOTAL 379	41.2% (156)	33.0% (125)	3.4% (13)	3.2% (12)	6.1% (23)	

In order to obtain an indication of the range of child victimizations handled by specialized units, departments also were asked to state what criteria (e.g., features of the crime, the victim, or the perpetrator) determined the use of units reported. On the basis of comments received to this item, it appears that larger departments tend to distribute cases involving child victims among various units according to the type and seriousness of the crime involved, as well as the age of the child. In general, juvenile units were reported as used when victims or perpetrators were under 16 years of age. Detective/investigative units, on the other hand, were used when the victim was 16 or over, or when the crime was of a particularly serious nature, such as those involving homicides or narcotics offenses.

A specific procedural area examined by the DCJS survey, which is related to the extent to which a specialized response capability exists for these offenses, was crime scene response when the victim is known to be a child. Departments were asked to rate, using a scale ranging from 1 = "never" to 5 = "always," how frequently certain types of personnel, other than uniform patrol officers, respond to incidents of child victimization. The specific personnel respondents were asked to assess in this fashion were the following: supervisors, juvenile/youth officers; investigator/detective; social service case workers; other law enforcement personnel; and other.

Survey results indicated that "supervisors" were the personnel reported as most likely to become directly involved in response to child victimization cases. They received an average rating by departments of 3.1 (indicating an "occasional" response) with little variation obtained in the rating across different sized departments. "Social service case workers" received the next highest average rating of 2.9 (also indicative of an "occasional" response).

As with supervisors, this rating for case workers showed no substantial difference or variation by department size.

While the mean rating for "juvenile/youth officers" was 2.8 and, therefore, also in the "occasional" range, variation in ratings was found between different sized departments, with micro departments reporting a 1.9 (or "seldom" response) in contrast to large departments which indicated a 3.8 (or "usually" response). A similar pattern was found to exist for "investigators/detectives." Whereas, on average, micro departments reported the presence of these personnel as being 1.8 or in the "seldom" range, large agencies indicated a 4.4 or "usual" response for the presence investigators/detectives at the scene of a child victimization incident.

No clear or significant pattern was found for the remaining two categories of personnel. "Other law enforcement agencies" received an average rating of 1.9 ("seldom"), with department size having only a slight, uneven effect on ratings. "Other personnel" (e.g., district attorneys) were reported as attending the scene of an alleged child victimization only rarely.

In addition to measuring the extent of specialization present in the State's law enforcement agencies for responding to crimes against children, the DCJS survey also sought information from departments about basic coverage or the deployment of existing resources for dealing with these crimes. Accordingly, departments were asked if personnel was available 24 hours a day to handle crimes against children, and if so, whether the nature of that response entailed the use of routine patrol or a specialized unit. Looking first at the basic coverage issue, 322 departments or 85.4 percent of the respondents indicated an around-the-clock availability to respond to these crimes. Affirmative responses to this item ranged from 100 percent in the

macro and large departments to 61 percent in the micro departments. It should be noted that a number of the micro or smallest-sized departments are not full-time agencies and provide for such 24-hour coverage through county or State law enforcement resources.

Of the departments that reported 24-hour coverage, most indicated that this coverage was achieved through the use of routine patrol (44.4 percent or 169 departments). Approximately 16.5 percent (63) reported the use of specialized units, and 17.3 percent (66) stated that both patrol and specialized units were available to provide a 24-hour response to crimes against children. As expected, the nature of coverage available was related to the size of the department. Routine patrol was most prevalent in the smaller departments and specialized units were more typical for the larger departments. The combination response, or the reported use of both patrol and specialized units, was also more prevalent among larger sized departments than smaller agencies.

Skill Resources -- Specialized Training for Officers and Units

As stated earlier, the literature consistently emphasizes the importance which specialized training for law enforcement personnel can have on the successful investigation and disposition of crimes against children. The DCJS survey instrument included several items relating to the extensiveness and nature of this training in New York State. Analyses of responses to the survey were conducted to address the following questions:

- o How widespread is specialized training for responding to child victimization?
- o What kinds of training do officers receive?
- o Who sponsors or conducts such training?
- o What types of personnel receive such training?

To assess the extensiveness of training in special methods and practices for handling crimes against children, respondents were asked, "Which of the following best describes how many persons in your agency have received specialized training in handling crimes against children: all persons in a special unit, some persons in a special unit, some persons in the agency (no special unit) or no one?" Twenty-eight percent or 105 departments stated that all persons in their specialized unit had received such training. Fourteen percent or 52 departments responded that "some persons in the unit" had received special training, and 36 percent or 133 departments indicated that "some persons in the agency" had received such training. Finally, 31 percent (115) of those responding to this item indicated that none of the personnel in their department had received special training.

Respondents also were asked to identify the type of training which department personnel had received. In-service training was the most common training method used, reported by 55 percent of the 313 agencies responding to this item. On the basis of descriptive comments provided by respondents using this method, the content of specialized in-service training was said to stress interrogation and interview techniques for both suspect and victim, aids to recognizing signs of child abuse and maltreatment and procedures for networking with child protective services during the investigative process.

Bulletins, brochures and other literature were used for training by 49 percent (155) of the departments surveyed. Use of videotapes or films was somewhat less prevalent, accounting for 37 percent (116) of the responses, and just over 9 percent or 29 agencies indicated that training was accomplished as part of the "roll call" briefing. Thirty six percent or 113 departments checked the "other" category in responding to the method of training employed.

The responses for this category were varied. Among the other forms of training listed were special seminars and conferences sponsored by the Juvenile Officers' Association, the Bureau for Municipal Police, and child protective services as well as college courses.

It was evident from the responses to the item on training methods that many departments now have available to them at least minimal levels of sponsorship for training programs. The Bureau for Municipal Police was named most often (in 56 percent of the responses) as a sponsor of training. The police departments themselves, however, were chosen as sponsors by nearly half of the respondents. The State Police, Federal agencies, social services agencies and other law enforcement agencies were cited as sponsors by 21 percent, 17 percent, 39 percent and 37 percent of the departments, respectively.

The last issue explored in this analysis dealt with the identification of personnel who had received or were now receiving specialized training in the handling of crimes against children. Of the 285 departments responding to the question which addressed this issue, almost half stated that supervisors had received specialized training in the child victimization area. Thirteen percent or 37 departments said that "all" supervisors had received such training, and 35 percent (103) stated that some supervisors were now receiving specialized training. While only 8 percent (22) of those responding stated that all patrol officers had received training, 40 percent (118) reported that at least some persons in their department had received training in dealing with child victimizations. An encouraging finding of the analyses was that there was little variation found across different sized departments with respect to this 40 percent figure. Nearly a third (34) of the responding micro

departments and 41.8 percent (56) of the small departments indicated that at least some personnel in their agencies had received or were receiving specialized training in the child victimization area. These figures for medium, large and macro departments were 34.3 percent (34), 22.2 percent (4) and 54.5 percent (6), respectively.

This lack of a pronounced relationship with size also was apparent for other categories of personnel training. With the exception of macro departments, which reported substantially more extensive training for all levels of personnel surveyed, there was generally more consistency than expected across different sized departments. For example, whereas 70 percent (7) of the responding macro departments reported that some or all of their supervisors had specialized training in the child victimization area, this figure for micro, small, medium and large departments was 46 percent (29), 48.1 percent (52), 46.2 percent (43) and 47.4 percent (9) respectively. A similar pattern in training was found with respect to patrol officers, for whom 80 percent (8) of the macro departments reported training, in contrast to 36.5 percent (33) of the micro departments, 55.6 percent (60) of the small departments, 46.2 percent (43) of the medium departments and 31.6 percent (6) of the large departments.

While these findings point out the need for additional training in departments below the macro-size level, the consistent reporting across different sized agencies that at least a third of all personnel and close to a majority of patrol officers and supervisors are trained in this area is significant. The survey's findings with respect to patrol officers and supervisors are especially noteworthy, given the necessary reliance by smaller departments on these officers to respond to crimes against children.

2. CHILD VICTIMIZATION INVESTIGATORY PRACTICES

Special Evidence Gathering Techniques

The necessity for law enforcement agencies to develop and use special investigatory practices for responding to crimes committed against children has become a consistent theme in the literature in recent years. The discussion which follows focuses on the changes made to one investigatory practice, in particular -- the interview conducted by law enforcement with the child victim. It also will be noted that the survey instruments designed by DCJS were almost exclusively devoted to assessing the procedures used by police and district attorneys to question the child who has been victimized by crime. This emphasis on researching the child victim interview was chosen due to the essential purposes served by this interview process. A primary purpose of this process for law enforcement is, of course, that of investigative case development. Given that there is often limited physical evidence and most likely no other witnesses to incidents of abuse and maltreatment, the interview of the child victim is considered critical to the investigation process by law enforcement.²⁴

While the interview of a child victim serves this important function for law enforcement, it is generally agreed that the process of questioning a child who has been victimized cannot be limited to gathering information and evidence, but, rather, must also have as an end the psychological and emotional well-being of the child. As such, the interview of the child victim is said to involve a complex interplay of questioning, counseling and comforting.²⁵ The National Center for Missing and Exploited Children has emphasized this particular purpose of the investigative interview and observes that for many child victims of exploitation, the interview by law enforcement officials may

be the first and, unfortunately, perhaps the last time that someone will have the opportunity to help the child deal with the trauma of victimization.²⁶

In order to develop special techniques for interviewing children who have been victimized by crime and to ensure that the multiple purposes of the interview process are met, law enforcement has begun to work with -- and borrow from -- other professionals in the child victimization field. The literature is rife with such examples of this interaction with child protection services, victim advocacy, mental health, pediatric services and education personnel. In fact, it is becoming more common today to find coverage given to the law enforcement role in child abuse cases, with an emphasis placed on the interview process, in treatises on intervention prepared from a psychological or clinical perspective. This increasing dialogue between what, in the past, have been distinctively non-interactive disciplines will be apparent in the discussion of interview procedures and techniques presented below.

Before this discussion is begun, however, brief acknowledgement should be given to the efforts being made by law enforcement to develop specialized evidence gathering techniques to investigate crimes committed against children. The importance of these techniques to the successful apprehension and conviction of offenders should be evident, given the inherent limitations typically placed on child victimization investigations by both the age of the victim and the relationship of the child to the offender. In general, special evidence gathering practices in this area have focused on developing interviewing and observational skills for dealing with parents suspected of child abuse; improving the investigator's ability to identify abusive behavior through recognition of the types or patterns of injuries sustained and the means used to inflict injury; and securing documentation of the victimization,

through the use of photography, collection of physical evidence, and specific measurement data which establishes the non-accidental nature of the injury (e.g., in burn and immersion investigations, size of the child as compared to height of appliances, such as stoves or bathtubs). A comprehensive guide to the special evidence gathering techniques recommended for investigating most forms of child victimization is provided by the 1985 publication, Investigating Child Abuse, by James J. Mead and other associates of the organization For Kids' Sake.²⁷ This publication highlights the specific characteristics of typical non-accidental injuries sustained by children and presents and explains the investigative considerations for each, as well as the types of documentation and physical evidence that can and should be secured by law enforcement during the investigation process.

The Child Victim Interview -- Procedures and Techniques

Gathering of Preliminary Information. Given the importance of the interview to case development and the well-being of the child, the literature suggests that a number of preparatory arrangements be made by the investigator prior to initiating questioning.²⁸ One such pre-interview task is to gather as much information about the facts and dynamics of the case as possible before talking to the child. The person who made the initial disclosure about the incident should be contacted and any other individual who may have information regarding the case, including physicians, protective service workers, therapists, teachers and, most importantly, any confidant the child may have.²⁹

The information collected from these sources should not be limited to a description of the incident, but, rather, should involve the investigator in using discussions with knowledgeable contacts of the child to gain an awareness of the child's ability and willingness to make a statement about the incident.

This kind of information is not only useful in preparing for the interview, but is essential to tactical case planning which provides for the protection of the child's interests.³⁰

It also is recommended that the investigator use this pre-interview time to ascertain how information on the case was developed, including, but not limited to, the persons to whom the child has reported the incident and their reactions; the reasons/situation which prompted the child's disclosure; the exact words used by the child in recounting the incident; the feelings expressed by the child about the abuse, the offender, his family and his personal safety; actions the child wants taken; and behavioral manifestations of the abuse displayed by the child.³¹ It should be apparent that this information about an understanding of the chronology and substance of prior investigative work on the case will enable the investigator to determine the child's attitude about the incident and to form an effective relationship with the child.³²

Selecting the Location for the Interview. The literature places a great deal of emphasis on the importance of the interview site when questioning a child victim. It is noted consistently that the room or area in which the interview is conducted can have a significant impact on the child's comfort and can affect, therefore, his responsiveness to the investigator's questions.

While experience has proven that effective interviews can take place in a number of different settings, such as playgrounds, automobiles and walks, the general recommendation by experts in the field is that a neutral setting be used for the questioning of a child victim.³³ Hertica notes that the police interview is similar to the therapeutic interview and presents the following advice, derived from literature in the mental health field, on the selection of

an appropriate setting for questioning the child victim of crime:

A primary consideration is to provide a setting in which a child can feel safe. Only after a sense of security is established can a child be expected to trust the examiner sufficiently to be able to describe the events which took place as well as his or her emotional reactions to both the sexual relationship and its subsequent discovery and exposition. The setting for this evaluation should be private and provisions made to prevent interruptions. It is essential that at some point in the evaluation the child be seen alone to provide an opportunity to discuss sexual matters without censorship from either parent.³⁴

A separate room designed specifically for children is the usual suggestion for the interview site made by practitioners and professionals experienced in this field. The National Center for Missing and Exploited Children notes that children may behaviorally express a need to be mobile and, accordingly, suggests that the interview room allow for a good degree of such movement.³⁵ These experts also stress, as does the literature in general, the importance of having comfortable, child-size seating and age-appropriate diversions, such as toys and coloring books and crayons, in the room. Diversionary materials are suggested for use with younger children, in particular, in order to enhance their sense of comfort and to provide the investigator with a mechanism to ease the child into the interviewing process.³⁶ Accessories that have become increasingly common to the investigative process, such as anatomically correct dolls and drawing materials, also should be present in the interview room. The use of these materials during questioning is discussed below.

In addition to these design features for the interview room itself, police investigators are advised to make provisions for ensuring that the setting itself is quiet and free from distractions and interruptions. This emphasis on privacy is made not only to guarantee that the child's attention is maintained during questioning, but also to decrease apprehensiveness with respect to a fear expressed by many child victims, and that is that other people will find

out about the incident.³⁷

Interpersonal Arrangements -- The Family and the Child's Emotional Well-Being. Two other issues that must be addressed prior to beginning the interview with the child are in the area of interpersonal relationships. The emotional well-being and readiness of the victim to confide in the investigator must be assessed and, if necessary, enhanced. Provisions also must be made to deal with the child's family. These interpersonal dynamics must be managed carefully before and throughout the interview itself for an investigation to proceed smoothly to its conclusion.

The general recommendation for dealing with the victim's family stresses the importance of establishing a positive relationship with the family that will survive and ensure commitment to the often lengthy investigative/prosecution process. It is stated that the family needs to be familiarized, in a realistic way; with the steps of this process and made aware of how other agencies or officials associated with the investigation, such as social services, mental health professionals and district attorneys, will be proceeding.³⁸

The most critical condition that must be met before the investigative interview is begun, however, is that involving the relationship between the victim and the investigator. As previously indicated, the interviewer should be aware of and make plans to accommodate a variety of factors which effect full and honest disclosure in cases involving child victims, some of which are associated with the victim's age and abilities and others of which involve the nature of the offense and the child's relationship with the offender.

Timing of the Interview. It is generally agreed that the timing of the police investigator's interview of a child victim can be critical to the

outcome of the investigation.³⁹ While most investigators would prefer to talk to the child as soon as possible after the incident is reported, the timing of the police interview is dependent on a number of considerations, such as the emotional well-being of the child, his physical condition and the necessity of having the results of any medical examinations conducted after the incident. In all cases, it is advised that the interview take place at a time that will be least upsetting for the victim, but will also elicit responses which are accurate and uncontaminated by the pressure of others.⁴⁰

Persons Present During the Interview. The literature notes that in many situations it is helpful for the officer to have another person present during the interview. The role of this person and who it should and should not be also is specified by researchers in this area. Looking first at the identity issue, there is a consistent preference to exclude family members from the interview setting, so as to guard against the introduction of further psychological stress or embarrassment for the child during questioning.⁴¹ While an exception to this preference is made if the family member has been supportive of and is requested to be present by the child, the literature generally recommends that the second person at the interview should be a professional (social worker or mental health counselor) with an expertise in this area or, if available, one who has already talked with and established a relationship of trust with the child.⁴²

It is also generally agreed that the role of this second person during the interview should be one of assisting the law enforcement investigator who should take the lead in questioning the victim.⁴³ The nature of this assistance is said to be two-fold. This professional is seen as providing support to the child during questioning and as clarifying the child's

terminology or the sequence of events described for the officer.⁴⁴ As with any investigative interview involving more than one investigator, the literature also stresses the need to discuss roles and establish ground rules for questioning prior to commencing the interview.

Setting the Tone for the Interview. It has been noted that the most important part of the interview of a child victim is its beginning, as the tone and rapport established at the onset of questioning can be critical in determining the accuracy and extent of the child's responsiveness during the course of the interview.⁴⁵ As pointed out by the National Center for Exploited and Missing Children, the investigator needs to be constantly aware of the difficulty most child victims have in discussing their victimization with adult authority figures. It is suggested that the child's reluctance to talk and his sense of anxiety or, in some cases, guilt over the incident can be overcome by establishing a non-threatening, sincere, cordial and non-judgmental tone to the questioning from the onset of the interview.⁴⁶

The officer is advised to never begin the interview with questions about the incident, but rather to spend time in, what has been called, "conversational visiting" with the child, discussing familiar and non-threatening subjects in an informal way.⁴⁷ Opening the interview in this fashion is said to ease the child's anxiety and discomfort with the situation and to accustom him to answering questions from the officer. It is suggested that the officer can also use this kind of dialogue to obtain information about the child's cognitive ability to communicate and to become aware of any sensitivity the child may have to discussing certain issues.⁴⁸

Questioning the Child Victim. A number of strategies, techniques and tools for interviewing the child victim are presented in the literature. The

influence of increased activity and dialogue with non-law enforcement agencies on police operations in this area is very apparent in a review of these recommended strategies for questioning the child victim.

This is seen, for example, in advice given with respect to the formatting of effective questions for the child victim. The importance of starting from where the child is, both cognitively and emotionally, is stressed. For the most part, simple, direct questions in language that the child is comfortable with and understands are suggested as are questions that avoid blame or active participation on the part of the child.⁴⁹ The literature also cautions against the inappropriate use of "when" questions or inquiries that force the child to conceptualize times and dates in adult language. A technique suggested for use with children who are not at the stage of development where they can associate events with particular days or times is to phrase the question in such a way that the child can provide a sense of time to the investigator by relating the incident to familiar events in his life, such as holidays, birthdays, special family events, etc.⁵⁰

The literature also points out a number of techniques to compensate for the child's stage of development and lack of sexual awareness in investigations of sexual abuse cases. The use of pictures or diagrams of the human body to describe sexual activity is recommended as are drawing materials and having the child point to parts of his or the investigator's body when responding to questions.⁵¹ An increasingly common investigative aid for law enforcement in dealing with sexual abuse cases is the anatomically correct doll. These dolls simplify the interview process by eradicating any language problems or barriers that exist, and they also provide the child victim with a mechanism to demonstrate visually what may be too difficult to express verbally.⁵² The

National Center for Exploited and Missing Children cautions investigators that these dolls are an investigative tool and should complement rather than replace good interviewing skills. These experts also indicate the dolls must be properly used to facilitate further discussion about the incident and offer a series of suggestions for their use during the interview.⁵³

In addition to providing suggestions about the techniques and strategies for conducting effective interviews of child victims, the literature also stresses the importance of the investigator's attitude and demeanor to this process. It is stated that the primary objective for the investigator should be the maintenance of a nonjudgmental, yet supportive attitude toward the child throughout the interview.⁵⁴ Accordingly, the investigator is advised to be aware of and anticipate the psychological dynamics associated with many abuse cases, including the child's sense of guilt, shame and betrayal. It is also suggested that the investigator pace his questioning according to the child's needs and willingness to disclose information and that he be prepared to continue the interview of the child victim at another time, if necessary. To facilitate this process, it is recommended that the questioning of the child begin with incidents of abuse which are furthest removed in time from the present, if, in fact, the child has been subjected to repeated victimization. Recalling these earlier incidents will be less traumatic for the child, and once he has done so and received a non-judgmental, supportive response from the investigator, talking about more recent events will cause less anxiety.⁵⁵

o **DCJS Survey Results -- Investigatory Practices Used by New York State Police/Sheriffs' Departments for Responding to Crimes Against Children**

Through its survey instrument, DCJS sought to determine the extent to which special procedures were used by law enforcement to interview the child victims of crime in New York State. Survey items also were designed to elicit

information about the nature of other specialized investigatory practices employed in the State. In addition, in order to place these practices into their operational context, DCJS asked departments to identify the primary resource and legal obstacles which limited their ability to develop or use specialized procedures for responding to crimes against children. Analyses conducted of survey results addressed the following questions:

- o How extensively are specialized procedures used across different sized law enforcement agencies in this State?
- o Which procedures are used regardless of agency size? Which practices are limited to larger sized departments or seem dependent on the resources available to these departments?
- o What are identified as being the primary resource/operational limitations to the employment of specialized procedures by departments?
- o What statutory/case law obstacles do departments cite as hampering their ability to investigate or apprehend offenders who commit crimes against children?

The Extent of Specialized Procedures for Responding to Crimes Against Children

In order to assess the extensiveness of specialized procedures across different sized departments in the State, respondents first were asked whether the procedures they used to investigate child victimization cases differed from those they used in cases where there is an adult victim. Seventy-six percent, or 279, of the 367 responding departments indicated that the procedures their departments used for child victimization cases were, in fact, qualitatively different from those used in cases of adult victimization. Significant variation across different sized departments was found to exist, however, with respect to the employment of these specialized procedures. The smaller the department, the less likely that any special investigative methods were reported as being used. In fact, many micro and small departments indicated that they automatically referred such cases to the State Police or a County

sheriff or police department after completing tasks associated with the initial or preliminary investigation. Some smaller departments did report more active participation in child victimization investigations, however, as is evidenced in the following comments made by one small department:

[Our] department is considered to be a small police department with...19 sworn police officers. [We] serve a population of approximately 20,000 and, throughout the year,... we are frequently called upon to investigate crimes against children and missing children reports. The...officer assigned to investigate a matter of such nature is able to handle all of the initial investigation. He will determine if a more detailed follow-up investigation is necessary, notify his immediate supervisor...and call for a detective/investigator to follow up. We don't have officers who handle juvenile complaints solely. Any complaint to our department involving children will be thoroughly investigated (as all other police complaints are) and turned over to any other agency(s) which would be needed to assist/prosecute/or provide counseling.

The pattern of response variation by size of department to this survey item was quite significant. Approximately 36 percent (39) of the micro and 27 percent (35) of the small departments indicated they did not use special investigative techniques. By contrast, only 11 percent (11) of the medium departments stated that they did not use special procedures for crimes perpetrated against children. One of the large departments (with 148 full-time sworn officers) indicated no use of special procedures, but it is possible that this was a response error. As would be expected, all of the macro departments reported the use of specialized practices to investigate child victimization cases.

The Nature of Investigatory Practices Used to Respond to Crimes Against Children

The key questionnaire item used to elicit information about investigatory practices used by departments involved a checklist of 16 methods and practices identified through research and consultation with the project advisory panel as being the state-of-the-art procedures for investigating crimes committed

against children. Respondents were asked to check all practices which were used by their departments. The items are rank-ordered in Table 20 according to the reported frequency of use across all departments. Table 21 describes the reported frequency of use of these practices by department size. Upon examination of both tables, it should be evident that regardless of department size, variety is the rule rather than the exception for the types of methods used by law enforcement agencies in this State to investigate child victimization cases.

TABLE 20
RANK ORDER OF REPORTED USE OF SPECIAL INVESTIGATORY METHODS
OR PRACTICES BY NEW YORK STATE LAW ENFORCEMENT AGENCIES

<u>Method or Practice</u>	<u>Percent</u>	<u># of Agencies</u>
Parent/guardian always present	71%	(195)
Procedure to reduce number of interviewers of child victim	69%	(191)
Interview setting used specifically for children	61%	(167)
Use of anatomically correct dolls	50%	(136)
Special procedures for interviewing child when suspect is a relative	47%	(128)
Special procedures for utilizing protective custody if necessary	45%	(124)
Use/provision of drawing materials	41%	(112)
Special steps to prepare child for trial if necessary	38%	(105)
Special techniques for interviewing parents or guardians	33%	(90)
Special procedures to facilitate reporting or disclosure of incidents	29%	(80)
Special evidence-gathering techniques	25%	(69)
Use of video tape to record child's statements	20%	(54)
Special techniques re: pedophiles and pornography rings etc.	15%	(42)
Special techniques re: neglect or abandonment cases	13%	(36)
District Attorney's office represented during interviews	9%	(25)
Special techniques re: child prostitution	6%	(17)

TABLE 21
REPORTED USE OF SPECIAL INVESTIGATORY
PRACTICES BY DEPARTMENT SIZE

<u>Method</u>	<u>Micro n=65</u>	<u>Small n=96</u>	<u>Medium n=87</u>	<u>Large n=19</u>	<u>Macro n=9</u>
Procedure to reduce number of interviewers of child victim	49% (3)	72% (2)	76% (1)	89.5% (1)	89% (1)
Use of anatomically correct dolls	25% (6)	41% (5)	68% (2)	84% (2)	78% (2)
Use/provision of drawing materials	26% (5)	34% (7)	48% (6)	74% (3)	78% (2)
Use of video tape to record child's statements	9% (10)	19% (11)	26% (10)	32% (9)	22% (6)
Interview setting used specifically for children	55% (2)	57% (3)	68% (2)	74% (3)	67% (3)
Parent/guardian always present	77% (1)	76% (1)	68% (2)	53% (5)	33% (5)
Special procedures for interviewing child when suspect is a relative	37% (4)	42% (4)	54% (5)	68% (4)	67% (3)
District Attorney's office represented during interviews	11% (9)	7% (12)	9% (13)	5% (13)	22% (6)
Special techniques re: neglect or abandonment cases	8% (11)	7% (12)	17% (12)	21% (11)	56% (4)
Special techniques re: pedophiles and pornography rings etc.	8% (11)	7% (12)	21% (11)	37% (8)	67% (3)
Special techniques re: child prostitution	8% (11)	1% (13)	7% (14)	16% (12)	33% (5)
Special procedures to facilitate reporting or disclosure of incidents	23% (7)	23% (9)	32% (9)	47% (6)	78% (2)
Special techniques for interviewing parents or guardians	26% (5)	23% (9)	44% (7)	42% (7)	67% (3)
Special steps to prepare child for trial if necessary	20% (8)	26% (8)	56% (4)	68% (4)	67% (3)
Special procedures for utilizing protective custody if necessary	37% (4)	36.5% (6)	57.5% (3)	47% (6)	78% (2)
Special evidence-gathering techniques	20% (8)	21% (10)	33% (8)	26% (10)	33% (5)

The most widely cited practices across agencies of all sizes were procedures to reduce the number of interviewers of child victims and the practice of having the parent or guardian present during the interview process. While both of these procedures were reported as used by nearly 70 percent of the departments responding to this item, procedures to reduce the number of interviewers were reported more often by larger departments, and the practice of having parents present during interviews was found to be much more common among smaller departments. It should be noted, however, that there were a number of limiting factors cited by departments as restricting the presence of parents or guardians during the interview process in child victimization cases, such as age of the victim, involvement of the parent or guardian in the offense and attitude or degree of support provided the child by the parent or guardian.

As stated elsewhere, the reduction of the number of interviewers of the child victim is widely recommended in both the literature and New York State law as a mechanism by which to enhance the child's comfort and sense of support during the investigative process, while reducing confusion, frustration and fear. One suggested means of limiting the number of interviewers for the child victim is the joint interview by agencies with involvement in the investigation of the offense. A number of respondents to this survey indicated either receptivity to or use of this practice.

The next most frequently used procedure employed by departments in the survey was the use of an interview setting designed specifically for children. Nearly 61 percent (167) of the responding departments reported having such special settings available for conducting interviews with children. The reported use of this practice was somewhat more common, however, among the

larger departments in the survey.

The use of anatomically correct dolls was reported by half (130) of the departments responding to this item. As stated earlier, this technique is designed to assist in gathering accurate and essential information from small children who are suspected victims of sexual or physical abuse. Responses to the survey indicate that anatomical dolls are used relatively infrequently in the "micro" departments (25 percent), and significantly more frequently in larger departments (84 percent).

The next most frequently reported practices were special procedures for utilizing protective custody for victims (45 percent or 124 departments) and special procedures for interviewing the child if the suspect is a relative (47 percent or 128 departments). Regarding the former, a respondent from a medium size department stated:

Every effort should be made to assist child victims, especially in sex offenses within the family, to make the effects of the victimization less traumatic. This could be accomplished by more cooperation in obtaining "Orders of Protection" for the child. Whenever possible, the child...should be placed...with a friend or relative...rather than...a Group or Foster Home not known to the child victim, with "Orders of Protection" [used] to protect the child/victim, friend and relatives from any abuse by the alleged perpetrator.

The frequency with which departments reported the use of special procedures for interviewing children whose relatives are suspects suggests that although police try to have parents or guardians present when a child has been victimized, special care is taken to protect the child when the parent or guardian is the suspect.

One hundred twelve or 47 percent of the respondents reported having drawing materials available for the child to reduce discomfort or assist the interview process. This practice was found to be more prevalent among larger

departments, as was the next most frequently reported procedure, which was the use of special steps to prepare the child for trial. Such preparation, even if limited to taking the child through the courtroom and explaining what will happen during the proceeding, is cited in the literature as a mechanism by which to reduce anxiety and improve the quality of the child's testimony. Along these lines, one respondent commented that "the courtroom is intimidating enough for an adult...steps are taken to have the child see the facility prior to court." Thirty-eight percent (105) of the departments responding to this item reported the use of special pre-trial preparation procedures for child victims.

The remainder of this discussion of specialized investigatory practices will focus on four areas of lesser reported practices in the survey, including special evidence-gathering techniques; the use of videotaped statements from child victims; special investigatory techniques/arrangements for child sexual abuse and molestation; and special arrangements for handling the investigation of child neglect/abandonment cases. The reader is directed to Tables 20 and 21 for a summary of the reported use of other investigatory practices surveyed.

While only 25 percent or 69 of the departments responding to this item reported the use of special evidence gathering techniques in child victimization cases, comments provided indicate that a number of departments are making special efforts to expand their expertise in obtaining evidence for child victimization cases. The need for continued enhancement of skills in this area will be especially apparent following the discussion of operational/legal limitations cited by departments as effecting the successful investigation and resolution of child victimization cases. One small department reported that both its "Youth...and criminal division[s] [as well as

the I.D. section] are [specially] trained to collect and preserve evidence at the scene of a sex crime." Other comments were even more illustrative of the special evidence gathering techniques employed for these kinds of cases:

Photos [are taken] of [purported] "accident" scenes. Evidence [collected includes that] taken...in [a] regular crime scene, plus [additional items] not usually considered "evidence." [A] videotape [is made] of [the] crime scene...Medication or hot water bottles used to treat [the] injury that parent denies knowledge of [are collected]. [Officers measure] the distances of falls, etc., [and attempt to get] doctors to "commit" themselves [regarding] whether...[a] fall was an accident or caused by another person's intent to hurt the child.

With respect to the use of videotaped statements from child victims, a number of departments indicated problems with the statutory limitation of such statements to grand jury proceedings and the inability to use taped statements in lieu of direct testimony. While the relatively low use of videotapes by only 20 percent of respondents may be indicative of this statutory limitation and the low rate at which these cases reach the grand jury level of the justice process, the cost of necessary equipment is also, in all likelihood, a limiting factor to jurisdictions across the State.

Special techniques to facilitate the investigation of particular types of crimes committed against children, such as sexual abuse or exploitation, were reported far less frequently by departments than the generalizable techniques and practices discussed above. For example, only 15 percent (42) of the responding departments stated that they conducted proactive investigations, surveillance or undercover operations to apprehend child molesters and crack pornography rings, and only six percent reported the use of special techniques for investigating child prostitution, such as special street teams. As would be expected, the use of these specialized procedures varied significantly with the size of departments or the different needs presented by communities with

respect to this kind of law enforcement activity. A number of smaller departments reported that when faced with crimes of this nature in their communities, they usually made use of the resources of larger departments in their area. For example, one small department indicated that it called upon the "Sex Crimes Unit ... County Department of Public Safety" for assistance in such matters. Another small department reported maintaining "On-going contact with United States Postal Inspectors" to track activities of pedophiles.

Thirteen percent or 36 departments reported using special techniques for investigating neglect/abandonment cases. Generally, these departments stated that they called upon their local child protective service for assistance in crimes involving neglect or abandonment. This appears to be a fairly routine procedure in most departments regardless of size and is understandable given the expertise of CPS in this area and the resource or service referrals which they provide. Some departments, typically those of the medium or large sizes, contact the district attorney's office in neglect or abandonment cases.

Investigatory Practices for Dealing with Missing Children Cases

Although the primary focus of this DCJS survey dealt with law enforcement investigatory practices for responding to crimes committed against children, two questions were included in the survey instrument about procedures for handling missing children cases, specifically. These questions were included on the basis of the extent of victimization and exploitation committed against children who are reported to police agencies as missing person cases. For the most part, the literature focuses on crimes committed against runaway children, which are usually said to involve sexual exploitation of one form or another.

The questions included on the survey sought information from departments about follow-up investigatory actions taken in missing children cases and the

interview process conducted with apprehended runaways. With respect to follow-up actions taken, respondents were asked to indicate how frequently their departments engaged in certain identified practices for cases which were not resolved within a two week period. These practices included: periodic contact with family; investigate new leads; reinterview witnesses; circulate posters; check with runaway shelters/local service agencies; check with locator services; and other. Departments were requested to use a five-point rating scale, with 1 = never and 5 = always, to indicate the extent to which they engaged in these practices.

Of the various follow-up actions listed, investigating new leads drew the strongest response, with nearly 85 percent (279) of the 328 departments responding to this question indicating that they "always" investigated new leads, and 11 percent (36) stating that they "usually" did so. Most departments also reported the maintenance of periodic contact with the family of a missing child: 73 percent (240) of the departments stated that they "always" maintained this contact and 21 percent (69) said they "usually" did so.

Responses obtained for other follow-up actions included the following: re-interviewing witnesses -- 34 percent "always", 37 percent "usually"; checking with runaway shelters and local service agencies -- 40 percent "always", 25 percent "usually"; circulating posters of missing children -- 19 percent "always", 65 percent "occasionally"; and checking with locator services -- 25 percent "always", 47 percent "seldom or never".

In an effort to ascertain the proportion of departments using proactive measures to investigate sexual victimization among runaways, respondents were asked whether they "systematically interviewed apprehended runaways" to uncover

possible sexual abuse and exploitation. Exactly half of the 356 departments responding to this question indicated that they followed this procedure. It is evident from this response rate and a review of the literature that more data is needed to provide an indication of the nature and extent of victimization committed against runaway youth. If more departments systematically conducted careful interviews of returned runaways, this procedure could become the mechanism through which data about this type of victimization is best gathered.

Law Enforcement Prevention Activities

DCJS also decided to include in its survey a number of items relating to existing prevention efforts undertaken by law enforcement agencies in New York State. These efforts usually are aimed at increasing public awareness about child victimization so as to make what are typically private unobserved offenses more visible and, therefore, more susceptible to successful law enforcement intervention. Programs which educate a community about the symptomology of child victimization, or how to recognize a child victim, and which provide information about the procedures for reporting crimes involving children serve to complement and more often significantly enhance a department's investigatory efforts in this area.

Analyses of survey results were conducted to address the following questions:

- o To what extent are prevention programs conducted by law enforcement agencies?
- o What kinds of prevention programs/activities are engaged in by police departments?
- o Who are the targets of these programs?
- o If not law enforcement, who is the typical sponsor of local prevention efforts?

The survey gathered information on the use of a variety of special programs/methods aimed at informing the community about the prevention of child victimization. First, departments were asked to indicate, from a list provided, the types of prevention programs they currently sponsored. Fifty-eight percent (182 departments) indicated sponsorship of some type of school education program, followed by "Crime Prevention Weeks" (33.7 percent), community programs (26.3 percent), shopping center exhibits (20 percent) and public service announcements (20 percent). Reported less frequently were prevention workshops (16 percent), community bulletin board displays (12 percent) and local prevention and/or child abuse reporting "hotlines" (12 percent).

Table 22 summarizes these responses on law enforcement sponsorship of programs according to the size of the department. As one would expect, sponsorship of prevention programs is much more common among large departments. For example, only 30.5 percent of the micro departments stated that they sponsored school education campaigns, in contrast to 80 percent of the medium and large departments that responded to this item. Similarly, "crime prevention weeks" were used by approximately 15 percent of the micro departments, but approximately 58 percent of the large and 70 percent of the macro departments.

TABLE 22
TYPES OF LAW ENFORCEMENT-SPONSORED PREVENTION
PROGRAMS BY SIZE OF DEPARTMENT

<u>Type of Program</u>	<u>Micro n=82</u>	<u>Small n=111</u>	<u>Medium n=89</u>	<u>Large n=19</u>	<u>Macro n=10</u>
School Education Campaign	30.5%	57.7%	78.7%	78.9%	90.0%
Crime Prevention Week	14.6%	32.4%	43.8%	57.9%	70.0%
Shopping Center Exhibits	3.7%	13.5%	33.3%	52.6%	60.0%
Workshops	2.4%	16.2%	23.6%	15.8%	70.0%
Community Bulletin Boards	4.9%	9.9%	16.9%	15.8%	60.0%
Prevention/Child Abuse Hotline	9.8%	10.8%	11.2%	31.6%	30.0%
Public Service Announcements	9.8%	20.7%	23.6%	36.8%	50.0%
Community Programs	11.0%	23.4%	37.1%	52.6%	40.0%

While it appears that many of the smaller law enforcement agencies in the State are unable to sponsor their own prevention programs, the majority of respondents across all-sized departments reported that they were at least participating in programs sponsored by other organizations in their communities. Nearly 67 percent (250) of the 374 departments that responded to this item indicated participation in some type of program "sponsored or coordinated primarily by other local organizations such as community associations, the YMCA, churches and religious organizations, neighborhood development associations and others." This figure ranged from about 50 percent in the micro departments to above 90 percent in the larger departments. While not all departments responding to this question provided further information on specific types of programs in which they participated, 256 did provide such additional descriptive material. Of these departments, 231 indicated they participated in some type of fingerprinting program for

children, 206 conducted lectures at local schools, 96 had youth recreation programs, 38 had latchkey programs and 32 had puppet programs. The frequency with which departments of different sizes reported participation in these programs is presented in Table 23 below.

TABLE 23
LAW ENFORCEMENT PARTICIPATION IN PREVENTION
PROGRAMS BY SIZE OF DEPARTMENT

<u>Program</u>	<u>Micro n=58</u>	<u>Small n=91</u>	<u>Medium n=81</u>	<u>Large n=18</u>	<u>Macro n=8</u>
Fingerprinting	87.9%	92.3%	91.4%	88.9%	75.0%
In-Class Lectures	62.1%	83.5%	84.1%	100.0%	100.00%
Youth Recreation	27.6%	39.6%	36.6%	50.0%	62.5%
Latchkey	6.9%	12.1%	22.0%	16.7%	25.0%
Puppet Programs/Role-Playing	1.7%	12.2%	17.1%	22.2%	25.0%

Resource and Legal Limitations to the Investigation of Crimes Against Children

As stated earlier, a significant objective of the analyses conducted of this data was to study what law enforcement agencies identified as limitations to their ability to investigate fully crimes committed against children. This assessment was made for both resource and operational constraints and those described as based in the law.

Table 24 summarizes by department size what respondents identified as the resource and operational problems that limit their investigative capabilities in child victimization cases. Before these constraints are examined individually for size-related patterns, it should be noted that 57 percent (215) of the departments that responded to this item checked at least one limitation when answering the item. Given that the majority of departments

indicate that the translation of theory into practice has not been problem-free, the findings of the survey with respect to the special investigative practices used by departments are especially encouraging.

The most prevalent problem reportedly faced by departments in dealing with child victimization cases was the lack of personnel (67 percent or 145 departments), followed by lack of training and financial resources, both of which were identified as limitations by approximately 60 percent of the respondents or 129 departments. As is evident from Table 24, financial problems and limitations in personnel seem to be more strongly felt by the two extreme size categories (i.e., micro and macro departments), whereas the lack of training appears as a smaller-sized agency phenomenon. Lack of equipment/supplies also seems to be reported somewhat more frequently by the two extreme size categories, which is probably accounted for by the high caseload or need experienced by the macro departments and by the lack of financial resources available to the smaller agencies. With few exceptions, the remaining problems identified by departments appear to be positively associated with the size of the agency -- as size increases so too does the reporting of these limitations.

TABLE 24
REPORTED LIMITATIONS TO INVESTIGATION
OF CRIMES AGAINST CHILDREN BY SIZE OF DEPARTMENT

<u>Limitation</u>	<u>Micro</u> <u>n=64</u>	<u>Small</u> <u>n=74</u>	<u>Medium</u> <u>n=59</u>	<u>Large</u> <u>n=13</u>	<u>Macro</u> <u>n=6</u>
Lack of financial resources	73%	58%	46%	31%	83%
Lack of personnel	78%	72%	54%	31%	83%
Lack of training of personnel	77%	72%	37%	23%	33%
Lack of equipment/supplies	50%	42%	17%	15%	67%
Jurisdictional problems among law enforcement agencies	8%	14%	7%	15%	50%
Restricted access to records	13%	26%	39%	62%	50%
Bureaucratic delays in obtaining records	13%	11%	25%	31%	33%
Attitude that child abuse is a family problem rather than a crime	11%	19%	24%	23%	50%

With respect to legal constraints placed on law enforcement investigatory activity, departments first were asked to indicate whether they had experienced any such constraints and then to summarize the nature of these problems. Only 21.6 percent (75) of the respondents reported legal problems, and of this number large and macro departments were greatly overrepresented as compared to small and medium departments. The percentages of large and macro departments reporting legal problems were 55 and 60 percent respectively, and those for small and medium were 13 and 29 percent respectively.

Of these 75 responses, 37.5 percent or 20 departments indicated that "the Rogers rule" had posed the greatest legally-introduced problem for operations. This complaint was made by departments of all sizes. In People v. Rogers [48 NY2d 167] the New York State Court of Appeals held that once an attorney has

entered the proceedings, thereby signifying that the police should cease questioning, a defendant in custody may not be further interrogated in the absence of counsel. On the basis of this holding, it appears that respondents' complaints about the decision are not specific to child victimization cases, but rather are generalizable to any situation where the police engage in the custodial interrogation of an individual who has retained counsel.

Departments also cited as troublesome the legal requirements involving the corroboration of evidence for young victims and those relating to the age at which a child may give sworn testimony. Eight comments about corroboration requirements and six on statutory measures which restrict the provision of sworn testimony by young children were received from departments of various sizes. Examples of these comments include the following:

[The] prosecution of [the] offender [in these cases] usually requires [the] corroboration of statements made by [the] child. Frequently there is no corroborating evidence due to the nature of the crime.

Criminal Procedure [Law] [which requires the] corroboration of witnessless crimes against children far too young to give credible testimony [is] totally preventative [of] prosecution.

...[C]ases of sex crimes against children [are] difficult [to prosecute] without a defendant's confession particularly when the victim is under 6 years old.

[The] length of time between arrest and testimony is often too long for children. [For] small children not allowed to testify under oath, when it's [a nine] year old's word against [the] father with no corroboration, you have no case.

Other complaints of a legal nature made by respondents focused on social services regulations which were said to interfere with police investigatory activity, such as those which required the prompt notification of persons suspected of child abuse or maltreatment and those governing the confidentiality of information maintained by social services. Several comments

about problems with Social Services Law or regulations are presented below:

[The Department of Social Services] requirement that [the] subject of [a] the report must be notified by [DSS] that he or she is the [subject of a report within 7 days is problematic]. Situations do arise where [the] investigation is disclosed [to a suspect] before [it is] completed.

Restrictions on Child Protection [which prohibit] the police from seeing [the] results of [CPS] interviews with victims and obtaining depositions from Child Protective workers [are troublesome].

CPS workers who have knowledge and evidence but due to confidentiality [requirements] cannot notify [the] police, only the District Attorney, [present a limitation to police investigations of these cases].

Additional troublesome laws mentioned by respondents included the following: statute of limitations provisions; education law restrictions on the ability of the police to interview a child without the parent's knowledge, even in cases where the parent is a suspect; confidentiality of records maintained by other agencies; assault statutes; laws of evidence that are currently inappropriate for child victims; mandatory purging of criminal files; and the absence of effective laws governing mandatory reporting by medical personnel. Comments on these legal issues, were provided, however, in only a handful of the responses and were not as prevalent as comments made about "the Rogers rule," corroboration requirements, limitations placed on the testimony of children and social services regulations concerning confidentiality and notice. Several comments made about these lesser reported problems are presented below:

Child victims may need extensive treatment, via mental health, before they are emotionally and psychologically prepared to access the criminal justice system. [Therefore], victims may report the assault to [officials in] the criminal justice system after the expiration of the statute of limitations.

Legislation should be proposed and passed mandating school officials to allow [police the ability to] interview child victims at school without notification to [the] parents when [a] parent is

the suspected perpetrator.

Legislation [should be enacted] to weaken confidentiality laws pertaining to mental health and medical care (i.e., mandatory reporting under the Penal Law as in gunshot cases).

In issues addressing Crimes Against Children, the NYS Penal Law and Family Court Act need to interface each other, in that...Family Court records that reflect criminal activity should be made readily available to the criminal justice system.

3. THE USE OF SPECIAL PROCEDURES FOR RESPONDING TO CHILD VICTIMIZATION CASES
-- ESTABLISHING THE MULTI-DISCIPLINARY APPROACH IN INTERVENTION

The Child Protection Team Handbook edited by Barton D. Schmitt was published in 1978.⁵⁶ This work, which represented one of the first treatments of the multi-disciplinary approach to managing child abuse and neglect, is still considered "virtually indispensable" to anyone starting or serving on a child protection team in the community.⁵⁷

In its chapter which describes the role for law enforcement in child abuse intervention, The Child Protection Team Handbook emphasizes the importance of establishing and maintaining a viable communication system and working agreement between the law enforcement community and the Department of Social Services.⁵⁸ It is stressed that these agreements should be made in writing and that they should provide both systems a consistent interpretation of the law and a clear definition of roles and responsibilities with respect to intervention.⁵⁹

The authors of this chapter, Bockman and Carroll, indicate that law enforcement and social services should designate liaisons within their respective agencies. The two systems also are encouraged to develop guidelines which delineate those cases where police involvement in initial investigations is considered mandatory and those where it is not. Joint decision-making by

the two systems is stressed, especially in matters involving the initiation of criminal action against parents and the removal of a child from the home.⁶⁰

The communication system developed between the Social Services Department and the law enforcement agencies of Adams County, Colorado is presented by Bockman and Carroll as an example of the team concept. This system involved the forwarding by social services of both serious and selective nonserious abuse reports to the police department in the community. The police agency would review these reports and if intervention in a nonserious case was thought to be necessary, the social worker on the case would be contacted for more information prior to a final determination on the matter.⁶¹

The Adams County system also included a unique provision for feedback between law enforcement and social services. A common complaint of law enforcement and other reporters of abuse cases, which is still made today, is that they dislike not knowing the final outcome of their referrals, or whether the referral had even been received or acted upon by social services. A simple communication technique developed by the Adams County Social Services Department to alleviate this situation consisted of the production of a form which provided the officer with all relevant information on a case, including the action taken to date and the name and phone number of the worker assigned.⁶²

While a number of jurisdictions have gone far beyond the direction provided by this early work to develop multi-disciplinary teams for the handling of child abuse cases, the need still exists in many communities to formulate the cooperative arrangements necessary for this coordination of resources. This need was expressed most recently by the President's Child Safety Partnership, a group of private citizens appointed by the President from

the public, private and business communities to find answers and solutions to the problems of child victimization.

The final report of the President's Child Safety Partnership, issued in 1987, offers a series of recommendations directed at the private sector, child-serving community, parents and concerned citizens and government for the prevention and management of abuse and maltreatment. In its recommendation to the child-serving community with respect to intervention in child abuse cases, the report states that "every community should develop coordinated multi-disciplinary procedures for responding to child victimization."⁶³ The discussion which accompanies this recommendation notes that to be effective "all investigations concerning children must be based on a thorough and thoughtful strategy which fosters inter- and intra-agency cooperation."⁶⁴ It is observed that, because of their differing orientations, agencies responsible for investigating incidents of child victimization typically have not worked well together, and that each has usually established its own distinct objectives and procedures for dealing with these cases which often compete or conflict with those of the other agency.⁶⁵

The group also observed that this lack of coordination was not limited to the inter-agency level but was also found to exist within agencies in a number of jurisdictions. It is stated that the administrative design of many departments emphasize the creation, or in some cases proliferation, of specialized units to deal with each type of offense involving children, but fail to provide the administrative mechanisms necessary to ensure information sharing between investigators in the same agency.⁶⁶

The President's Child Safety Partnership concludes this discussion of its recommendation to the child-serving community for coordinated multi-

disciplinary procedures with the following observations and comments:

Multiple processing of the same or similar incidents without coordination can lead to confusion, inefficient use of resources, and most important, to inadequate and inappropriate system responses. While each component of the child safety matrix has its own unique investigatory requirements, all agencies must cooperate with one another and share information regarding cases. The multi-disciplinary approach can help develop and maintain cooperation within agencies as well as between them. This cooperation will enhance the quality of services to all children, families and communities.⁶⁷

The State of North Carolina's Governor's Commission on Child Victimization also recognized the need to establish arrangements for the coordination of services and intervention in cases involving the victimization of children. In its September 1986 Report to the Governor, this commission notes that there is a wide disparity within and between communities as to the resources available to deal with child victimization.⁶⁸ The commission also observes that this same variation within and between communities is apparent with respect to the levels of communication established between the many agencies and disciplines involved in cases of abuse and maltreatment. While separatism and noncooperation was found to be the rule in some regions of North Carolina, workable multi-disciplinary arrangements characterized the institutional response in others.⁶⁹

To address these problems relating to community variation in resource availability and coordination, the commission recommends that local child victimization networks be established within each judicial district in the state. These judicial district coordinating councils are ascribed the following purposes:

- o To determine on an ongoing basis the extent and nature of the problems of child victimization, in particular child abuse and child sexual abuse, in local judicial districts through data collection and analysis.

- o To coordinate and identify all existing child service agencies.
- o To facilitate information sharing among agencies.
- o To help track children through the system to see that services are received.
- o To promote public awareness and education to the public for member agencies.
- o To develop guidelines for videotaped interviews of child victims.
- o To coordinate and assist with training for member agencies.
- o To share information about model programs.
- o To coordinate with the North Carolina Center for Missing Children and Child Victimization in order to form a state/local partnership.
- o To increase media involvement in child victimization issues.⁷⁰

Membership on these councils is to consist of representatives from law enforcement, social services, mental health and the school system, with the inclusion of district attorneys, child medical examiners, judges, guardians ad litem and other interested parties identified in each local community also recommended.⁷¹

This concept of a judicial district coordinating council represents an attempt to develop a comprehensive community system for responding to child victimization. It emphasizes the need for each community to approach the problems posed by child victimization by first assessing the types of crimes committed against children within its locality and then examining and coordinating the systemic resources of the community to respond to these offenses. The commission states that this approach of building a community response to child victimization allows for the more effective use of existing resources and guards against the "revictimization of children" by a system that presents an uninformed and uncoordinated response to their problems.⁷²

o DCJS Survey Results -- The Use of Special and Multi-Disciplinary Procedures for Responding to Crimes Against Children

Several items on the DCJS survey were designed to obtain information from law enforcement agencies in the State about the use of specific written policy and procedures for handling crimes committed against children. The survey instrument also attempted to assess the degree to which procedures for responding to these crimes involved police/sheriffs' departments working with other law enforcement and non-law enforcement agencies. Analyses of survey results were conducted to address the following questions:

- o Have departments developed written policies and procedures to direct investigations of crimes committed against children?
- o How pervasive is the existence of these policies and procedures? Is there significant variation across different-sized agencies with respect to the existence of written policies and procedures?
- o Have departments limited the development of policies and procedures to certain types of victimization?
- o Do departments work with other law enforcement and non-law enforcement agencies to investigate crimes against children? If so, what is the nature of this working relationship?

The Nature and Extent of Special Policy and Procedures for Responding to Crimes Against Children

While survey results indicate that police departments in this State have developed written policies and procedures for dealing with child victimization cases, analyses reveal that these guidelines are tailored, for the most part, to specific types of crimes committed against children. The most frequently reported written policy was in the missing children area. Forty-five percent (67) of the 148 responding agencies indicated the existence of a written departmental policy on the handling of missing children cases, with larger agencies more likely to have developed such written policy than smaller agencies. Only 29 percent (12) of the micro departments reported the existence

of departmental policy in this area, in contrast to 89 percent (8) of the macro departments.

The next most frequently reported policies and procedures dealt with cases of neglect and sexual crimes committed against children. As with the development of missing children policies, larger agencies were more likely to report the existence of policies in these areas than smaller agencies. Thirty-nine percent (58) of the respondents stated that they had developed written policies for cases of neglect (e.g., abandonment, non-support), ranging from 29 percent in both the micro and small departments to approximately 47 percent in both medium and large departments, and 89 percent in macro departments. Thirty-six percent (54) indicated the existence of policies involving sexual crimes against children, with approximately 25 percent of both micro and small departments reporting such policies, in contrast to 46.5 percent (20) of the medium departments, 61.5 percent (8) of the large and 67 percent (6) of the macro departments.

Written policy on physical assault of children was reported by only 28.2 percent (42) of all the departments responding to the item. The lack of special procedures in this area may be due to the fact that the police have a long established response repertoire for more common or more frequently handled crimes, such as assault. While, in general, departments do not appear to see the same need for additional policy standards to handle physical assaults committed against children as they do other less frequently handled crimes, the lack of special written procedures in this area is significantly more pronounced for the smaller law enforcement agencies than larger sized departments. Only 21 percent to 28 percent of the micro, small and medium departments reported the existence of written policies dealing with the

physical assault of children, in contrast to 46 percent (6) of the large and 67 percent (6) of the macro departments that responded to this item.

The survey revealed that the least amount of policy development by departments was in the handling of crimes committed against children on school grounds or buses. Only 13.4 percent (20) of the respondents indicated the existence of written policies and procedures in this area, and unlike the size-related pattern seen for other crime types, the percentage of departments with policies on school-related offenses was small regardless of agency size. The percentage of respondents reporting the existence of special policies in this area ranged from a low of approximately 12 percent in smaller departments to 22 percent for the macro departments. The low use of written policy by departments for school-related crimes is in all likelihood due to the relatively low frequency with which the police, as opposed to school officials, handle these types of crimes.

It also should be noted that an additional 21.5 percent (32) of the departments that responded to the item indicated that they had written policies and procedures to handle "other" situations relative to crimes committed against children. For the most part, departments checking the "other" category were smaller agencies which indicated the development of written policies and procedures for contacting other law enforcement agencies, such as the county sheriff or State Police, to handle crimes committed against children in their jurisdictions. A number of departments also used the "other" category to indicate the development of special policies aimed at clarifying the role of law enforcement in relation to other agencies usually involved in child victimization cases.

Interagency Cooperation in the Investigation of Crimes Against Children

Depending on the nature of the offense and the needs of the child who has been victimized, a police or sheriff's department's investigation of crimes against children may involve significant collaboration with a number of other law enforcement and non-law enforcement agencies. For smaller departments, these interagency relationships may provide the manpower and other resources necessary for investigation that are not otherwise available to the department. The critical issue for these departments is to identify what resources may be shared and to establish simple, workable mechanisms to facilitate such sharing. The necessity for developing a coordinated, community response to the problem of child victimization was expressed by many smaller-sized departments in the DCJS survey. For example, one small department stated:

Our department is financially unable to provide training and have specialized officers to handle crimes against children. Fortunately we have a very good working relationship with [the]...county child protective service and other local law enforcement agencies.

In general, survey results indicate that many smaller police and sheriffs' departments in New York State rely on larger law enforcement, or less frequently, social service agencies, to carry out investigations of alleged crimes against children in their jurisdictions. For the very small department with minimal resources and few incidents, such arrangements may be more efficient and effective than other response strategies, especially when the larger department has a solid supply of resources and expertise to handle such investigations. An analysis of the comments and explanations provided by departments on interagency relations, showed that smaller departments tend to rely more on relationships with other law enforcement agencies than with social services agencies. At least 23 micro and 18 small departments explicitly

mentioned having fairly well-established arrangements with either county police or sheriffs' departments, the State Police or the district attorney's office for handling crimes against children. By contrast, only 10 of the micro and 8 of the small departments specifically mentioned formalized relationships with social services.

For larger police and sheriffs' departments, coordination among agencies is said to be important not so much as to ensure that gaps in resources are filled, but rather to minimize the duplication of effort and the chances of working at "cross purposes." Accordingly, the primary issues in interagency relationships for larger agencies are service coordination and information sharing.

Several items on the questionnaire elicited information from respondents about the scope of their interagency arrangements for investigation and the quality of cooperation experienced in these arrangements. One such item asked departments to rate the frequency with which they worked with various types of service agencies on a scale of 1 to 5 (where 1=never and 5=always) regarding referrals, emergency care, foster, temporary housing, etc. Table 25 presents the average ratings given for each type of service and law enforcement agency by size of department.

Statistical analysis of these means revealed that the differences in ratings by smaller versus larger departments were statistically significant at the .05 level for all agencies except schools, which received an "occasionally" rating regardless of department size. In other words, the larger the department, the more frequent the contacts with service and other law enforcement agencies during investigations of crimes against children. The only exception to this trend occurred with the category "other police or

sheriffs' departments," where the relatively high ratings received from small and micro departments is indicative of the referral of cases for investigation from these department to county law enforcement agencies or the State Police.

TABLE 25
MEAN RATINGS OF FREQUENCY OF INTERACTION WITH
SERVICE AND LAW ENFORCEMENT AGENCIES*

<u>Agency</u>	<u>Micro n=105</u>	<u>Small n=132</u>	<u>Medium n=96</u>	<u>Large n=19</u>	<u>Macro n=9</u>
Social Services	3.6	4.0	3.8	4.2	4.6
County Domestic Violence Task Force	1.3	1.7	1.9	2.1	2.4
Local Mental Health Agencies	2.0	2.2	2.7	2.6	3.4
Local Alcoholism and/or Drug Services	1.6	2.0	2.5	2.0	3.3
Local School Districts	2.8	2.8	3.3	3.0	3.1
Local Child Abuse Task Force	1.2	1.6	2.0	2.0	3.8
Shelters/Group Homes	1.4	1.8	2.5	2.7	3.4
Religious Organizations	1.4	1.6	2.0	1.8	2.7
Hospitals	1.7	2.2	2.8	2.2	3.8
New York State Crime Victims Board	1.5	2.0	2.1	1.8	3.8
District Attorney	3.0	3.3	3.6	3.7	4.3
Other Police or Sheriffs' Departments	3.4	2.7	3.2	3.2	3.2

***Key**

- 1 = Never
- 2 = Seldom
- 3 = Occasionally
- 4 = Usually
- 5 = Always

As might be expected, the frequency ratings across departments of all sizes were highest and generally in the usually-occasionally range for social services, district attorneys' offices and other law enforcement agencies. On the basis of ratings received, it appears that these agencies constitute the

core of the network of organizations which respond to child victimizations throughout communities in New York State. It also is apparent that the types of agencies and organizations comprising the larger or "extended" network on child victimization varies depending on the distribution of resources and history of interaction among agencies in a particular community. In some areas, special support and advocacy groups or other organizations may exist and actively participate with departments and other agencies in providing service. The ratings given by large departments for task forces, shelters/group homes, and religious organizations, for example, are all much higher than ratings given by smaller departments. The ratings for hospitals also show this trend.

In order to assess the quality of the reported interagency arrangements, departments were asked to provide ratings on the frequency with which they experienced a lack of cooperation from various service and other law enforcement agencies. Again, the ratings were made on a scale of 1 to 5, with 1 indicating "no problems" and 5 indicating "constant problems." Table 26 presents the average problem rating ascribed each of these agencies by the five different sized departments in the survey.

TABLE 26
MEAN RATINGS ON FREQUENCY OF PROBLEMS
WITH AGENCIES BY SIZE OF DEPARTMENT*

	<u>Micro</u> <u>n=99</u>	<u>Small</u> <u>n=133</u>	<u>Medium</u> <u>n=95</u>	<u>Large</u> <u>n=19</u>	<u>Macro</u> <u>n=9</u>
School Officials	1.7	1.8	2.0	2.0	2.8
Community Mental Health Services	1.4	1.6	2.1	2.1	2.4
Social Service Agencies	1.5	1.6	2.0	2.1	2.2
Hospital Personnel and Physicians	1.6	1.8	2.1	2.6	2.7
Shelters/Group Homes	1.2	1.4	1.7	2.4	2.8
Criminal Court	1.4	1.6	1.6	1.8	1.9
Family Court	1.5	1.6	1.8	1.8	2.0
District Attorney	1.2	1.3	1.4	1.5	1.7

***Key**

- 1 = Never
- 2 = Seldom
- 3 = Occasionally
- 4 = Usually
- 5 = Always

Overall, the responses, as shown in Table 26, are encouraging in that they reveal a generally low "problem rating" for all agencies assessed by departments. In fact, most agencies received a rating in the "seldom" range and the few that did not, approached, but did not fall within, the "occasional" range.

It is apparent from this table that there is some variation in responses that is related to department size. In fact, statistical analysis of the mean ratings on the frequency of problems revealed that the differences among ratings by different size departments are statistically significant ($p = .05$) for most of the agencies considered. In other words, as department size increases so too does the frequency of reported problems relating to

cooperation. This relationship of size to problems in cooperation could be explained by the extent of interaction with these agencies or the number of incidents handled, both of which also are related to the size of the department.

In order to provide further insight into the nature of problems experienced by departments with other agencies involved in the investigation of child victimization cases, a topical analysis of comments made by respondents was conducted. The typical comments made by police and sheriffs' department are presented below:

On Problems with the Medical Organizations. The most common problems mentioned included the reluctance of medical personnel to report incidents to the police, to participate in proper evidence gathering procedures or to give testimony at hearings. Examples of comments indicating these problems follow:

Hospitals are very reluctant to give information out so perhaps doctors, nurses, MHU personnel, etc., and police personnel should get together and communicate so that each group realizes we are not working at cross purposes.

Sometimes schools, hospitals, and private doctors are very reluctant [to] notify police agencies when they have a child they think [is] a victim of a crime. I believe they feel that [the] bond between the family and themselves is stronger than their responsibility to the child. I would like to see a team system where a police officer/social service worker and a person from the District Attorney's office would work together and properly handle not only the victim but [the] family as well.

Some physicians don't like the idea of testifying.

It is virtually impossible to get the child examined by a pediatrician willing to do a complete New York State Police Sexual Assault kit [examination]...[For] most of the non-child protection-related cases [we] must rely on emergency room personnel to gather the required medical evidence needed to corroborate the statement made by the child especially if the child is extremely young or learning disabled... Often after the initial interview, the child may relate that he or she had been victimized in another manner that may not have been thoroughly examined for...[In these cases] it is necessary to take the child back to the emergency room for

additional testing or examination.

The hospital staff could assist by treating child abuse victims in timely manner, and not make them wait while other non-emergency cases are [handled]. Also there is [no] set call-in procedure for doctors to examine victims after hours.

On Problems with the Schools. Comments regarding the relationship of departments to their local school districts centered primarily on problems relating to the reluctance of education personnel to report incidents to the police and the notification of parents by school officials that they may be under investigation for an incident of abuse/maltreatment by law enforcement agencies. Examples of comments made about these problems included the following:

[The] school advises parents of [police] investigations which makes [the] parent aware of [the] case against them.

Legislation should be proposed and passed mandating school officials to allow interviews of child victims at schools without notification to [the] parents when [one or both of these individuals are] the suspected perpetrator.

Laws governing the exemption of school districts and their personnel as mandatory reporting parties should be reviewed and revised.

On Problems with Group Homes and Shelters. The advocacy role served by shelters and group homes on behalf of their clients sometimes conflicts with police investigations of child victimizations. Comments by several responding departments seem to indicate this and that a clarification of issues relating to confidentiality may improve relations with shelters and group homes.

[One problem is the] over-zealousness of group home officials to 'protect' their clients suspected of criminal acts against children. [These officials often advise residents not to talk] to the police.

[There should be better] sharing of information - especially [information held by] drug/alcohol counselors and runaway shelters. [Education is needed to show] that no one discipline can solve the problem but each contributes [to] the solution.

4. MULTI-DISCIPLINARY TEAM APPROACH IN CHILD VICTIMIZATION CASES --
INVESTIGATION AND CASE REVIEW

In 1976, a project funded by the Law Enforcement Assistance Administration of the United States Department of Justice developed a model system or prescriptive package for multi-agency intervention in child abuse cases.⁷³ Based upon its review of the intervention roles and practices of community agencies having jurisdiction for these cases, especially in the initial stage of handling allegations of abuse and maltreatment, this project offered a series of conclusions relevant to the design of a model system, one of which was:

A single agency is necessary to have full responsibility for the initial intervention in child abuse cases as child abuse cases rather than welfare agencies handling them as social work cases, police handling them as criminal cases, and hospitals handling them as medical cases, exercising discretion in a variety of ways depending on the purposes and professional orientations of the agencies involved.⁷⁴

A number of communities have moved in the direction suggested by this project for child abuse intervention, not in the creation of a singular multi-disciplinary agency having full responsibility for initial intervention, but rather by developing a coordinated team approach to the investigation and review of abuse and maltreatment cases. In fact, as has been indicated throughout this report, the multi-disciplinary team concept in child victimization has gained in acceptance and popularity.

Graves and Sgroi have observed that the team approach leads to more effective intervention strategies in child victimization cases and often results in a number of side benefits for the participating team members.⁷⁵ Several of their observations relating to the usefulness of this approach are presented below:

o Accountability and Treatment

For many offenders, and especially the sexual offender, being held accountable by the criminal justice system is often essential for effective treatment purposes. Those offenders who focus their efforts on remaining outside of the criminal justice system are usually the same individuals who continue to try to maintain their power positions over the child and refuse to acknowledge responsibility for the sexually abusive behavior. Therapy for these individuals is not possible unless or until their cases are reported to the police.

o Investigation

Increased information sharing between helping and law enforcement agencies about respective procedures and areas of expertise improves the quality of investigations in child abuse cases. Joint interviews and preparation of the child and family members by law enforcement and social services usually results in less trauma for the victim and fewer withdrawn complaints.

o Court Appearances

Careful advance preparation, jointly conducted by police officers and therapists, makes the experience of testifying in court far less traumatic for the child victim. Placing the criminal justice process in a more acceptable and less alien context was seen as helpful for preparing other family members and the therapists themselves to make more convincing appearances in court proceedings.

o Coordinated Follow-up

The team approach allows for coordinated follow-up efforts by agencies with jurisdiction in abuse cases. This coordination is essential to ensure that those cases in which arrests are made do, in fact, go forward to prosecution. It also is essential to provide an accountability component to the treatment plan developed and prescribed for the victim, offender and family.⁷⁶

While it is true that the team approach has become a more prevalent response in communities to child abuse intervention, barriers to its acceptance by prospective team members still exist in many jurisdictions. Cooperation between law enforcement and social service agencies has been hindered by the often differing orientation of these agencies as to the course of action necessary to provide for the protection and best interests of the child. Lack

of trust and, in some cases, lack of mutual respect between law enforcement and social service professionals also has presented obstacles to the formulation and implementation of a team approach to child abuse intervention. The New York State Senate Standing Committee on Child Care has commented on these obstacles to effective collaboration and has observed that the nature of the relationships between local child protective units and law enforcement in New York State is quite diverse. More specifically, it has been noted by this group that:

There are those counties where a joint investigation is conducted by CPS and the police with each agency assuming a coordinated role to assist the other. At the other extreme are those communities where CPS merely informs the police and/or district attorney about cases requiring law enforcement involvement and each agency does its own investigation with no coordination between them. Somewhere in the middle of the preceding examples are the counties where there are joint CPS/law enforcement investigations but the dealings with one another are on an adversarial basis.⁷⁷

Several examples of communities which have overcome these barriers and developed multi-disciplinary teams of professionals to investigate child victimization cases are presented below. These examples are followed by a discussion of how the multi-disciplinary approach has been extended in some communities with the formation of a task force of experts to review actions taken with respect to case intervention and to initiate program development at the community level.

The Norfolk Sexual Trauma Team represents an example of how the team approach has been applied to cases involving incest and the sexual abuse of children. The investigative team is comprised of a Youth Division Investigator and a Child Protective Services Specialist who work closely with the prosecutor, psychiatric treatment team, court and the probation department in the county.⁷⁸ The need for such a coordinated investigative approach to crimes

of sexual abuse was recognized by the Youth Division of the Norfolk Police Department in early 1980 after a review of statistics about these crimes indicated that there was a lack of reciprocal reporting between the two systems of law enforcement and social services. Whereas the average number of child sexual abuse cases handled by the police was only five per year, the average for the social services department was ten times that number or 50 cases per year.⁷⁹

In addition to this concern about cases not coming to the attention of the criminal justice system, the police department also saw the need to coordinate services and standardize reporting procedures with social services in order to address problems associated with investigating and obtaining convictions for these cases. In particular, social services was seen as being unaware of the psychology of the offender in sexual abuse cases and as lacking in the interrogation skills necessary for successful investigations in this area.⁸⁰

Norfolk's Family Sexual Trauma Team was modeled after the Santa Clara County, California Treatment Program and adopted the following specific objectives for the team's approach to handling sexual abuse cases.

- o Reduce the trauma to the child by eliminating successive and repetitive questioning and initially removing the offender from the home rather than the child;
- o Provide rehabilitation as an alternative to long term incarceration for the offender through mandatory therapy as a condition of probation;
- o Provide the means for families to stabilize and reunite through therapeutic intervention; and
- o Prevent further occurrence of sexual abuse through long term follow-up.⁸¹

The concept of the Norfolk team was to lessen the trauma for the victim and emphasize a rehabilitative response to the offender through the use of an authoritative/supportive approach to intervention. Emphasis was placed on the

special investigative team's obtaining confessions from offenders so as not to subject the child to the additional trauma of the court process. While the California program involved a mandatory minimum jail time for offenders, Norfolk's did not, and stressed instead a rehabilitative response premised on probation and the provision of intensive counseling.⁸² In discussing the benefits of a rehabilitative approach for the victim and family unit in these kinds of cases, the team's coordinator has stated:

Rehabilitation, rather than imprisonment, was expected to address several pitfalls in the old system approach. Previous crimes of this nature enacted short prison terms; victimized families were offered no help to deal with the dynamics of the situation; families were deprived of income stability; and worst of all, the defendant's behavior did not improve from his prison confinement. The incestuous activity would continue and be more secretive by isolating the family even more. The illicit activity would continue for a longer period of time before coming to the attention of the court system.⁸³

The Family Trauma Team of the Virginia Beach Police Department uses a coordinated, multi-disciplinary team approach to handle intrafamilial cases of physical, emotional and sexual abuse. The key to the program is the special investigative team in which the police department, social services and commonwealth's attorney combine their resources to investigate jointly cases of abuse and maltreatment.⁸⁴ Before the Trauma Team was established, meetings were held with juvenile court judges, the commonwealth's attorneys and social services in order to obtain their support and cooperation with respect to the implementation of the team concept in abuse intervention.⁸⁵ In forming the team, the police department assigned four experienced detectives from the Juvenile Bureau to work with the Child Protective Services Unit of the Department of Social Services. A full-time prosecutor also was assigned to the team for both prosecution and legal advice on any questions or problems that developed during investigations.⁸⁶

The majority of cases handled by the team involved sexual abuse and incest allegations. The team developed specific procedures for handling these types of complaints that entailed a joint response and interview of the victim by a social worker and detective. Procedures also existed for tape recording these interviews for the commonwealth's attorney, thus eliminating another interview for the victim. The questioning of other family members also was accomplished jointly, as was the assessment made of the home environment for the support it provided the victim.

The Family Trauma Team utilized a similar approach with the offender as that used under the Norfolk Program. Emphasis was placed on obtaining the father's confession and removing him, rather than the victim, from the home. In 1985, the team reported a 90 percent confession rate in child abuse cases.⁸⁷ Credited as having a substantial impact on this rate was the team's procedure of having the father listen to his child's recorded statement during the course of his interview. Like the Norfolk Program, dispositions in these cases usually focused on therapeutic intervention as a means of rehabilitation for the offender. Supervised probation, conditioned on the offender's participation in an intensive therapy program and continued cooperation with Social Services, was stressed over the imposition of imprisonment.

In concluding their description of the Family Trauma Team's coordinated approach to the investigation and management of child abuse cases, Beane and Jackson state:

Therapists who deal with the treatment of both offenders and victims of sexual abuse consider this to be a suitable approach in dealing with these cases. For the victim, it is reassuring to know that she was not at fault, that the parent has admitted guilt knowing the consequences and that no one will be subjected to a trial. Finally, both offenders and therapists have reported that the impact of even one weekend in jail, coupled with a suspended sentence and other conditions, has had a tremendous impact on the

treatment of the offender.⁸⁸

As stated earlier, a number of communities have extended the multi-disciplinary approach to child abuse intervention to the formation of task forces or teams of experts who review individual case intervention strategies and initiate program development and improvements on the basis of this review. Suzanne Sgroi provides a good overview of the functions, requisite members and organization of this type of multi-disciplinary review team for cases involving the sexual victimization of children. She also presents as an example of this approach, the Connecticut Sexual Trauma Treatment Program.⁸⁹

Sgroi begins her treatment of this approach by making several observations about the utility of multi-disciplinary team review for sexual abuse cases in particular. The most significant observation made in this regard is that which relates to the limitations in resources and expertise of most child protection teams for dealing with these kinds of cases. It is stated that in most communities it is often unrealistic to expect the local child protection team to have the breadth of skills necessary to address the complex problems presented by child sexual abuse cases.⁹⁰ Compensation for these limitations is suggested by splitting out sexual abuse cases for a more focused handling by a second group of professionals, or for multi-disciplinary team review. Four additional functions for a multi-disciplinary child sexual abuse review team are identified by Sgroi, including the following: development among team members of experience and expertise in case management skills; training for team members which enhances their proficiency as consultants in the child victimization area; liaisons and linkages between agencies that are based on working relationships rather than administrative policy; and an increased ability to identify and address gaps in service delivery through community

program development.⁹¹

In order to be effective, a multi-disciplinary child abuse review team must be comprised of professionals from those disciplines with knowledge and skills applicable to the problem of sexual abuse. It is recommended that membership on the team consist of representatives from the following disciplines: child protective services, law enforcement, law, health services and mental health services.⁹² Sgroi advises against defining what each participant's role on the team should be, and states that efforts to mold the input of participants into stereotyped definitions of their professional affiliations are both irrelevant and counterproductive to the review team. concept which demands flexibility and a pragmatic approach to problem solving.⁹³

The case review process recommended for these multi-disciplinary teams is one which focuses on case management, and it is suggested that the framework for assessment involve a review of the case according to the principal phases of case management: reporting, investigation, validation, child protection assessment, initial management planning, diagnostic assessment, developing a problem list, formulating a treatment plan, treatment intervention and monitoring.⁹⁴ Stating that the ultimate raison d'être for multi-disciplinary review team is the expansion of the overall professional knowledge base about sexual abuse and the improvement of the community's response to it, Sgroi presents three questions which she says should be addressed by team members at the close of each case review session: how can the community's response to this case be improved; how can we be helpful to these clients and the interveners managing the case; and what can we learn from this case?⁹⁵

o DCJS Survey Results -- The Use and Suggestions for the Improvement of the Multi-Disciplinary Team Approach in Child Victimization Cases

On the basis of comments provided on the DCJS survey, there is wide acceptance among law enforcement agencies in this State to the concept and use of the multi-disciplinary team approach in child victimization cases. In fact, a number of departments suggested that the Legislature should mandate such an approach to the investigation of all crimes committed against children. In general, the comments made by departments about the team or task force approach were in one of two varieties. Respondents either stated that they were participating in such investigative groups and were pleased with the results, or that they currently were not involved in the team approach but felt that they could benefit from being so.

The DCJS questionnaire included one item on the use of the team approach in child victimization cases. Departments were asked if they employed "some type of team approach" for handling these cases, and if so, to specify the nature of that approach from a list of the following five response categories:

- o within agency team (e.g., patrol officer and juvenile officer)
- o agreement with other law enforcement agencies
- o interagency team (e.g., police, assistant district attorney and social worker)
- o participate in an interagency task force (specify)
- o other _____

It should be evident from these choices that this item was designed to measure more than the extent to which multi-disciplinary teams are used by departments. Analyses of responses also yielded information on how the team approach is employed to coordinate a single agency's response to crimes against children and the extent to which departments use other law enforcement resources in the

investigation of these crimes.

Of the 363 departments that responded to the item, 57 percent (208) indicated that they use some type of team approach in managing child victimization cases. Approximately 33 percent or 119 of the departments stated that this was a "within the department team," comprised of officers from various departmental units, such as the juvenile, patrol and detective/investigative division. Medium size departments reported this approach substantially more often than other sized agencies, with the choice accounting for 72 percent of all medium-size responses to the selection of approaches.

Approximately 17 percent (63) of the responding departments indicated that the team approach they used took the form of interagency agreements with other law enforcement agencies. This figure seems somewhat low given the number of comments made by so many of the micro and small size agencies about the use of these arrangements to investigate crimes against children. It is explained, however, by the low response rate for these departments on the item itself. It appears that the question may have been misread or interpreted as being limited to the intra-agency and multi-disciplinary team approaches. Only 55 of the micro departments responded to the item, and the majority of those which did, indicated the use of an interagency team only.

The final two choices for this question were designed to assess the extent of participation by departments at an interdisciplinary level. While a substantial number of favorable comments were made about this investigative practice, only 40 percent of the departments surveyed for this study or 155 law enforcement agencies report membership on multi-disciplinary teams comprised of representatives from child protective services and the district attorney's

office. The use of the approach is more prevalent among larger sized departments, with 80 percent of macro and 55 percent of the large agencies reporting its existence. However, it was also found to be present among a greater number of smaller sized agencies than expected - 33 micro departments indicate its use, as do 49 small and 54 medium agencies.

The survey's findings with respect to the interagency task force are much less encouraging. Although only 5 percent (19) of the 363 departments responding to this item indicated that they participated in such a group to manage child victim cases, it may be that this low response for the selection was due to the wording of the questionnaire item. In particular, it is possible that interagency task forces may function not so much at the case management level, as indicated by the survey instrument, but rather as a coordinating mechanism to facilitate community-wide program development. Given the wording of the question, there was, in all likelihood, confusion as to whether membership in these groups should have reported.

As stated at the introduction to this section, law enforcement agencies in New York State generally are very supportive of the interagency team approach as providing the vehicle through which to investigate and manage child victim cases. Several of the comments received from departments which indicate the reasons for this support and also suggest ways in which the approach can be improved or better tailored to agency needs are presented below.

The team concept of the police investigators conducting joint child abuse investigations with child protective services has greatly decreased the number of interviews a victim must [experience]. [The] system utilized in...county has made these investigations much more streamlined and have helped the police and social workers understand each other's policies and systems which makes for a better [or] much easier time for the victim and...family... Agencies work together to determine if the case should go to criminal and/or family court or what the disposition is.

The...County Probation Department coordinates to a large degree all juvenile criminal cases [which involve] both crimes perpetrated by and on juveniles and sees that all agencies involved coordinate services.

All child abuse cases [are] investigated by a law enforcement-children's services team. Policy [is] formulated by [the] County Child Abuse Task Force.

The purview of the Domestic Violence Unit of the...County District Attorney's Office is to handle child sexual abuse cases under the age of 14 where the victim and perpetrator are not related and all other child sexual abuse cases where the victim and perpetrator are related.

I would like to see a team system where a police officer/social service worker and a person from the District Attorney's office would work together and properly handle not only the victim but [the] family as well.

A unified initial response to the crimes should be made, especially for sexual offenses, by the police, District Attorney's office and Child Protection Services.

[It is suggested that communities] formulate county-wide task force made up of police investigators from all police agencies, social services, etc and provide proper training for task force members so that each will be prepared for operations and investigations within his jurisdiction.

B. MODEL CASE EXAMPLES OF THE MULTI-DISCIPLINARY RESPONSE TO CHILD VICTIMIZATION IN NEW YORK STATE⁹⁶

1. ERIE COUNTY SHERIFF'S DEPARTMENT -- FAMILY OFFENSE UNIT

The Erie County Sheriff's Department Family Offense Unit, which was established in 1985, incorporates a number of the more significant innovations discussed in this chapter with respect to recommended practices for police investigations of crimes committed against children. More specifically, the unit has implemented a specialist approach to the problem of child abuse which stresses the necessity for developing and maintaining comprehensive multi-disciplinary response capability for dealing with abuse and other family-related offenses. This emphasis on comprehensiveness is also apparent in the

various community awareness and public education efforts undertaken by the unit.

A thorough set of policy and procedures guide the operation and conduct of the Family Offense Unit. The mission statement to these standards specifies the cases for which the unit is responsible (which include spouse abuse, incest, child molestation, family assault, battering of children, missing children/persons, and elder abuse), and indicates that in handling these cases, the unit must also develop and maintain "a close working relationship with Child Protective Services; Family Court; the Erie County District Attorney's Comprehensive Assault, Abuse and Rape Unit; and various community support agencies that address these issues." The message is also given in this statement that "assaults against family members are criminal in nature and will be viewed as such by the Erie County Sheriff's Department."

Family Offense Unit investigative personnel are available on a 24-hour basis to respond to family-related offenses and those reports of child abuse received from the State Central Register which do not involve family members. The unit also is responsible for the interviews of all victims and suspects involved in these offenses. To conduct interviews with child victims, the unit maintains a special "Friendship Room," which consists of a physical layout and features accommodating to the needs of the child and includes specialized investigative tools such as anatomically correct dolls.

There are several features to the Family Offense Unit's operating procedures which are of particular note. The first is the unit's development of a repository system which maintains and makes available all orders of protection issued by Erie County Family Court and all Justice Courts in the county; a modus operandi file of known child abusers; and an information

system for identifying continuing sites of domestic violence, which consists of information retrieved from investigation, intelligence and liaison agency reports.

The unit's multi-disciplinary procedures and arrangements for dealing with sexual assault victims are also reflective of recommended practice in this area. Not only are hospitals in the Buffalo area designated for the examination and treatment of these victims, but procedures are also in place to have a crisis services advocate remain with the victim for the duration of the medical examination conducted.

This emphasis on maintaining connections with and coordinating community resources to better support and serve the victim is apparent throughout the policies and procedures developed for the unit. The unit maintains a current list of and liaison with those organizations and agencies providing assistance to victims of family-related offenses. The training seminar directed to investigators in the unit makes personnel aware of available social services and crisis services and also provides instruction as to how these organizations function. This information about the response network for family-related violence is extended into the Department and police agencies in the area through the unit's involvement in developing and presenting seminars and lectures in this area.

2. ROCHESTER POLICE DEPARTMENT -- FAMILY CRISIS INTERVENTION TEAM

The Rochester Police Department has instituted an innovative and comprehensive response strategy to deal with child abuse investigations. This response entails a specialized, multi-disciplinary approach to these investigations, which has been formalized in explicit policies and procedures

that delineate the roles and responsibilities of all involved parties.

Rochester's commitment to using a multi-disciplinary approach in response to crimes against children extends back to 1975, when the department received federal funds to create a Victim Assistance Unit. When outside funding for this unit ended in 1979, the unit was institutionalized into the department. A more focused attempt to improve the identification, reporting and investigation of child abuse and maltreatment was facilitated in 1981 when the department received funding from DCJS to create a Child Abuse Recognition and Evaluation Unit (CARE). This unit consisted of trained counseling specialists who assisted police officers in interviewing children and obtaining services for families involved with abuse and neglect. When the project ended in 1982, the department institutionalized the program coordinator position for the unit and received funding from the Crime Victims Board to employ one full-time counseling specialist.

Since 1982, the Rochester Police Department has continued its efforts to develop a comprehensive police-based victim services program through its Family and Victims Services Section. Organizationally, this section is located in the Central Investigation Division of the department and consists of the following three units: Victim Assistance Unit, Family Crisis Intervention Team (FACIT), and the Juvenile Unit. FACIT is comprised of counseling specialists who assist trained investigators in the Juvenile Bureau in handling incidents of child abuse and exploitation.

This organizational arrangement of the Rochester Police Department, whereby a civilian unit of counseling professionals is incorporated into the departmental structure, is very unique and innovative, and provides Rochester with a response capability to these crimes that is usually only achieved

through interagency networking. A brief description of the various functions of FACIT in child abuse investigations is presented below.

In general, it is the responsibility of FACIT to provide crisis intervention, short-term counseling, follow-up support services (both to victims of abuse and neglect and serious crimes), domestic trouble and juvenile delinquency. Each counseling specialist monitors a police radio and will respond to the scene of domestic violence and crimes against children at the request of an officer. In addition, a FACIT counselor also provides support at hospitals and assists with interviews conducted of victims at any of the police sections in the city.

In situations where a police officer does not request immediate assistance, the coordinator of FACIT reviews all reported incidents of abuse and neglect and makes assignments to team members on the basis of expertise and existing caseload. The FACIT coordinator also serves to facilitate a multi-disciplinary response to these incidents by distributing necessary copies to the local Child Protective Service and the Monroe County District Attorney's Family Violence and Child Abuse Bureau. Children who are victims of crimes other than abuse or maltreatment are serviced in the same fashion by FACIT, with the one main exception being that there is no involvement by child protective services in the case.

The extensive involvement of the Family Victims Services Section in community education programs conducted in the Rochester area should also be noted. Program development is coordinated with other community educators associated with the Monroe County Child Abuse Council to encompass the largest audience possible and to ensure that programs are neither duplicative or at cross-purposes with each other. In addition to these community education

efforts, the coordinator of FACIT is also the primary trainer in the child victimization area at the Regional Police Training Academy. The 60 hours of training which each new recruit receives in the areas of domestic violence, child abuse, victimization and sexual assault is further demonstration of Rochester's commitment to providing a professional response to these crimes and their victims.

3. ONONDAGA COUNTY SHERIFF'S DEPARTMENT -- ABUSED PERSONS UNIT

The Abused Persons Unit of the Onondaga County Sheriff's Department was formed during 1979 following the murder of a five year old child in norther Onondaga County. At present, there are eight law enforcement staff assigned on a full-time basis to the unit, including one lieutenant, one sergeant and six detectives.

The unit is responsible for the investigation of complaints of child abuse and all sexual assaults that are reported to the Onondaga County Sheriff's Department. The specific purpose of the unit is set forth in a detailed departmental directive which delineates the responsibilities and procedures of the unit and all other department personnel in handling these crimes. This directive expresses the department's commitment to responding to child victimization with the highest degree of professionalism possible throughout all stages of involvement with the child victim cases, including those which entail cooperation with other law enforcement and non-law enforcement agencies. According to the directive, it is the purpose of the Abused Persons Unit: "to provide the department with a more thorough and professional investigation of sexual assault or abuse cases by utilizing the knowledge, training, and expertise of the unit's members; to minimize victim trauma; to provide public

education in the area of sexual and abuse offenses; to provide the district attorney with sufficient information to obtain convictions in sex-related or child abuse offenses and to render assistance to other agencies in their involvement in the area of sexual assaults and child abuse investigations." To accomplish this purpose, the Department is highly selective about recruitment into the Unit, and states that detectives who are chosen for the unit are selected for investigative ability, interviewing skills, ability to empathize with victims of violent crime, and willingness to work with other community agencies.

Organizationally, the Abused Persons Unit is a part of the Criminal Investigation Section of the Sheriff's Department and is available to respond to child victimization cases and sexual assaults in the county on a 24-hour basis. While patrol officers may be responsible for initial investigations of these offenses, this investigation is limited to establishing the basic elements of the violation, obtaining the identity/description of the suspect(s) and crime scene protection. It is the responsibility of the Abused Persons Unit to conduct all in depth interviews and investigative work associated with offenses involving children and sexual assaults.

The investigative model used by the unit is said to be based on the premise that child abuse is a community problem and can best be resolved by using existing community resource more effectively. Accordingly, this model involves the close cooperation of five community-based investigative and service providing components: law enforcement; child protective services; the district attorney's office; the rape crisis center; and Alliance, which is a division of Catholic Charities. The "0-3 Day Plan" is presented as a philosophy statement for the investigative model employed by the unit. A very

detailed guide for the use of a community or team approach to these investigations and decisionmaking associated with intervention, this plan consists of the following three phases: Phase I -- Initial Report and Crisis Team Coordination and Preparation for Contact; Phase II -- Contact and Assessment; and Phase III -- Action, including arrest, placement of child, medical, therapeutic referral, or none. While the emphasis throughout all three phases of this model is on enhancing the coordination of community resources to deal with the case in a manner which results in minimal trauma and maximum support for the child victim and his family, the need for flexibility and careful decisionmaking as to the nature and extent of interagency involvement is also stressed. As such, the actions suggested for each stage of the process are preceded by a series of factors or questions which are said to be critical to case determinations. It also should be noted that this emphasis on careful deliberate planning by all agencies involved in child victim investigations extends to both the pre-intervention and follow-up levels of the investigation process.

As stated earlier, the 0-3 day intervention model employed by the Abused Persons Unit has been placed into writing and serves as a detailed guide to direct interagency intervention in child victimization cases. Also included in this guide is information relating to the following: Law Enforcement Approach to Intrafamilial Child Sexual Abuse; Pre-Intervention Planning; Victim Interview; and Interviewing Witnesses. As with its treatment of the three phases that comprise intervention, this material is also structured around both factual information relating to the topic or issue and factors that should be taken into consideration in decisionmaking processes about intervention strategies.

4. CATTARAUGUS COUNTY SHERIFF'S DEPARTMENT

In response to this survey, the Cattaraugus County Sheriff's Department submitted a document compiled by the county's child protective services unit which details procedures for cooperation between law enforcement officials, the district attorney's office and child protective services. This document is commendable as it essentially compiles into one package all correspondence and information relating to those regulations and areas of law where interaction between the two systems is necessitated or required. Procedures for which this material is presented include the following:

- o Procedure for notification and communication with the police and District Attorney on child abuse and maltreatment matters as defined in the Child Protective Services Program Manual published December, 1985, with revisions through November, 1986.
- o Procedures for notification of the County Attorney or local Social Services District Attorney of any case which has been referred to the police or District Attorney.
- o Procedures of notification of the County Attorney or local Social Services District Attorney of the Child Protective Services or worker is subpoenaed or called before a grand jury to testify to a matter arising in the scope of employment.
- o Procedures to receive information from the police and District Attorney concerning the status of child abuse and maltreatment cases which have been referred by child protective services.

The package also cites and briefly summarizes the relevant law in each of these areas. Form letters necessary to implement procedures are included, as is identifying information about liaisons from the law enforcement and social services systems.

While it is not the purpose of this document to establish procedures for a multi-disciplinary response to cases of child victimization, the effort by a county the size of Cattaraugus to ensure thorough and consistent understanding

of the law in this area is noteworthy and should facilitate the development of cooperative working relationships between the two systems of law enforcement and child protective services.

5. NASSAU COUNTY POLICE DEPARTMENT -- JUVENILE AID BUREAU

The Nassau County Police Department has implemented a response strategy to deal with crimes committed against children which involves both an interagency and within the department team approach to the investigation of these crimes. This strategy, and the roles and responsibilities of all involved parties, has been formalized in departmental policies and procedures. The department also has developed an extensive protocol which describes in detail the required procedures for interaction with local child protective services.

The policy of the department in dealing with crimes against children is to coordinate to the fullest extent possible the efforts of all persons and agencies involved in the investigation process. Organizationally, this coordination is facilitated through the actions of the Juvenile Aid Bureau. The commanding officer of the bureau is the designated liaison of the department with the county Department of Social Services. Procedurally, the department has informed social services that all reports of abuse or neglect originating from child protective services should be forwarded to the Juvenile Aid Bureau for preliminary investigative work. All other cases of child abuse or neglect reported to the department, such as through "911," while initially assigned to a member of the Patrol Force for a preliminary investigation, are also referred to the Juvenile Aid Bureau to coordinate and determine subsequent police involvement. Members of the Juvenile Aid Bureau conduct a joint initial investigation and interview of the child victim with child protective

services workers. They then evaluate the need for further police action in the case and coordinate these actions. If it is determined that criminal actions are warranted, the juvenile officer will notify either the Sex Crime Squad, when the case is involving allegations of sexual abuse, or the appropriate precinct squad for serious physical assaults. In all subsequent investigative work conducted in these cases, a multi-disciplinary team approach, involving child protective services, is utilized. If the Juvenile Aid Bureau office determines that no criminal action is warranted in a case of child abuse or neglect, he remains involved with the case to the extent that he coordinates and remains apprised of subsequent child protective actions and proceedings.

It is also the policy of the Nassau County Police Department to ensure that all persons involved in the investigation of crimes against children receive specialized and multi-disciplinary training in the child victimization area. An extensive program of training is currently provided by the county's Coalition of Child Abuse and Neglect for both law enforcement officers and child protective services workers. This program is very comprehensive and community-based, including representatives from all sections of the criminal justice, social services, medical and mental health systems.

6. NEW YORK CITY POLICE DEPARTMENT -- NEW YORK CITY HEALTH AND HOSPITALS CORPORATION, SPECIAL SERVICES FOR CHILDREN AND NEW YORK CITY POLICE DEPARTMENT CHILD ABUSE JOINT RESPONSE PROTOCOL

The New York City Police Department has developed a detailed set of policies and procedures to direct law enforcement's involvement in the investigation of serious cases of child abuse. While these guidelines address all aspects and stages of this involvement, the major emphasis of the procedures is to facilitate the early intervention into these cases of

specially trained detectives working in conjunction with child protective services workers.

This intervention, and the roles and responsibilities of all involved parties from police agencies, child protection and the municipal hospital services, is more explicitly delineated in the Child Abuse Joint Response Protocol. This protocol establishes procedures which require child protective services, law enforcement and health care providers to cooperate in the investigation and management of the most serious cases. The advantages to the child victim and his family derive from the team approach and joint interview called for by these procedures. For both the victim and his family, confusion and trauma are lessened as the number of interviewers sequentially asking the same questions is limited. With respect to advantages experienced by law enforcement, the joint response procedures are said to address the often delayed notification of police agencies which result from current child abuse reporting procedures. The protocol, which requires police involvement at the onset of a case, also assists law enforcement investigative activity by allowing for the proper collection of evidence. Interagency investigatory communication is improved and a coordinated approach to intervention in the family is facilitated.

The joint response intervention provided for in this New York City protocol is initiated by the physician attending the child. It is applicable only to the most serious cases of child abuse or to those which satisfy all of the following requirements:

- o acceptance by the State Central Register as a report;
- o meets "high risk" medical criteria (which are specifically delineated in the protocol);
- o involves a strong suspicion of criminal behavior; and

- o the child is sufficiently verbal to be interviewed or there is a person with direct knowledge of the incident, such as a family member or neighbor, and/or perpetrator for timely interview at the hospital site.

The first three conditions are said to be the critical factors which should be considered by physicians in initiating the joint response intervention.

As stated earlier, this New York City response protocol is very explicit in terms of delineating both the responsibilities and the procedures which direct the joint intervention by hospital staff, the police and child protective services in serious cases of child abuse. Where responsibilities overlap, such as in the required joint interview process for the child victim, the guidelines carefully specify the roles and activities of all involved parties in a step-wise fashion to essentially orchestrate the entire process.

The protocol also attempts to identify and establish procedures for responding to special situations of serious child abuse, such as when abuse or neglect becomes suspected at some point after a child has been admitted to or released from the hospital or where upon examination of one child, hospital staff believe there is immediate danger to other children in the home or other family members.

In addition to providing specific procedural information for responding to serious incidents of child abuse, the protocol has been designed in such a way as to serve as a reference manual for the user. The names and telephone numbers of contact persons in all participating agencies are provided, as are individuals in district attorney's and cooperation counsel's offices to serve as legal resources. The protocol also provides a description of the guidelines which are followed by the State Central Register in registering a report of abuse or maltreatment.

7. NEW YORK STATE POLICE

As indicated in the presentation of survey findings, a significant number of jurisdictions in New York State rely upon the resources of the State Police to conduct investigations into crimes committed against children. What cannot be inferred from this presentation of survey data, however, is the nature and breadth of activity engaged in by the State Police to investigate and prevent child abuse throughout New York State. These activities and the level of expertise developed by the State Police in the child victimization area have garnered these law enforcement professionals a recognized leadership position in the field. A brief description of State Police activities in the training, investigation and prevention areas is presented below.

The State Police provides its force with a significant amount of training in investigating crimes against children, most of which emphasizes the importance of a joint, multi-disciplinary response to the investigation of these offenses. This is particularly true of the recruit basic training course which incorporates material developed for the 1983 Department of Social Services training program for law enforcement officers. The basic curriculum for the Bureau of Criminal Investigation also devotes considerable attention to the principles of child abuse and exploitation investigations, including interview techniques, evidence collection and case preparation. The in-service courses conducted through this bureau are more crime-specific in their coverage and examine investigative strategies and techniques in such areas as juvenile prostitution, pornography and pedophilia.

While all members of the State Police are directed to engage in certain general and proactive investigative activities relating to child abuse and exploitation, the force also has developed and implemented a specialized

response capability for the handling of these crimes. For example, there are within the organization "designated child abuse/exploitation investigators," consisting of members selected to receive specialized training and assignments in the child victimization area as a result of their exceptional experience and success with these investigations. The State Police has also recently formed a "child abuse/exploitation unit" which includes a senior investigator and a sergeant. This unit is dedicated exclusively to the collection and dissemination of information pertaining to child abuse, sexual abuse and exploitation. It has been designed to function as a resource center for Division personnel and as a liaison with State and local agencies, including both law enforcement and other related disciplines. The unit regularly analyzes incidents, information, training and trends and provides assistance on these matters to other members of the force and the larger law enforcement community in the State.

The activity of the State Police with respect to the use of the joint, multi-disciplinary approach in abuse and maltreatment investigations should also be noted. In 1982, the organization endorsed the joining of its efforts with those of child protective services in intrafamilial cases in order to reduce duplication of effort and as a means by which to more thoroughly protect and insulate child victims from additional crimes and abuses. The State Police also encourages its members to participate and represent the organization on local task forces or teams created to combat child abuse and to improve service delivery to victims while improving the overall quality of investigations in this area.

This multi-disciplinary approach is also apparent in prevention activities undertaken by the force. There is a Crime Prevention Officer assigned to each

troop of the force who is available to schools and community groups for presentations on the prevention of sexual assault and other forms of abuse and maltreatment. The Child Abuse/Exploitation Unit typically lends its expertise to these presentations, which usually include information about the public and private organizations that provide services to abused children and their families.

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CHAPTER 4

THE ROLE OF THE DISTRICT ATTORNEY IN INVESTIGATING AND PROSECUTING CRIMES COMMITTED AGAINST CHILDREN -- INNOVATIONS IN PRACTICE AND PROCEDURES TO ENHANCE THE PROSECUTION OF OFFENSES INVOLVING CHILDREN

In the foreword to a recent National Institute of Justice study of the impact of statutory and procedural reforms on the disposition of cases involving child victims, the statement is made that more than 90 percent of all child abuse cases do not go forward to prosecution.¹ While the decision not to prosecute in these cases is often based on concerns about the trauma of court proceedings on the child victim, a variety of evidentiary and other procedural factors also effect this determination and the attrition seen in a substantial proportion of cases as they reach the adjudication level.² As noted recently with respect to sexual abuse prosecutions:

[While] many state legislatures have acted with remarkable swiftness to stiffen penalties for child sexual abuse, ... the effectiveness of stiffer penalties is limited by strikingly low conviction rates for alleged child sex abusers. Many cases go unreported and those that are reported prove exceptionally difficult to prosecute. The child is usually the only witness to the crime. He or she may be found incompetent to testify, or upon testifying may be unable to recall crucial details or to relate them to the jury. Children are easily confused by cross-examination. They are reluctant witnesses and sometimes recant, disclaiming prior testimony to absolve an assailant who is often a relative or family friend. And parents sometimes decline to press charges rather than subject their abused child to the ordeal of extended litigation requiring endless repetition of a painful and best forgotten episode.³

David Finkelhor states in his study of child sexual abuse intervention that there is no aspect of the problem of sexual abuse that is more controversial than the issue and role of prosecution.⁴ He says that those who oppose criminal prosecution are, for the most part, social workers and mental health professionals who believe that criminal action interferes with therapeutic and rehabilitative outcomes for the parties involved. In contrast,

it is observed that support for criminal prosecution in these cases is expressed by an unusual alliance of criminal justice personnel, feminists, parents' groups and even some elements of the social work and mental health community. The reasons for these endorsements are as varied as the constituent groups, ranging from an ideological opposition to the lenient treatment afforded male offenders to a belief in the therapeutic value of a punitive or authoritative approach in these cases for both victims and offenders.⁵

In its 1977 Standards Relating to Abuse and Neglect, the American Bar Association acknowledged the low recourse made of criminal prosecution in cases of abuse and neglect and, in fact, advocated in its standard on this issue the limiting of criminal prosecutions for these cases:

Criminal prosecution for conduct that is the subject of a petition for court jurisdiction filed pursuant to these standards should be authorized only if the court in which such petition has been filed certifies that such prosecution will not unduly harm the interests of the child named in the petition.⁶

In support of its position for a case-by-case approach to determine the nature of proceedings initiated in abuse cases, the ABA noted the difficulty in documenting the general or specific deterrent impact of penal laws against parental misconduct.⁷ The ABA also stated that the special circumstances of abuse cases or the emotional and psychological dependence of the victim on the offender made the invocation of criminal sanctions in child protective matters questionable at best.⁸

These positions about the inappropriateness of criminal justice intervention in incidents of child abuse and maltreatment have continued to determine the disposition made of these cases in many jurisdictions. In recent years, however, these positions have begun to change. The trend with respect to the management of abuse and maltreatment has been to increase the

responsiveness and involvement of the criminal justice system in the investigation and prosecution of these offenses.

A number of social forces are said to have contributed to the increased involvement of the criminal justice system in child victimization cases. Primary among these were the advocacy efforts on behalf of adult rape victims which in the late 1970s were extended to victims of child sexual abuse.⁹ These efforts enhanced public awareness of the extent of the child victimization problem and resulted in a dramatic increase in the reporting of cases to social services and the police. With this increased awareness and reporting, there has been a corresponding increase of support on the part of the public and the social welfare community for more involvement by the criminal justice system in child victimization cases. Although this involvement was limited at first to cases of sexual abuse, it has become extended recently to incidents of physical abuse and the witnessing of violence. The victim/witness movement in this country has contributed to this extension of emphasis, as has activity relating to the management of domestic violence situations which has increasingly promoted the view that family violence should be seen and reacted to as criminal behavior.¹⁰ One authority states that there is now an expectation that the criminal justice system should handle these cases as serious offenses and make it possible for the child victim to cooperate with the criminal justice process without experiencing further victimization by involvement in this process.¹¹

The general outlines of the trend with respect to increased criminal justice involvement in child abuse cases has involved statutory innovations designed to strengthen the prosecutor's hand while at the same time easing the burden that the judicial system places on the child victim. While there have

been a great many such innovations, and numerous other organizational and procedural changes introduced to make the justice system more responsive to the needs of child victim, there still appears to be a significant unwillingness to use these innovations and wide variation across jurisdictions as to the recourse to prosecution.

Finkelhor found such variation to be the rule in his analysis of the dispositions in all 6,096 cases of child sexual abuse reported to the National Clearinghouse for Child Abuse and Maltreatment in 1978.¹² As an indication of this variation, he compared Nevada, where 43 percent of sexual abuse cases had some criminal justice action taken with Arkansas where such action was taken in fewer than 10 percent of reported cases. In spite of this variation across states, Finkelhor found that, overall, 24 percent of all reported cases nationwide had a criminal component, a fact which reflected, he said, the increasing involvement of police, prosecutors and, to a lesser extent, judges in the management of sexual abuse cases.¹³

Finkelhor's analysis also revealed that the involvement of the criminal justice system did not correlate with families not being involved in or receiving services from other social welfare agencies. This analysis showed that 57 percent of these cases were provided with health services and that 76 percent of the cases referred for criminal action also received some type of therapeutic intervention.¹⁴ Rather, the most important factor found to influence the nature of the action taken with respect to a case (i.e., criminal vs. social services action) was the type of agency which received the initial report of the incident. Finkelhor found that when the initial report was made to a police agency, almost half the cases resulted in some criminal action taken. This was in marked contrast to dispositions made by public social

service agencies and private agencies which showed rates of such action in 25 percent and 4 percent of their respective cases. Finkelhor states that this differential disposition of cases was not explained by different kinds of cases being reported to different kinds of agencies. Rather, he suggests that the factor which most distinguished these cases from each other was the intent expressed by the party making the report.¹⁵

As stated earlier, in recent years there have been a number of organizational, procedural and statutory innovations made in the prosecution of crimes committed against children. For the most part, these changes have been designed to address what traditionally have been identified as the two major concerns relating to the participation of children as witnesses in criminal proceedings. The first of these involves concern about the psychological impact of these proceedings on the victim's recovery, and the second raises questions about whether children can be effective and competent witnesses in the adult criminal process. While a number of innovations have been found effective in addressing these concerns, practical and legal issues relating to several of the new techniques have limited their full application to prosecutorial activity in this area.

A discussion of what the literature has identified as the most significant organizational and procedural innovations in the prosecution of crimes committed against children follows. Included in this presentation is a description of New York State's standing with respect to these innovations. This description, like that in the previous chapter, is derived from the survey research conducted by DCJS of all district attorneys' offices in the State. A more detailed discussion of this research effort is provided in Appendix C of the report.

A. ORGANIZATIONAL INNOVATIONS

1. SPECIALIZATION AND COORDINATION

The Attorney General's Task Force on Family Violence (1984) stated that prosecution is a critical element of intervention in family violence cases and noted that prosecutors play a key role in holding abusers accountable for their actions while at the same time preventing further violence.¹⁶ In making this affirmative statement about the importance of prosecution in family violence cases, the Task Force also observed that effectuating criminal proceedings in these cases is difficult given the trauma and dynamics associated with intrafamilial violence. Accordingly, the Task Force advised prosecutors that what was needed in these cases was a "fresh perspective, flexibility and a sensitivity to dealing with the emotional complexities presented."¹⁷ The mechanism which incorporated these qualities and allowed prosecutors to most effectively build upon police intervention was, according to the Task Force, the organization of a specialized unit within the district attorney's office.¹⁸ The advocacy of these units is reflected in the first recommendation made by the Task Force to prosecutors which also provides direction as to their composition and procedures:

- o Prosecutors should organize special units to process violence cases and wherever possible should use vertical prosecution.
- o The units should work closely with victim assistance providers.
- o The units should review all law enforcement reports involving incidents of family violence whenever possible.¹⁹

As seen in this recommendation, the Task Force emphasized the need for special units to be closely coordinated with victim assistance groups. For cases which go forward to prosecution, these groups were seen as providing a variety of services to the victim and the prosecutor, including the making of

referrals of service and treatment providers in the community; direct support and counseling of the victim to deal with harassment or intimidation by the abuser and to prevent further victimization; actions which facilitate the victim's participation in the criminal justice process, including arrangements for convenient court dates and transportation to court proceedings and the provision of a secure place to wait before testifying; and maintenance of a supportive connection with the victim throughout his involvement with the criminal justice process to ensure his understanding and continued cooperation in these proceedings.²⁰ For all cases, including those which upon review are found inappropriate for prosecution, the Task Force noted the value which victim assistance groups could serve as a necessary resource for the prosecutor to provide community referral information to the victim, family and abuser.²¹

In its discussion, the Task Force emphasized the benefits which specialization would have for the prosecution of family violence cases. It was noted that the attorneys staffing these units would develop, as a result of their association with the unit, an expertise in dealing with family violence which would lead to more accurate case evaluation and more effective prosecution.²² Through its emphasis on vertical prosecution or the assignment of personnel to follow the case through to its closure, the unit also would foster, the Task Force stated, "the development of an individual bond of trust and concern between the victim and a prosecutor sensitive to the complexities of family violence."²³

The necessity for specialization in the law enforcement response to crimes committed against children also was recognized by the Governor's Commission on Child Victimization in the State of North Carolina. In its September 1986 Report to the Governor, the commission stated that specialized investigative

and prosecutory child abuse units should be utilized in every judicial district whenever possible.²⁴ In support of these units, the commission indicated a specialized approach should characterize the entire law enforcement response to these crimes, from policing through adjudication, both to reduce the trauma caused the child and to improve the chances of successful prosecution or legal action against the offenders.²⁵

The literature is supportive of this emphasis placed on the organization of specialized units for the prosecution of child victimization cases. It also stresses the role that such a prosecutorial unit and approach can play in coordinating a community's response to these cases. Debra Whitcomb recommends the use of a specialized unit or, if staff limitations do not permit such a full commitment, the designation of at least one attorney to handle child abuse cases in lieu of or as an alternative to more drastic innovations, such as closed circuit television and videotaped depositions.²⁶ She states that the consistent presence and sensitive treatment of the child afforded by this unit or person may be no less effective than the current proposed uses of electronic technology for child victim cases and observes that:

Prosecutors, then, must learn to maximize the avenues available to them. Each prosecutor's office should designate at least one attorney to receive training or specialize in child sexual abuse cases. Training should be provided, not only in general concepts of child development and family dynamics, but also in the specifics of state law and case precedent. Above all, prosecutors should work to improve communication and coordination among the several agencies responsible for children's welfare. Only through a concentrated team effort can we hope to develop a rational, cohesive approach to the adjudication of crimes against children.²⁷

Boerma and Rundle also promote the use of a specialized and coordinated response by the district attorney's office in the management of child victimization cases, particularly for those involving allegations of sexual

abuse. They note that it is only with a trained, consistent and coordinated approach to these cases that many of the barriers to successful prosecution are eliminated and further trauma to the child and family is minimized. More specifically, Boerma states that:

In order to establish this cooperative effort, a team approach must be developed among police, prosecutors, medical and social services professionals, and child protective service workers. In larger communities, specialized units should be established in the police department, prosecutors office, and child protective services agencies. Specific hospitals should be designated a child sexual assault centers. Standardized medical examination and social service protocols for handling child sexual abuse victims should be developed to ensure proper reporting of cases and the collecting of evidence. In smaller communities, one person in each agency should be assigned to handle all sexual abuse cases and to act as a liaison with the other agencies involved. This multi-disciplinary team should meet on a regular basis to review cases and to make recommendations to improve the delivery of services to all abused children. The team must also be the catalyst to see that these recommendations are implemented.²⁸

Boerma notes that in those jurisdictions which have established an effective team approach to the management of sexual abuse cases, conviction rates have increased as have the numbers of cases approved for prosecution.²⁹ The use of a cooperative approach among agencies with early involvement by a representative of the district attorney's office is said to elicit a more comprehensive statement from the victim without repeated interviews and result in victims being more cooperative and less likely to retract their statements. Also contributing to the more successful prosecution of these cases is the assistance team members provide law enforcement, both with respect to interview skills and those associated with case evaluations prior to the decision to arrest and prosecute.³⁰

The role that the district attorney's office should play with respect to coordinating this specialized and multi-disciplinary response to child abuse intervention was recognized in one of the earliest treatments of the team

approach to these cases in The Child Protection Team Handbook (1978), edited by Barton D. Schmitt. This role was described in the following fashion:

A county-wide plan for law enforcement involvement in child abuse cases should be sanctioned and promoted by the district attorney's office. With many different law enforcement agencies in each county, it is helpful for the district attorney to serve as a coordinating body for legal procedures regarding child abuse. Optimally, this office would also be involved in helping to define the appropriate roles of police officers and child protection workers in the initial investigation of these cases. The prosecuting district attorney has the authority to file the suspected abuse case as a criminal abuse case and/or as a civil dependency and neglect case. The prosecuting attorney's office, therefore, is the coordinating agency which should receive all the reports from both law enforcement and the Department of Social Services and is in a position to make the appropriate filings. Further, it should be the responsibility of his office to promote liaison between the other two agencies.³¹

Davidson supports this role for the District Attorney's office and notes that it often has been necessitated in communities as a result of the limited resource allocations made within child protective and child welfare agency budgets to assure that legal consultation and training needs are met.³²

A clear example of Schmitt's coordinator role and approach for prosecution is presented by Robert E. Cramer in his article, "The District Attorney as a Mobilizer in a Community Approach to Child Sexual Abuse."³³ In this article, Cramer examines the efforts made by the District Attorney's office in Madison County, Alabama to coordinate agency intervention as a community response to cases involving the sexual abuse of children. These efforts involved the establishment of procedures with social services for the district attorney to review for possible criminal prosecution all reported cases of child abuse. Individuals were designated within this office to act as liaisons to protective services and to serve on a District Attorney/Protective Services Team which met on a bi-weekly basis to review all reported cases of child abuse in the county. Law enforcement detectives from both the police department and sheriff's

department juvenile units also were included on this review team. Cramer reports that this coordinated approach to child abuse intervention resulted in a dramatic 500 percent increase of referrals for prosecution from when it was initiated in 1982 to 1984.³⁴ He also notes that the joint involvement of law enforcement and social services in investigating and developing cases of child abuse has not only lessened the duplication of efforts, but strengthened relations between the two systems.³⁵

In addition to the institution of a team approach for the review and disposition of individual cases of child abuse, the district attorney's office in Madison County also coordinated an expanded community task force approach to the problem. This task force was comprised of representatives from medical, treatment, nursing, education, prosecution, protective services, law enforcement, day-care, and other community agency representatives and volunteers. The group was organized into several subcommittees, including treatment, intervention, identification and prevention and was responsible for the development in 1984 of a unique and extremely innovative program for the management of child sexual abuse cases, the Children's Advocacy Center. According to Cramer, this program focuses on an "advanced" team approach to sexual abuse cases. Its objective is to demonstrate a successful community approach to inter-agency management of child sexual abuse cases, and the overall goal of the program is to consolidate agency involvement in addressing the needs of the victim in these cases.³⁶ A somewhat lengthy, but highly informative, description of this innovative program is presented below:

The Children's Advocacy Center is located in a "house" in downtown Huntsville, Alabama. A "house" was chosen rather than an office building [to symbolize] a non-institutional approach to handling of child sexual abuse cases. All relevant community agencies, by agency agreement, have agreed to coordinate their activity out of the Center. Each law enforcement agency has assigned one detective

as its agency liaison to the Children's Advocacy Center. The District Attorney's Office has assigned an Assistant District Attorney as its full-time liaison to the Center. The Protective Service Agency has assigned a full-time social worker as its agency liaison to the Center.

All reports of child sexual abuse are directed to the Children's Advocacy Center. Rather than visiting police departments, protective service offices, hospital emergency rooms, mental health clinics (or other treatment facilities), and a prosecutor's office, child victims are directed to go to the Children's Center. Their first contact at the Children's Center is with a member of the interview team, which has been carefully selected from protective services and law enforcement. It is recognized that careful attention must be given to the interview method and approach. There are three interview rooms available at the Children's Advocacy Center. Each is designed for a different age category. There is a playroom for very young victims and two other rooms for older victims. The interview is conducted by the team member and is videotaped when appropriate. The videotape is an important part of the case review system conducted at the Children's Advocacy Center. The interview is conducted in phases or sessions. Children normally cannot and will not tell the full story in one interview session. The interviewer begins by establishing a relationship of trust with the child [and the] child is given a tour of the house and is allowed to inspect every room. The child begins to feel that the Children's Advocacy Center is his or her special place.³⁷

The program also has developed some very innovative procedures for managing those cases which are referred for prosecution. These procedures and the unique involvement of the district attorney's office with the child victim and his family are described below:

A Victim-Witness Coordinator from the District Attorney's Office is available to first introduce a child (and family) to the criminal justice system. This coordinator is introduced to the child (and family) in cases that are referred for criminal prosecution. This introduction is made at the Children's Advocacy Center as well and occurs only after the initial interview session and after the child (and family) is in therapy. After the initial introduction of the Victim-Witness Coordinator to the child-victim (and family), the Victim-Witness Coordinator will continue her contacts with the child-victim (and family), even visiting them at their home. The child (when appropriate), the therapist, and family may be involved in the decision-making as to whether an offender is prosecuted.

If a criminal case is accepted for prosecution, the Victim-Witness Coordinator introduces the child to the Assistant District Attorney

who is prosecuting the case. This introduction occurs at the Children's Advocacy Center. Prior to this introduction, the assigned Assistant District Attorney reviews the videotape of the initial interview session and participates in team review of the case. In cases referred for criminal prosecution, the Victim-Witness Coordinator takes the child to the courtrooms and the Grand Jury Room for the purpose of pre-trial tours. She also accompanies the child during the actual courtroom sessions.³⁸

o DCJS Survey Results -- Degree of Specialization and Coordination in New York State District Attorneys' Offices

Several items on the DCJS survey instrument were designed to determine the degree to which this State's district attorneys offices were using a "specialized and coordinated response" for managing crimes against children. As indicated above, the literature strongly recommends that prosecutors establish child victim specialists or units as a means by which to coordinate official intervention into these crimes. In addition, New York State Law advises such specialization and coordination for its district attorneys so as to minimize the number of interviews a child victim must experience and to foster a feeling of trust and confidence in the child.

To determine the degree to which a specialized response was used in the processing and prosecution of these cases, district attorneys were asked if anyone had been designated in their offices as a specialist or unit to handle crimes in which the victim is known to be a child. Upon analysis of the survey results, DCJS found that the majority of offices in this State (58 percent or 29 respondents) do, in fact, report the use of a specialist or special unit to process child victimization cases. As anticipated, this tendency toward specialization was much more apparent in the larger district attorneys' offices, with 100 percent of the respondents from the large and macro offices (9) and 90 percent (10) of the respondents from the medium offices reporting the use of specialists or specialized units in this area.

Among the smaller-sized offices, the existence of specialization was reported as being present in 41.2 percent (7) of the small offices and 23.1 percent (3) of the micro offices.

As indicated in the literature review, a primary benefit of this specialist approach in child victimization cases is the function which these personnel can serve with respect to linking the activities of the district attorney's office with those of social services through the receipt and review of child protective services reports. According to Section 422(1) of the Social Services Law, reports of allegations of child abuse or maltreatment registered with the State Central Register or in possession of the local child protective services unit may be made available to "a district attorney, an assistant district attorney, or an investigator employed in the office of a district attorney, when the district attorney certifies that the records, reports, and other information are necessary in order to conduct a criminal investigation of the subject of the report or to prosecute the subject of the report and that such investigation or prosecution is reasonably related to the allegations contained in the report."

District attorneys were asked in the survey if they routinely received reports of alleged child sexual abuse and physical abuse from the local Child Protective Services Unit, and, if so, by what means. For these more serious allegations of abuse, all agencies, with the exception of medium size offices, reported that they did, in fact, routinely receive reports from CPS. Ninety (90) percent of the medium size offices indicated the routine receipt of these reports. For the most part, offices stated that to receive these reports they submitted a written request to the local CPS unit. Slight variation was noted here with respect to the size of the office, with smaller sized agencies being

less likely to request these reports in writing than larger offices. Of the micro offices 46.2 percent (6) indicated the use of written requests in contrast to 52.9 percent (9) of the small agencies 63.6 percent (7) of the medium agencies, 100.0 percent (5) of the large agencies and 75.0 percent (3) of the macro agencies.

This pattern with respect to size reversed itself where offices were asked if they reviewed all reports of abuse and maltreatment and not just those which contained allegations of sexual and physical abuse. The lesser tendency for larger offices to review all reports was anticipated given the higher volume of cases processed in these jurisdictions. Only 25.0 percent (1) of the macro, 40.0 percent (2) of the large and 45.5 percent (5) of the medium offices indicated that all reports were reviewed, in contrast to 76.6 percent of both the micro and small offices.

In order to measure the degree to which district attorneys in the State were coordinating their efforts with other service and law enforcement agencies, respondents were asked to indicate the extent of their contact with a variety of these agencies in investigating crimes against children. A scale of 1 to 5 (where 1 = never and 5 = always) was used to rate the frequency of contact with the following agencies and services: police or sheriffs' departments; social services; hospitals/doctors' offices; school districts; victim assistance organizations; mental health agencies; and the New York State Crime Victims Board.

As expected, the greatest number and range of contacts reported by district attorneys were with police or sheriffs' departments. Also, of all the agencies ranked, police or sheriffs' departments were the only agencies with which no one reported never having contact. Sixty-four (64) percent (32) of

the respondents indicated they always had contact with law enforcement on these matters and 26 percent (13) noted usual contact. For the most part, little variation in terms of size was found, with different sized agencies reporting the extent of contact with law enforcement being in the "usual" or "always" range.

A similar pattern of responses was found with respect to the relationship with social services: the majority (84 percent or 42) of district attorneys across different sized agencies indicated that this contact was "usual" or "always." One office reported never having contact with social services; and, generally, there were more indications of occasional contact with social services than was the case with law enforcement (12.0 percent vs. 6 percent).

Overall, the pattern of contacts with the remaining agencies was one of steadily decreasing frequency across all sized offices. A comparison of the distribution for these agencies of "always/usual" responses with those indicating "seldom/occasional" contacts is presented in Table 27 below. Also included in this distribution are the responses of "never" have contact with the agency during the investigative process.

TABLE 27
FREQUENCY OF REPORTED CONTACT WITH
SERVICE PROVIDING AGENCIES

	<u>Never</u>	<u>Seldom/Occasional</u>	<u>Usual/Always</u>
Hospitals/Physicians	8.0 (4)	46.0 (23)	44.0 (22)
School Districts	16.0 (8)	74.0 (37)	8 (4)
Victim Assistance Organizations	8.0 (4)	58 (29)	32 (16)
Mental Health Agencies	10.0 (5)	74.0 (37)	14.0 (7)
New York State Crime Victims Board	24.0 (12)	66.0 (33)	6.0 (3)

As indicated earlier, the role which specialization and coordination can play with respect to facilitating a community's prevention efforts in the child victimization area also has been stressed in the literature. Accordingly, DCJS included in its survey an item on these efforts and requested district attorneys' offices in the State to provide information on the nature of their involvement in prevention activities, i.e., whether they sponsored educational programs, participated in outside programs or had no involvement at all. For the most part, offices indicated they did not sponsor prevention programs but did, in fact, participate in such community-wide efforts. Larger agencies were more likely to sponsor and participate in prevention programs than smaller agencies.

With respect to the sponsorship of programs, only 7.7 percent (1) of the micro offices, none of the small offices and 18.3 percent (2) of medium offices indicated active involvement, in contrast to 40.0 percent (2) of the large offices and 25.0 percent (1) of the macro offices. This tendency for larger

offices to have more involvement in prevention efforts than smaller offices was even more pronounced for responses about participation in such programs. Seventy-five percent (3) of the macro, 80.0 percent (4) of the large and 54.5 percent (6) of the medium offices reported that they participated in outside education programs, in contrast to 29.4 percent (5) of the small and 23.1 percent (3) of the micro offices.

2. TRAINING

The Attorney General's Task Force on Family Violence (1984) has observed that "many professionals do not understand the criminal nature of family violence nor are they properly trained to handle the tragic and profound consequences of violence within the family."³⁹ Recognizing this need and the fact that an effective response to family violence often involves a broad range of expertise and knowledge that crosses professional boundaries, the task force placed a high priority on recommending the provision of better education and training for all professionals who deal with these cases. More specifically, the task force stated that:

The curriculum of all relevant professional schools should include courses that offer instruction on the causes, consequences, and prevention of family violence and the appropriate methods of intervention. Special curricula should be developed especially for doctors, nurses, lawyers, social workers, teachers, ministers and psychologists.⁴⁰

Davidson has commented strongly on the need to develop such training programs for district attorneys and judges alike, stating that while preparation of a lawyer for work in the child protection field should begin in law school, very few schools offer special courses or clinical opportunities related to child protection issues or state intervention in family matters.⁴¹ Accordingly, Davidson has recommended that a model curriculum be developed for

use as a specialized law school course in child protection litigation. He also has stressed the need to expand clinical education programs for law students to enhance their exposure to and develop their skills in handling child abuse and neglect, foster care review and other child welfare cases.⁴²

Weiss and Berg indicate that it is essential for the curriculum of every law and medical school to develop a training component on the management of the victim of sexual abuse. They state that this training should be aimed at increasing these professionals' sensitivity and insight into the psychological/emotional impact of sexual victimization on the child.⁴³

Boerma describes training for police, district attorneys and judges in child development issues and in understanding the dynamics of child physical and sexual abuse as essential for improving the criminal justice system's response to cases involving child victims.⁴⁴ This author acknowledges the efforts of the National College of District Attorneys in developing a specialized course for prosecutors devoted solely to the topic of child abuse, and recommends that the National Association of District Attorneys and state district attorney associations include in their annual meetings a seminar dealing with the prosecutor's role in handling abuse cases and other related issues.⁴⁵

The Governor's Commission on Child Victimization in North Carolina recognized the need for the training of district attorneys, and other professionals, in two areas of child abuse intervention -- interviewing the child victim and investigative/prosecutorial techniques relating to sexual abuse/exploitation. Presented below is the commission's recommendation with

respect to the interview procedure:

Minimize the number of times a child must be interviewed in an investigation of child abuse, and train the legal community, law enforcement officials, and social services personnel in interviewing children and assessing the credibility of their statements.⁴⁶

In its discussion of this recommendation, the commission noted that research shows children tend to underreport abuse and do not exaggerate or lie about incidents of abuse. It is stated that a single interview conducted by a highly-trained interviewer, skilled not only in relating support and sensitivity to the child, but also in assessing the credibility of the child's statement, should minimize the trauma of the experience for the child and increase the reliability of statements.⁴⁷

With its second recommendation, this commission stated that the Governor should:

Encourage the North Carolina Justice Academy to expand the training for district attorneys, magistrates, and law enforcement officials in investigative and prosecutory techniques in child sexual abuse, child pornography, and obscenity cases.⁴⁸

The commission stated that this training should be directed at increasing the awareness of criminal justice professionals about the relationship between child pornography and sexual abuse. This education was seen as assisting law enforcement in conducting investigations into suspected pedophilic activity, as well as bringing to their attention undetected cases of child sexual abuse, child pornography and obscenity, and child prostitution.⁴⁹

Cramer emphasizes the benefits of prosecutors being involved in joint training programs with other team members, including protective service workers, juvenile officers, therapists and others.⁵⁰ And, Kendrick has raised the necessity of cross-training and continual in-service training in this area, given the high rates of staff turnover and the evolving state-of-the-art in

techniques for dealing with child victims of crime.⁵¹

The role which a variety of national and regional associations have played in addressing the informational needs of criminal justice professionals in this area should be noted. The National Center on Child Abuse and Neglect, the National Center for Missing and Exploited Children, and the National Legal Resource Center for Child Advocacy and Protection of the American Bar Association have been particularly active in the dissemination of instructional and informational materials to criminal justice professionals on techniques and issues relating to child abuse intervention.⁵²

o DCJS Survey Results -- The Nature and Extent of Training Reported by New York District Attorneys

District Attorneys who reported the use of specialized child victimization units or personnel also were asked to indicate the types of training these individuals had received and the source of that training. The rank order of responses to the types of training received was the following:

Investigating Sexual Abuse	88%
Interviewing Children	88%
Behavioral Indicators of Abuse	81%
Specialized Legal Training	77%
Detecting Signs of Physical Abuse	69%
Training in Use of Anatomically Correct Dolls	54%
Forensic Evidence	46%
Other	23%

For the most part, this same ranking of training was found to hold across different-sized agencies. For example, with respect to sexual abuse investigative training, all agencies, with the exception of the small offices, reported that specialists who process child victim crimes had received training in this area. The same consistency across agencies also was seen in training associated with techniques for interviewing children: 100 percent (2) of the micro offices reported such training, as did 83.3 percent (5) of the

small offices, 77.8 percent (7) of the medium offices, 100 percent (5) of the large agencies and 100 percent (4) of the macro agencies.

Variation between different sized agencies was found to exist in the training areas ranked below these first two areas, however. The general pattern was as expected: as size increased so too did reported training, i.e., larger offices reported more training for specialists in more areas. This pattern in each of these training areas is described in Table 28 below.

TABLE 28
AREAS OF SPECIALIZED TRAINING FOR SPECIALISTS/SPECIALIZED
UNITS BY SIZE OF OFFICE

	<u>Detection of Physical Abuse</u>	<u>Behavioral Indicators of Abuse</u>	<u>Interviewing Children</u>	<u>Investigating Sexual Abuse</u>	<u>Specialized Legal Training</u>	<u>Forensic Evidence</u>	<u>Use of Anatomically Correct Dolls</u>
Micro	50.0 (1)	50.0 (1)	100.0 (2)	100.0 (2)	0 (0)	0 (0)	50.0 (1)
Small	33.3 (2)	50.0 (1)	83.3 (5)	50.0 (3)	50.0 (3)	0 (0)	33.3 (2)
Medium	66.7 (6)	88.9 (8)	77.8 (7)	100.0 (9)	88.9 (8)	66.7 (6)	44.4 (4)
Large	100.0 (5)	100.0 (5)	100.0 (5)	100.0 (5)	100.0 (5)	40.0 (2)	80.0 (4)
Macro	100.0 (4)	100.0 (4)	100.0 (4)	100.0 (4)	100.0 (4)	100.0 (4)	75.0 (3)
TOTAL	69.2 (18)	80.8 (21)	88.5 (23)	88.5 (23)	76.9 (20)	46.2 (12)	53.8 (14)

B. PROCEDURAL CHANGES AFFECTING THE PROSECUTION OF CRIMES COMMITTED AGAINST CHILDREN

A number of the more significant procedural changes made over the past several years with respect to the prosecution of crimes committed against children have been alluded to in previous sections of this report. For the most part, however, coverage has been limited, thus far, to procedural innovations seen at the pre-prosecution stage intervention. Protocols developed with social services agencies to ensure the district attorney's review of reported cases of child abuse have been highlighted, as have the use by prosecutors of special interview techniques with the child victim. The report also has examined how the conducting of joint interviews with social services and other law enforcement agencies has been introduced to minimize the trauma and extent of official intervention in the victim's and family's life. In addition, coverage has been given to the team approach for case evaluation which elicits the input and expertise of professionals from other disciplines in making determinations about whether a case should proceed to prosecution. Special measures and arrangements made by district attorneys to prepare a child victim for the courtroom experience also have been described.

This section of the report will expand upon the innovations made by prosecutors to prepare a child for the courtroom setting and will examine those procedures introduced into judicial proceedings both to minimize the impact of these proceedings on the child victim and to enable the child to perform better as a witness. It should be noted that this discussion is limited to an examination of procedural innovations introduced by the prosecutor to affect judicial proceedings and not statutory innovations which have permitted or required changes in the proceedings. These latter innovations were described previously in the second chapter of the report.

Nearly 20 years ago, David Libai commented on what had become a paradox in the American system of justice when he contrasted the treatment afforded juvenile offenders in judicial proceedings with that provided the juvenile victim. Libai noted that:

The problems of juvenile offenders have won general recognition in Anglo-American countries, but those of juveniles who fall victims to sexual offenders have not. The juvenile offender is treated in a different manner from the adult offender. In the pretrial period, juvenile offenders are interrogated by special police youth officers, and first offenders in particular can easily be handled without being brought to trial. Trials of juveniles are heard at different times and places than trials of adults, by judges who are specially appointed by the state to hear juvenile cases, in proceedings less formal than those conducted in trials of adults. In addition, juvenile offenders may be assisted by probation officers or child guidance clinics, which combine the skills of the psychiatrist, psychologist, and social worker. All of this must be done with a view to protecting the accused child without abridging his or her constitutional rights.

[In contrast, when] a child victim is called to assist the prosecution of his accused assailant, he is treated in basically the same way as an adult witness. Parents who might wish to prevent their child from being repeatedly interrogated will find it difficult to withdraw their complaint against a child molester, even if it is the child's first involvement with the law, because the state regards its interest in punishing the offender as overriding the parents' interest in protecting the child. Child victims are generally interviewed by detectives who normally interrogate adult victims of sexual offenses, and child victims are required to testify in the same courts and in the same manner as adults. No special judges are appointed to hear child victims; the court's formal procedures make no allowances for their protection, and no expert in problems of children's mental hygiene is appointed by the state to support child victims. The public conscience seems to have been awakened over the problem of juvenile delinquents because they are both children and accused. Yet, a child victim for the most part remains neglected by the state, a "forgotten child - a child whose presence, whose condition and whose cry for help is unrecognized or ignored."⁵³

In 1982, Jacqueline Parker noted that while research had confirmed these concerns about the child victim of sexual assault, and had extended them, in fact, to children victimized by other crimes, the suggestions made by Libai for accommodating the justice system to the child victim and witness had fallen on

deaf ears.⁵⁴ The system had remained, Parker said, generally unresponsive to the special needs presented by children and, rather than acting so as to protect their rights during proceedings, had become perpetrators of their further victimization.

A number of the recommendations made by these reformers have been refined and expanded upon by other professionals in the child protection field. While some of these innovations have been implemented in full or in part across a number of jurisdictions in the country, a greater number of them have yet to be introduced into judicial proceedings due to practical implications or constitutional considerations.

Procedural modifications which do not require judicial scrutiny and are stressed in the literature for their adaptability to jurisdictions of varying size and resource availability are presented below. For the most part, these innovations attempt to lessen the impact of the criminal justice system on the child victim and witness by limiting the involvement of children in proceedings and by "streamlining the adjudication process."⁵⁵

1. THE CONCEPT OF VERTICAL PROSECUTION

As stated earlier, the first recommendation for prosecutors made by the Attorney General's Task Force on Family Violence dealt with the organization of specialized units to process family violence cases through a system of "vertical prosecution." The use of such an approach enables attorneys to develop an expertise in dealing with family violence resulting in more accurate case evaluation and more effective prosecution. The task force also indicated that a special unit using vertical techniques of case management would foster the "development of an individual bond of trust and concern

between the victim and a prosecutor sensitive to the complexities of family violence."⁵⁶

The National Institute of Justice (NIJ) report, When the Victim is a Child, also advocated the assignment of specialized personnel and the use of vertical prosecution to manage cases involving child victims. The report noted that having a single individual responsible for a case from initial assignment through final disposition was an effective technique for streamlining the adjudication process for the child victim. To further streamline the process and provide a wide base of consistent support for the child during involvement in it, this NIJ report recommended the application of the concept of vertical case management to all agencies involved in the investigation and disposition of cases with child victims. The report stated that in the ideal situation, assigned personnel from all involved agencies "would become, formally or informally, a 'strike force' dedicated to managing its designated cases in a manner that maximizes the protection afforded to the child."⁵⁷

2. INTERVIEWING THE CHILD VICTIM -- INVOLVING THE DISTRICT ATTORNEY TO LIMIT THE NUMBER OF INVESTIGATIVE INTERVIEWS

It has been estimated that the child victim of crime averages from nine to nineteen investigative interviews throughout the course of the several proceedings often associated with the disposition of his case (i.e., child protection proceedings, criminal prosecution, and custody proceedings).⁵⁸ The impact on the child of having to retell his story so many times to so many different people in a variety of official settings has been cited widely in the literature as constituting the most traumatic aspect of the child's involvement with the justice system. This trauma or the mismanagement of the interview process for child victims accounts in large measure for the high rate of

attrition associated with the processing of these cases and, for those cases that do reach the adjudication level, often makes successful prosecution difficult if not impossible.

The literature recommends a number of procedures for use by law enforcement personnel and prosecutors, in particular, to better manage and, thus, lessen the impact of the interview process on the child victim throughout his involvement with the justice system. At the investigation level, emphasis is placed on limiting the number of interviews the child is subjected to through the establishment of joint interview procedures by law enforcement and child protective agencies. The use of these procedures or the joint interview process is described elsewhere in this report, as are the special techniques recommended in the literature for questioning child victims, including the use of anatomically correct dolls, drawing materials, and a supportive, direct interview style which is shaped by the cognitive abilities and emotional and psychological state of the child.

As indicated by NIJ, a number of states have statutorily mandated agencies to adopt procedures which limit, where possible, the number of interviews experienced by child victims.⁵⁹ For example, the State of Colorado urges investigators and staff of law enforcement and social service agencies and district attorneys' offices either to conduct joint interviews, assign a single investigator to question the child, or develop an integrated, community-based approach for investigating crimes committed against children.⁶⁰ Similarly, Maryland directs the agencies responsible for investigating child sexual abuse to implement a joint investigation procedure, and Florida requires the chief judge of each judicial circuit to provide, by order, reasonable limits on the number of interviews for child victims.⁶¹

The National Institute of Justice has observed that the police and prosecutors in many jurisdictions use videotape to record the child victim's first statement both as an investigative aid to preserve the child's initial recounting of the incident and also to reduce the number of interviews which the child must give.⁶² In its study of the use of this and other law enforcement practices for dealing with child victims, NIJ found that many prosecutors reported an unanticipated, yet welcome, side-effect of videotaping a child's early statement -- it tended to prompt a guilty plea when viewed by defendants and their attorneys.⁶³

The early involvement by prosecutors in investigative interviews conducted with the child victim also is strongly recommended in the literature.⁶⁴ This is suggested both to ensure the satisfaction of evidentiary requirements necessary for arrest and charging and also to screen out of the system as early as possible those cases found inappropriate for prosecution. It also is recommended as a strategy for establishing the child's trust in the prosecutor which is essential to ensure the victim's cooperation during the course of any subsequent proceedings initiated.

3. PREPARATION OF THE CHILD FOR PROSECUTION

For those cases which go forward to prosecution, the literature is consistent in advising the district attorney to prepare thoroughly and well in advance the child and his family for the courtroom experience. By walking the child through this experience and demystifying the judicial process with information, the prosecutor essentially empowers the child or provides him with a sense of foreknowledge and control over the experience. Research, in fact, has confirmed this empowerment and has demonstrated the positive impact which

simple advance instructions and preparation procedures have on the testifying and recall abilities of the child witness.⁶⁵ In addition to enhancing the child's effectiveness as a witness, these preparation procedures also inform the family about potential courtroom tactics and delays and enable the prosecutor, therefore, to enlist their cooperation and support of the child during the proceedings.⁶⁶

Whitcomb has suggested the following pretrial preparation strategies for prosecutors in cases with child victims:

- o Enhance the child's communication skills through the use of dolls, artwork, and simplified vocabulary.
- o Modify the physical environment of the courtroom, by providing a smaller chair for the child, having the judge sit at the same level as the child or wear business clothes instead of the robe.
- o Prepare the child for his courtroom appearance by briefing him on the roles of people in the courtroom, introducing him to the judge, taking him on a tour of the courtroom, showing him where his support person and the defendant will sit, and allowing him to sit in the witness chair and speak into the microphone. Explain the proceedings and the possible range of outcomes in language which the child will understand and offer him the opportunity to ask questions.⁶⁷

4. THE ROLE OF MENTAL HEALTH EXPERTS IN INVESTIGATING AND PROSECUTING CRIMES AGAINST CHILDREN

Research in the child victimization area has increased dramatically over the past several years. Just as the state-of-the-art procedures for detecting, evaluating and intervening in these cases has advanced, so too has the role which mental health professionals can play in assisting the prosecutor with investigating and prosecuting crimes committed against children.

Benedek has stated that the child psychiatrist should act as a consultant to the prosecutor and as such has a multi-dimensional role in investigations and proceedings involving child victims.⁶⁸ The National Institute of Justice

recognized the support which these experts could provide prosecutors stating:

Even if there is no need to introduce expert witness testimony in a case, or if there are problems qualifying an expert in the field, prosecutors should avail themselves of the experience and knowledge that such people possess. The information they provide can be woven into the prosecutor's opening and closing statements, for example, to educate the trier of fact about aspects of the child's behavior that cannot be adequately explained in the context of trial testimony. Experts may be able to suggest ways of questioning potential jurors to uncover biases regarding children's propensity for lying or fantasizing. At a minimum, prosecutors themselves should seek expert advice to guide them in interviewing child witnesses and assessing the value of their testimony.⁶⁹

Benedek presents a much broader and more useful role for the mental health professional in child victimization cases, which involves these professionals acting in consultant-type capacity to the district attorney as he evaluates and prepares these cases for prosecution purposes. Benedek also indicates that mental health experts can provide support and assistance to the child victim in a variety of pre-trial preparatory activities, including visiting the courtroom with the child and engaging in mock sessions through role playing to ease the anxiety and ambivalence associated with testifying.⁷⁰

The Attorney General's Task Force on Family Violence acknowledged the role which mental health professionals can play in child victimization cases and recommended that expert witnesses "be allowed to testify in family violence cases to familiarize the judge and jury with the dynamics of violence within the family."⁷¹ In its extensive study of prosecutorial practices in this area, the National Institute of Justice provided some empirical observations on the use of expert testimony in criminal proceedings and the limitations found to be associated with this mode of evidence. With respect to the use made of mental health testimony in proceedings involving child victims, NIJ reported that:

There are three general avenues for introducing expert testimony in child sexual abuse cases. The first, and most liberal, is to give an opinion as to the child's truthfulness or credibility. Such

testimony is almost always disallowed on grounds that it usurps the function of the jury.

A second avenue is to bolster the child's testimony without a direct comment as to the child's credibility. Such testimony may be offered in the form of statistics showing the frequency of certain behavior patterns among known child sexual abuse victims or offenders. Alternatively, it may refer to a "sexually abused child syndrome." In general, these lines of expert testimony have not been well-received by the courts. They have not permitted specific behaviors to be inferred from statistical generalizations. Moreover, the judges interviewed in this study believed that the sexually abused child syndrome lacks sufficient empirical support to justify admitting it as evidence.

The third, and most commonly acceptable use of expert testimony is to rebut defense attempts at impeaching the child's testimony. Experts are increasingly being called upon to counter three common lines of attack by the defense: (1) Why did the child endure the abuse for so long? (2) Why did the child finally disclose the situation? and (3) Why do family members contradict the child's story? These questions are familiar to most professionals who work with incest victims, and... there is a growing body of literature indicating that the answers are quite similar among incestuous families as a group. Experts can testify from their own knowledge of this formal literature and their own experience working with child victims to explain the apparent inconsistencies to the judge and jury. Here, statistics can be offered to show that a child's behavior is not inconsistent with general patterns of sexually abused children (as opposed to arguing that, because the child behaved this way, she must have been abused).⁷²

As to the limitations found to be associated with the use of expert testimony in proceedings involving child victims, NIJ stated that these extended far beyond the anticipated concern about "provoking a battle of the experts," to include the following practical considerations:

Not every community has an expert available to evaluate the child and to testify..., nor is the current research on child witnesses so conclusive as to permit such testimony in every case. Moreover, such a psychological evaluation is...costly..., time-consuming..., and more than a little invasive of the child's privacy. Even worse, the expert may discover and document things about the child's psychological status that detract from his/her credibility.⁷³

The National Institute of Justice found that these considerations weighed heavily with the prosecutors surveyed for its research and that expert

testimony generally was viewed as a measure of last resort, with prosecutors preferring to answer questions raised in cross-examination by relying on the facts of the case.⁷⁴

o DCJS Survey Results -- Innovations and Limitations in Prosecution of Crimes Against Children in New York State

The DCJS survey instrument included a number of items that were designed to assess the degree to which procedural innovations were being implemented in this State for the prosecution of crimes involving child victims. Two areas of activity were examined, in particular. The first dealt with the specific issue of the use of electronic devices during the investigation and adjudication of these offenses, and, the second addressed the much wider range of investigatory practices employed by prosecutors to streamline the disposition of cases with child victims.

In order to provide further insight into the use of these procedural innovations by prosecutors and to develop workable recommendations for the extension of practices across the variety of district attorneys' offices in the State, the DCJS survey also sought information from respondents about the source and nature of constraints they experienced in implementing alternative procedures for dealing with child victims. Information provided about these limitations is presented below in the context of a discussion of survey findings relative to the types and extent of procedural innovations being used by New York's district attorneys in processing child victimization cases.

Use of Electronic Devices During Investigations and Adjudication to Record a Child's Statements and Televising his Testimony

Two items on the questionnaire were designed to measure the extent to which district attorneys made use of electronic devices during investigations and adjudication to record a child's statements and televise his testimony.

For each, respondents also were asked to provide information relating to problems encountered with the use of the technique. The two specific items were the following:

- o How many times in the past year have you used closed-circuit television (CCTV) during trial pursuant to CPL Article 65?
- o How many times in the past year have you videotaped children's statements?

With respect to the use of closed circuit-television, the use of this technique, as indicated in the item, is statutorily authorized, pursuant to Article 65 of the Criminal Procedure Law. There is, however, a sunset provision to Article 65, and the authorization for the use of CCTV will be repealed on January 11, 1988, unless further legislative action is taken.

In general, district attorneys across the state reported that CCTV was either never used for obtaining the testimony of child witnesses or was used on a very infrequent basis. Jurisdictions reporting no use of CCTV were micro and small size offices. Approximately 90 percent (10) of the medium size offices also indicated that they had not made use of CCTV, with the one office in exception to this finding reporting that CCTV had been used one time over the past year. Eighty percent (4) of the large offices indicated they had used the device, and 20 percent (1) reported using it on two occasions. The largest size district attorney offices, the macro offices, also noted very infrequent usage of CCTV:

- o 25 percent (1) stated that CCTV had not been used this past year;
- o 25 percent (1) office indicated that it had been used one (1) time;
- o 25 percent (1) district attorney reported using CCTV on four (4) occasions; and
- o 25 percent (1) said it had been used five (5) times.

While most comments received on the issue of CCTV indicated that the necessary equipment was too expensive to justify its limited use, there were other observations, such as the one presented below, which emphasized serious procedural and practical considerations about the use of this technology in the courtroom:

Closed circuit testimony at trial, provided for in CPL 65.20, has not as yet been used in this county. The statute as currently enacted presents several problems that render the statute too cumbersome to effectively utilize. First, due to procedural requirements, it cannot be used at a preliminary hearing. Second, the statute requires a pretrial hearing, which can lead to delays. Third, the statute appears to require a mental evaluation of the victim in order to establish that psychological harm would occur to the child [if required to testify in person]. (Might a judge order a child to submit to an examination by a psychiatrist hired by the defense in order to determine whether the claims of fear, and potential harm, are true?) Fourth, the procedures require too many cameras and monitors. Fifth, the prosecutor loses the value of having the jury see the child, her size and physical appearance. In today's society, with its extensive use of television, closed circuit makes the child appear unreal, distant, or like just another actor in a television show.

There should be no required motion or hearing, the district attorney should merely be required to notify the court, with a copy to the defense attorney prior to the start of proof at trial that closed circuit testimony is going to be utilized.

Videotaping a child's statements is recommended in the literature as a means by which to reduce the trauma of the investigative process on the child by reducing the number of interviews that are conducted during the investigation. It also is emphasized for its evidentiary benefits, in the sense of capturing the child's reactions and emotions relative to the victimization on tape. The impact which the tape of a child's statements can have on the defendant's decision to plead guilty also has been noted in the literature.

Table 29 below describes the extent to which district attorneys reported using videotaped statements from child victims. It will be noted that the

range of responses extends from "never used" to fifty (50) times. While it is not possible to make a definitive judgment on the issue, it appears, given the variation of responses across different sized offices, that the expense of equipment does not deter the use of videotaped statements, but that the volume of cases handled by the jurisdiction might. As stated, it is not possible to make this statement unqualifiedly. While a correlational analysis of the variables size of office and use of videotaped statements did not reveal a significant relationship, the statement is not necessarily disproved since volume of cases cannot be inferred from office size. It was not possible to go any further with this analysis without specific information on these caseloads which was not provided by the majority of district attorneys' offices across the state.

TABLE 29
REPORTED FREQUENCY OF USE FOR VIDEOTAPED STATEMENTS BY
SIZE OF DA OFFICE

	Never	1 Times	2 Times	3 Times	5 Times	6 Times	7 times	10 Times	25 Times	37 Times	50 Times
Micro	76.9 (10)	7.7 (1)	0.0 (0)	0.0 (0)	0.0 (0)	0.0 (0)	7.7 (1)	7.7 (1)	0.0 (0)	0.0 (0)	0.0 (0)
Small	58.8 (10)	5.9 (1)	11.8 (2)	11.8 (2)	0.0 (0)	0.0 (0)	0.0 (0)	5.9 (1)	5.9 (1)	0.0 (0)	0.0 (0)
Medium	45.5 (5)	18.2 (2)	0.0 (0)	18.2 (2)	9.1 (1)	0.0 (0)	0.0 (0)	0.0 (0)	0.0 (0)	0.0 (0)	9.1 (1)
Large	40.0 (2)	0.0 (0)	20.0 (1)	0.0 (0)	0.0 (0)	20.0 (1)	0.0 (0)	0.0 (0)	0.0 (0)	0.0 (0)	20.0 (1)
Macro	50.0 (2)	0.0 (0)	25.0 (1)	0.0 (0)	0.0 (0)	0.0 (0)	0.0 (0)	0.0 (0)	0.0 (0)	25.0 (1)	0.0 (0)
TOTAL	58.0 (29)	8.0 (4)	8.0 (4)	8.0 (4)	2.0 (1)	2.0 (1)	2.0 (1)	4.0 (2)	2.0 (1)	2.0 (1)	4.0 (2)

Alternative Investigatory Practices for Processing Child victimization Cases

In the survey item which addressed the issue of alternative investigatory practices for processing child victimization cases, district attorneys were asked to indicate their use of a wide range of procedures intended to streamline the disposition of these cases. The rank order of responses provided by district attorneys as to investigative procedures used in cases involving child victims was the following:

Utilize inter-agency team for investigation	88%
Use of anatomically correct dolls	88%
Supportive person (advocate) present during most proceedings	88%
Special pre-trial preparation techniques	84%
Interviews conducted jointly with other agencies	76%
Special agreement with media that victims' names not be released	61%
Use/provision of drawing materials	59%
Use of expert witnesses	49%
Other use of videotape	43%
Special procedures for interviewing child if suspect is relative	43%
Procedures to expedite disposition of cases	27%
Special techniques for interviewing suspects	24%
Interview setting used specifically for children	18%
Use of closed circuit television during trial	16%
Use of videotape to record child's first statements	12%
Assistant district attorney routinely accompanies victims at stationhouse	8%
Special techniques for apprehending child molesters, pornography rings, or promoters/patrons of child prostitution	6%
Other	6%
Special techniques for investigating neglect/abandonment cases	2%

Many of these practices were presented by Chapter 263 of the Laws of 1986 as guidelines for the treatment of child victim/witness. And, as previously indicated, all are stressed in the literature for their value in easing the trauma of the investigation/adjudication process for the child. While there is, for the most part, a general pattern of larger agencies reporting greater use and numbers of these techniques than smaller agencies, office size was

found to be significantly correlated with only four of the items. These four items were "other use of video," "use of closed circuit television during trial," "use of expert witnesses," and "special pretrial preparation techniques."

The top seven items, or those which the majority of offices reported using are examined below in terms of variations found with respect to size.

Use of the Interagency Team Approach in Investigations. The literature and New York State Law strongly recommend the use of an interagency (i.e., multi-disciplinary) approach to the investigation of crimes committed against children. Responses received from the State's district attorneys indicate that this recommendation has been implemented in one form or another in the majority of all sized offices across New York. Approximately 88 percent (43) of the agencies responding to the question on the interagency approach to investigation indicated the use of this approach, with the following distributions across different sized offices: micro - 66.7 percent (8); small - 88.9 percent (15); medium - 100 percent (11); large - 100 percent (5); and macro - 100 percent (4).

Information as to how this team functions -- who convenes it, when, what it actually does -- was not available given the survey design, although certain inferences are possible from responses to other methods included in this item. Where possible and relevant, these inferences are made below.

Use of Anatomically Correct Dolls. One such area may be the use of anatomically correct dolls during the investigative process. Whether these interview devices are employed by the majority of the respondents (87.8 percent or 43) as a component of the interagency team approach (who introduces their use, how, when) is difficult to discern from the data. It also is not possible

to determine on the basis of the survey where the use of these dolls is permitted in the courtroom, as suggested by Chapter 263 of the Laws of 1986.

As stated, 87.8 percent of the respondents to the item reported the use of these dolls during the investigative process, with the following size distributions resulting: micro - 66.7 percent (8); small - 94.1 percent (16); medium - 90.9 percent (10); large - 100 percent (5); and macro - 100 percent (4). From the data, it is apparent that the majority of all sized offices report using these dolls. That these offices may not have had the necessary training for employing this device in the investigation of sexual abuse cases is suggested by responses to an earlier training item on the questionnaire, where only 54 percent of the respondents reported that personnel had received specialized training in this area.

Supportive Person (Advocate) Present During Most Proceedings. Chapter 263 of the Laws of 1986 encourages the use of a support person for the child witness during proceedings, in accordance with Section 190.32 of the Criminal Procedure Law. The literature also stresses the importance of such a support person for easing the courtroom trauma and protecting the interests of the child victim. Survey data indicate that the support person is used in the majority (87.8 percent or 43) of jurisdictions that responded to this item. Variation by size is the reverse of that seen with other items, however. In this case, smaller agencies are more likely to use support persons than larger agencies, as indicated by the following size distributions: micro - 83.3 percent (10); small - 100 percent (17); medium - 90.9 percent (10); large - 60.0 percent (3); and macro - 75.0 percent (3).

While this distribution could be accounted for by the relatively low number of large size office respondents to the item, it also could be explained

by the ease of introducing such a role and functions into proceedings conducted by smaller jurisdictions.

Special Pretrial Preparation Techniques. The literature recommends the use of these techniques as a measure to demystify and, therefore, lessen the traumatic impact of the courtroom experience for the child. While usually suggested as a function or component of the team approach, it is not possible to determine on the basis of this data the extent to which this preparation is implemented in that fashion here.

In spite of this limitation, survey findings about the use of this technique for all sized offices are extremely positive. Approximately 84 percent (41) of the respondents to this item indicated the use of pretrial preparation techniques, with the following frequency distributions by different sized offices: micro - 50.0 percent (6); small - 94.1 percent (16); medium - 90.9 percent (10); large - 100.0 percent (5); and macro - 100.0 percent (4).

Interviews Conducted Jointly with Other Agencies. Subjecting a child victim to numerous interviews during the investigation process has been discussed in the literature as having a particularly adverse impact on both the child and his family. Having to retell his story and recall the trauma of the incident for a variety of strangers is not only stressful but also confusing for the child presenting, as it often does, implications of guilt and blame for the victim. To address this issue, the literature recommends that joint interviews of the child be conducted with the numerous agencies typically involved in different aspects of the investigation. The vehicle suggested for implementing this coordination is usually the interagency team.

Given that the majority (75.5 percent or 37) of respondents to this question indicated their use of joint interviews, it appears that there is wide

acceptance among district attorneys in this State to coordinating the interview process for the child victim. This majority use of the procedure was not related to office size and was reported for all different sized offices included in the survey. Approximately 70 percent (8) of the micro offices indicated the use of joint interviews, as did 94.1 percent (16) of the small offices, 63.6 percent (7) of the medium offices, 80.0 percent (4) of the large offices and 50.0 percent (2) of the macro offices.

On the basis of the survey items, it is not possible to determine the mechanics of this process or how and when these interviews are conducted or who takes the lead with respect to their coordination. While a correlational analysis did not reveal a significant relationship between the joint interview item and interagency team item, this lack of significant association does not necessarily mean that the conducting of joint interviews is not a component of the interagency team function.

Special Agreement with Media that Victims' Names Not be Released. While the majority (61.2 percent or 30) of respondents indicated the existence of these special agreements to protect the victim's privacy, it appears that smaller offices are somewhat more likely to have made such arrangements with the media than larger offices. The actual distribution of responses by size was the following: 41.7 percent (5) of the micro offices reported the use of the procedure, as did 64.7 percent (11) of the small offices, 90.9 percent (10) of the medium offices, 60.0 percent (3) of the large offices and 25.0 percent (1) of the macro offices.

Use/Provision of Drawing Materials. The use of these materials during the interview process is suggested in the literature as a means by which to overcome the cognitive/language limitations of the child victim. The

acceptance of the technique by New York's district attorneys is indicated by its reported use in 100 percent (4) of the macro offices, 80.0 percent (4) of the large offices, 63.6 percent (7) of the medium offices, 52.9 percent (9) of the small offices and 41.7 percent (5) of the micro offices. Surprisingly, district attorneys report using this rather inexpensive technique less frequently than they do anatomical dolls. Also, this latter item, which has the same rationale for use as the drawing materials, was not found to be significantly related to the use/provision of these materials.

Constraints on the Use of Alternative Procedures in Processing Child Victimization Cases

A sizeable item on the questionnaire was one which attempted to determine the source and nature of limitations placed on investigations conducted by district attorneys' offices. Presented below are the overall response rates for each of the problems indicated by the district attorneys who completed the survey. For the purposes of this discussion and subsequent analyses, these problems have been grouped into five categories: resource limitations; legal/evidentiary issues; interagency problems; problems with parents; and other non-legal problems.

Resource Limitations

Number of Personnel	70.8% (34)
Financial Limitations	62.5% (30)
Amount of Equipment/Supplies	37.5% (18)
Extent of Training of Personnel	35.4% (17)

Legal/Evidentiary Issues

Inability of Victims of Ongoing Abuse to Name Specific Dates and Times of Incidents as Required by Law	91.7% (44)
Problems with Corroborative Evidence for Unsworn Testimony	77.1% (37)
Lack of Hearsay Exceptions for Children	72.9% (35)
Procedures for Qualifying Child Under 12 for Sworn Testimony	54.2% (26)

Restricted Access to Records Due to Confidentiality Requirements	31.3% (15)
Regulations Requiring Filing of Petitions in Family Court Within 48 Hours	20.8% (10)
Problems Associated with Collection of Forensic Evidence	20.8% (10)
Jurisdictional Problems Among Law Enforcement Agencies	18.8% (9)

Interagency Problems

Problems of Cooperation with Hospitals/Physicians	35.4% (17)
Problems of Cooperation with Family Court	20.8% (10)
Problems of Cooperation with School Districts	18.8% (9)
Bureaucratic Delays in Obtaining Records	18.8% (9)
Problems of Cooperation with Criminal Court	8.3% (4)

Problems With Parents

Parents Lack of Ability to Identify Problem at Early Stage	47.9% (23)
Problems of Cooperation from Parents/Guardians	39.6% (19)

Other Non-Legal Problems

Attitude that Child Abuse is a Family Problem Rather than a Crime	47.9% (23)
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The patterns seen within each of these categories are described briefly below. Looking first at resource limitations, it should be noted that district attorneys were almost twice as likely to report financial and personnel limitations as being problematic than they were training or equipment and supply limitations. This pattern was generally unaffected by size of office, with the exception of medium size agencies reporting a substantially greater need for training and equipment and supplies than other sized agencies.

Within the Legal/Evidentiary Issues category, the pattern of responses was generally consistent with limitations in this area suggested by the literature. Thus, district attorneys were far more likely to identify procedural requirements associated with the specificity level of evidence, qualifying the testimony of the child victim, or lack of hearsay exceptions for children as being troublesome than they were jurisdictional problems among law

enforcement agencies. For the most part, this pattern held across different sized offices, although the district attorneys of larger sized offices (i.e., those in the large and macro categories) showed a slight tendency to report more problems with the procedural requirements than smaller offices.

With respect to interagency limitations, it should be noted that overall, significant or majority expressed problems were not reported by the district attorneys who responded to these items. Size of office also was found to influence the degree to which problems in this area were reported as experienced. This was true with respect to every item included in the category. Generally, as size increased, so too did the reporting of problems relating to interagency cooperation.

As indicated, there were only two items in the "problems with parents" category. Of these, responses to the item for problems of cooperation were generally found to be consistent across different sized agencies. There was no clear pattern with respect to the second item on the parents' inability to identify the child's problem at an early stage. Approximately 47 percent of the responses from the smaller offices (i.e., micro, small, and medium size offices) indicated that this inability posed a limitation to investigations, in contrast to 80 percent of the large offices and 25 percent of the size 5 offices.

In the "other non-legal problems category," the majority of responses in all sized offices but two (small and medium offices) agreed that the attitude that child abuse is a family problem rather than a crime was a limitation for district attorneys' offices conducting investigations. Six other problems were expressed by district attorneys, three of these were mentioned by the smallest offices, one by a district attorney in a medium office and two by

district attorneys associated with the largest offices in the State. The smallest offices commented on the problems posed by relatives of the victim, the lack of statistics and the lack of female investigators to conduct investigations. The middle sized offices also indicated that lack of investigative personnel posed a serious problem. The largest sized agencies commented on the inadequate knowledge by child protection workers of the elements of crimes committed against children; lack of readily available medical personnel for schools; proceedings for termination of parental right being extremely slow; and delays and/or non-compliance by child protection in forwarding initial reports of child abuse to the district attorney.

C. ENHANCED CHILD ABUSE PROSECUTION PROGRAMS IN NEW YORK STATE⁷⁵

There are currently seven district attorneys' offices in New York State which are receiving combined State and Federal resources to establish and maintain enhanced child abuse prosecution units. Five counties receive Justice Assistance funds, including Erie, Monroe, Saratoga, Westchester and Suffolk. Two counties, Dutchess and Rockland, are recipients of Juvenile Justice funds.

Based on Governor Cuomo's recommendation, these specialized units are intended to insure that serious cases of child abuse are investigated adequately and prosecuted effectively. While there are subtle differences between the programs, based on the local needs and program concepts expressed by each grantee, they all essentially incorporate in one form or another the most significant innovations initiated in this field to facilitate the disposition of child victim cases. For example, each county has established a specialized unit approach to screen, investigate and vertically prosecute crimes against children. In addition, they all emphasize coordination among

social services, law enforcement and the medical community to streamline and sensitize the investigative response of the local criminal justice system to the needs of the child victim.

A brief description of the major elements and processes associated with each of these programs is presented below. While it may not be possible to transfer directly these models in their entirety to other counties throughout the State without the availability of additional funding, it should be apparent that there are parts of each which could be easily incorporated into district attorneys' offices based on existing personnel and monetary resources.

1. ERIE COUNTY -- COMPREHENSIVE ASSAULT, ABUSE AND RAPE PROSECUTION UNIT

The Erie County Comprehensive Assault, Abuse and Rape Prosecution Unit (CAAR) became operational on July 2, 1984, by direction of District Attorney Richard J. Arcara. While it is a part of the office's Major Offense Prosecution Bureau, the unit is devoted exclusively to the handling of cases involving rape, any other sexual assault, child abuse (including sexual abuse), and felony level domestic violence.

The unit is staffed by five experienced assistant district attorneys, who have received extensive specialized training in the child victimization area and have been selected to become a part of the unit on the basis of sensitivity, dedication and demonstrated abilities in the handling of these cases.

Before the unit is described in terms of how it functions, the emphasis placed on integrating the program into the local criminal justice system and publicizing its existence throughout the community should be noted. With respect to the former, CAAR unit prosecutors work closely with all area police

departments, social service agencies, victim support groups, and all other relevant service organizations. To facilitate this cooperation and ensure early direct involvement in child victim cases, the unit employs a system of prompt notification whereby a CAAR Program ADA is on 24-hour call to all police agencies in Erie County, specialized sex offense squads in the Buffalo Police Department and several other area police agencies. As a part of this effort, specialized intake and screening procedures for earmarking criteria cases have also been established.

To establish a firm foundation for CAAR in the community, the unit has initiated what it terms a "program awareness" campaign. This campaign has involved presentations by the unit to various public forums such as community organizations, elementary and secondary schools, professional organizations and other groups in order to alert the community as to the unit's existence and mission. Extensive use of the local media has also been made and informational pamphlets and posters have been distributed to interested community groups, schools, public buildings and medical facilities. The unit has described these public awareness efforts as highly successful in that they have increased significantly the number of victims who have come forward and assisted in the prosecution of cases.

The process by which the CAAR unit functions has also contributed significantly to the success of the program. The most fundamental component of this process involves the use of vertical prosecution to handle cases of child victimization. This entails the direct involvement of a single unit ADA in a case from its inception, or the reporting of the incident, through indictment, trial or disposition. This procedure not only enables the prosecutor to more effectively assist ongoing investigations and supervise the collection and

handling of evidence so as to increase the probability of successful apprehensions, indictments and convictions. It also streamlines involvement in the criminal justice process for the child victim, since the victim is spared from having to repeat the details of the incident to many different prosecutors, and allows for a relationship of trust to develop between the victim and the ADA handling the case. The knowledge that victims of these crimes receive such special, focused treatment also encourages other victims of abuse to come forward and cooperate with the unit to prosecute these offenses.

In addition to the use of vertical prosecution, other hallmarks of the CAAR unit include the policy of limited plea bargaining, specialized close cooperation with the courts (criminal and family) and police agencies, and the assignment of a paralegal and confidential investigator to the unit. So as to identify the program to criminal justice agencies and the public at large as a distinct entity, the unit has centralized its physical location within the district attorneys' office. A witness interview room specifically geared to accommodate the needs of the child victim and his family has also been constructed. Part of this room has a living room-like setting for adults and parents and the remainder is designed to make children feel at ease by providing small chairs and a table, educational television, various toys and art supplies, and two "families" of anatomically correct dolls. A small room adjacent to this setting is equipped with a video camera to tape the interviews of fragile victims and witnesses.

2. MONROE COUNTY -- CHILD ABUSE/FAMILY VIOLENCE BUREAU

The child abuse component of the Monroe County Child Abuse/Family Violence Bureau was initiated in 1978. The bureau was subsequently expanded in 1981 to

include a domestic violence emphasis as well.

At present, the bureau consists of four full-time assistant district attorneys and two in-house investigators. As was the case with the CAAR unit, these Monroe County specialists have received extensive training in the child victimization field. The bureau has also attempted to incorporate a multi-disciplinary approach into its own team structure by employing as investigators an experienced police professional and an individual with extensive background in social work and child protective services in particular.

The bureau has used the local media to educate the public about its existence in Monroe County, and has also engaged in various outreach efforts with interested organizations to increase community awareness about its activities. Of particular note is the Joint Child Sexual Abuse Investigation Training Program sponsored by the district attorney's office in conjunction with the local Department of Social Services, Rochester Police Department and Monroe County Sheriff's Department. This program, which applies the 0-3 day joint investigative model to Monroe County, is directed at both law enforcement officers and child protective services workers. The approach of this 0-3 day model involves the use of a coordinated investigation by law enforcement and child protection such that all initial investigative activity and preliminary decisionmaking about case disposition is made within a three-day period from the reporting of an incident. The extensiveness of this program is commendable, as is the emphasis placed on facilitating the use of a multi-disciplinary approach to handle these investigations. In the training program, coverage is given to the following: the etiology of intrafamilial sexual abuse; techniques for interviewing the child victim/witness; legal aspects of child abuse investigations and prosecutions; obtaining other evidence in child

abuse investigations, including medical evidence and the use of polygraphs; investigative approaches in cases involving pedophilia; post-investigation decisionmaking; and explanation and application of the 0-3 day Monroe County joint investigative model to sexual exploitation cases and physical abuse investigations. For the most part, training in these areas is team-delivered by law enforcement and social services. And, throughout the program emphasis is placed on enhancing the relationships between representatives of these disciplines with various carefully coordinated role playing exercises.

The child abuse/family violence bureau in Monroe County functions very similarly to Erie County's CAAR unit. Vertical prosecution is a key component of the program as is the around-the-clock availability of the bureau's services to the joint investigative team. A separate, child-oriented interview room has been established in the bureau, equipped with toys, coloring books and anatomically correct dolls. Where appropriate, the bureau adheres to a policy of limited or no plea bargaining and also attempts to facilitate the disposition of these cases through opposition to pre-trial motions for continuances.

It is also the policy of the bureau to engage in extensive, continuous pre-trial preparatory activities with the child victim to better acquaint the child with upcoming proceedings. These activities begin prior to a child's grand jury appearance and extend through the adjudication phase of proceedings. Throughout the child's involvement with the criminal justice system, which at times can be of a lengthy duration, the bureau maintains contact or "keeps the connection alive" with the victim and his family. Certain accommodations have also been introduced into the courtroom setting for the child witness, including at times the use of a small table, speaker and amplifier for a child

giving testimony.

The Monroe County Child Abuse/Family Violence Bureau has also engaged in various outreach programs directed at the medical community in the Rochester area to encourage more complete reporting and cooperation in suspected cases of abuse and maltreatment. These activities have consisted for the most part of informational presentations to hospital pediatric staff.

3. SARATOGA COUNTY -- CHILD SEXUAL ABUSE PROSECUTION UNIT

The Saratoga County Child Sexual Abuse Prosecution Unit, which was established in 1985, consists of one part-time assistant district attorney and one investigator. While the resources available to the unit appear limited, they are supplemented by the existence in Saratoga County of a multi-disciplinary Sexual Abuse Team. Established in late 1986, this team consists of representatives from the county Task Force on Child Abuse and Neglect, the district attorneys' office, the child protective services unit of the county's Department of Social Services, the Saratoga Springs Police Department, and, at times, the county's Mental Health Clinic. It is through this multi-disciplinary team, which meets twice a month, that efforts to deal with criminal and non-criminal cases of child abuse are coordinated.

The stated project goals of the county's Child Sexual Abuse Prosecution Unit are to:

- o use screening and prosecution criteria to identify cases involving child abuse and/or molestation offenders;
- o establish a separate, full-time prosecutorial unit for child abuse/molestation offenders to enable vertical prosecution of assigned cases;
- o reduce caseload to enable thorough case preparation/presentation;

- o coordinate police, prosecutors, and child welfare efforts dealing with child abuse, including staff training efforts;
- o develop a policy regarding limited or no plea negotiations;
- o develop a policy to oppose pre-trial motions for continuances; and
- o develop a policy to maintain effective communication with victims and witnesses.

The Child Sexual Abuse Prosecution Unit has made significant progress in meeting these goals. While the unit has relied a great deal on other community resources to coordinate certain training and public awareness programs, initiatives have been made in the delivery of specialized training for law enforcement and medical professionals. Arrangements have also been established at an informal level to designate a local hospital as the facility for examinations and treatment in child sexual abuse cases.

4. ROCKLAND COUNTY -- CHILD ABUSE PROSECUTION/SERVICES COORDINATION PROJECT

As is implicit in the title for this project, the emphasis in the enhanced child abuse prosecution unit in Rockland County is on establishing better coordination between law enforcement and social services for handling child victimization cases. The unit consists of one senior assistant district attorney, one detective and a child services coordinator. The unit's emphasis on improved coordination is very apparent in the goals and objectives for the project, as well as the tasks to be undertaken in realizing those goals. These stated goals, objectives and tasks of the program are as follows:

Goals

- o To facilitate cooperative efforts among agencies involved in law enforcement and service delivery aspects of child abuse cases, including, but not limited to, Child Protective Services, police departments, the Department of Social Services, and the District Attorney's Office.

- o To prosecute cases vigorously to protect current and potential child victims.
- o To reduce trauma for young victims.
- o To establish guidelines across relevant agencies within which the Child Abuse Services Coordinator can coordinate agencies' activities with regard to assuring successful investigations and effective service delivery.
- o To assist victims in securing appropriate services.

Objectives

- o To appoint a Child Abuse Services Coordinator to coordinate the legal and social service aspects of child sexual abuse cases.
- o To limit the number of interviews to which the child victim is subjected.
- o To provide child abuse expertise to all relevant agencies.
- o To increase services available to victims, including facilitating psychiatric/psychological treatment during and after investigation and disposition.

Tasks

- o To create a new unit in the Rockland County District Attorney's Office, consisting of a Senior Assistant District Attorney and a Child Abuse Services Coordinator.
- o To establish a special victims' unit in the District Attorney's Office.
- o To work closely with four police agencies to develop model procedures for enhancing prosecution efforts while increasing services to victims.
- o To train Department of Social Services personnel in criminal investigative techniques, in gathering and preserving evidence, and in handling child victims.
- o To train police personnel in the legal context of child abuse cases, the proper management of evidence, and in interview techniques and care of child abuse victims.
- o To disseminate information on child abuse in the schools and to the public through the media, in order to increase the number of reports and to make victims more aware of their rights.
- o To provide treatment for the violator as well as for the victim.

The coordinating role of the district attorney's office in these cases is effectuated through the appointment of a Child Abuse Services Coordinator who serves in a liaison-type capacity between involved agencies to establish the mechanisms and expertise necessary to improve the processing and service delivery for child victims.

5. SUFFOLK COUNTY -- FAMILY CRIME UNIT

The unique feature of the Suffolk County Child Abuse Prosecution Program, which became operational in 1986, is the Child Abuse Prosecution Assistant (CAPA). According to the submitted description for this program, the Child Abuse Prosecution Assistant is an integral part of the prosecution team, which is apparent from the following informal job description: "as contemplated, the CAPA is considerably more than a nursemaid, somewhat different than a detective, not always a social worker, a little bit of a paralegal, frequently a psychologist, a critic, a victim advocate, and a support person 24 hours a day."

More specific functions of the Suffolk County Child Abuse Prosecution Assistant include the following:

- o The CAPA sets up and monitors the use of all video and audio recording equipment for interviews conducted with child victims and witnesses.
- o The CAPA acts in a supportive capacity for the child victim and maintains the district attorney's connection with the child from the time of initial interviews through grand jury appearances and pre-trial preparation activity.
- o The CAPA assists the district attorney's office in reviewing the results of all interviews conducted with the child and records pertinent to the case.
- o The CAPA is on call to assist other law enforcement agencies in handling, interviewing and escorting psychologically and physically traumatized child victims.

The Child Abuse Prosecution Assistant is, however, only one member of Suffolk County's prosecution team for offenses committed against children, including both intra- and extrafamilial offenses. That team, or the Family Crime Unit, was formed in 1980 and consists of seven assistant district attorneys and three investigators. The critical elements relating to the approach used by the unit to handle child victim cases specify that the team, through its enhanced child abuse project, will:

- o use screening and prosecution criteria to identify cases involving child abuse and/or molestation offenders;
- o establish a separate, full-time prosecutorial unit for child abuse/molestation offenders to enable vertical prosecution of assigned cases;
- o reduce the caseload to enable thorough case preparation/presentation;
- o coordinate with police, prosecutors, and child welfare efforts dealing with child abuse, including staff training efforts;
- o develop a policy regarding limited or no plea negotiations;
- o develop a policy to oppose pre-trial motions for continuances;
- o develop a policy to maintain effective communication with victims and witnesses;
- o assign an additional assistant district attorney to handle the increased caseload; and
- o assign two domestic violence aides to deal directly with child victims and in some instances family members. Domestic violence aides will provide services to the victim and enhance the quality of communication between the victim and prosecutors.

6. DUTCHESS COUNTY -- SPECIAL PROSECUTOR OF CHILD ABUSE

Under the terms of its grant, which is currently in its third year of funding, Dutchess County established the position within its district attorney's office of a full-time special prosecutor for child abuse cases. Using this specialist approach to the disposition of crimes committed against

children, the Dutchess County program calls for the direct involvement of the special prosecutor in all cases of child sexual abuse and for the individual acting in this capacity to serve as a liaison between all police agencies in the county and involved social services agencies.

Major emphasis in this program has been placed on using both formal and informal dialogue to provide a more coordinated or multi-disciplinary response to incidents of child abuse and to increase public awareness about these offenses and programs available in the community to deal with them. The tasks which the county set for the project are reflective of these goals. They include the following:

- o education and training of social service personnel;
- o education and training of police personnel;
- o liaison with the Dutchess County Task Force Organized to Combat Child Abuse;
- o public information efforts in the schools and in the media;
- o prosecution of both felony and misdemeanor child abuse cases;
- o securing appropriate psychological treatment for offenders when appropriate; and
- o to develop a manual for Special Prosecution of Child Abuse that could be used as model by other district attorneys. This manual will contain a compilation of all the activities, tasks, and coordination of efforts needed to conduct and complete efficient investigation and prosecution of child abuse cases.

7. WESTCHESTER COUNTY -- DOMESTIC VIOLENCE AND CHILD ABUSE BUREAU

The enhanced child abuse prosecution unit in Westchester County initially received federal funding in 1985. The unit is comprised of three assistant district attorneys and one investigator. The unit has incorporated the significant procedural innovations recommended in this field for the

investigation and prosecution of child victim cases, such as vertical prosecution, joint interviews, and policies to limit plea negotiations and pre-trial motions for continuances. Its major emphasis, however, has been to act as the county's coordinating force to enhance, to the fullest extent possible, a joint law enforcement/child protective services response to incidents of abuse and maltreatment. To this end, the unit has developed an extensive protocol which directs the response network of police agencies, child protective services and the district attorney's office in the handling of child victim cases. This protocol has been designed to address the needs and resources of both the smaller, or town, jurisdiction and the larger, or urban, jurisdiction in Westchester County. A pilot-testing of the guidelines has recently been completed, and it is expected that the protocol will be implemented countywide in the near future.

As a part of its efforts to enhance the coordination between systems dealing with cases of abuse and maltreatment, the unit also has been involved in the institution of a case tracking system for these incidents in Westchester County. All agencies participating in the investigation or prosecution of child victimization cases are included in this system and are responsible for updating their involvement with a case as it proceeds through various levels of agency or court action.

In addition to these procedural innovations coordination through the district attorney's office, the Domestic Violence and Child Abuse Bureau is also involved in extensive community outreach programs which are designed to improve public awareness about the problem of child abuse and the resources in Westchester County available to respond to and prevent it. The unit also participates in countywide multi-disciplinary training sessions for law

enforcement, child protective services and the education and medical communities.

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75. The descriptions of the enhanced child abuse prosecution programs which follow are derived from or have been developed on the basis of material provided to DCJS by the subject district attorneys' offices. This material includes: correspondence; pamphlets; internal memoranda; multi-disciplinary protocols and guidelines; training descriptions and course curricula; descriptive memoranda about the programs; policy and procedures; supportive material submitted in response to the survey; interviews conducted with district attorney representatives; newspaper articles; quarterly and annual reports relating to the grants; and miscellaneous statistical and narrative reports submitted to DCJS by the programs.

CHAPTER 5

CONCLUSION -- GENERAL FINDINGS AND RECOMMENDATIONS

The child victimization study which DCJS conducted pursuant to statutory mandate has been described in detail in the first four chapters of this report. Throughout this presentation, emphasis has been placed on highlighting both the theoretical and practical aspects to law enforcement's involvement in the investigation and prosecution of crimes committed against children. In other words, wherever possible, the study's findings with respect to the resources and operations used by law enforcement agencies to handle these crimes have been presented in the context of a broader discussion of the organizational arrangements and procedures suggested by experts in the child victimization field.

The chapter which follows summarizes the general findings derived from this study. Like the report, these observations represent a composite of what was learned from both the literature and as a result of extensive survey research involving all law enforcement agencies in the State. This same format also characterizes the recommendations developed in response to the study's findings. For the most part, the presentation of these findings and recommendations topically comports with the organization of the report itself, both for consistency purposes and to provide the reader with a mechanism by which to reference the text of the study. It will be noted, however, that this is not the case with information relating to the use of the interagency or multi-disciplinary approach in the investigation and disposition of crimes against children which is highlighted first in the presentation. It was decided to prioritize this material in such a fashion given the importance placed on the multi-disciplinary approach in the literature, as well as the

significance of the study's findings with respect to its presence and utilization by New York State law enforcement agencies.

One prefatory observation is called for prior to beginning this presentation of general findings and recommendations. It is recognized that the framework for New York State's law enforcement system is consistent with the historical nature of State and local relations generally. The New York State Legislative Commission on State-Local Relations has commented on this framework or division of responsibility between State and local jurisdictions by observing that "the basic, opposing forces at work are: (1) the desire of localities to maintain autonomy and control within the context of home rule, and (2) the desire of the State to seek justice that is uniform and consistent."¹ While DCJS acknowledges that the implementation of its recommendations for operational improvements will ultimately be fashioned by autonomous law enforcement agencies across the State, it should be noted that these suggestions are based on empirical analyses of survey findings and policies already in place in a variety of communities throughout the State and Nation.

A. INTERAGENCY COOPERATION IN THE INVESTIGATION OF CRIMES COMMITTED AGAINST CHILDREN

Findings:

The Use of a Multi-Disciplinary Team Approach by Law Enforcement Agencies in Child Victimization Investigations

Chapter 263 of the Laws of 1986 states that "to minimize the number of times a child victim is called upon to recite the events of the case and to foster a feeling of trust and confidence in the child victim, whenever practicable, a multi-disciplinary team involving a prosecutor, law enforcement

agency personnel, and social services agency personnel should be used for the investigation and prosecution of child abuse cases." The use of this interagency approach is highly recommended in the literature as a means by which to streamline and, therefore, lessen the traumatic impact of the justice process on the child victim. In fact, it is presented as one of the most important procedural recommendations to law enforcement agencies by such groups as the Attorney General's Task Force on Domestic Violence (1984); the National Institute of Justice (1985); the New York State Senate Standing Committee on Child Care (1986); and the New York State Assembly Republican Task Force on Sexual Assault (1987).

On the basis of comments provided on the DCJS survey, there is wide acceptance among police agencies in this State of the multi-disciplinary team approach in child victimization cases. In fact, a number of police and sheriffs' departments suggest that the Legislature should revise the law's "whenever practicable" language and mandate this approach to the investigation of all crimes committed against children. In general, the comments made by departments about the team or task force approach were in one of two varieties. Respondents either stated that they were already participating in such investigative groups and were pleased with the results, or that they currently were not involved in the team approach but felt that they could benefit from being so.

While a substantial number of favorable comments were made about this investigative practice, only 40 percent of the departments surveyed or 155 law enforcement agencies report membership on multi-disciplinary teams comprised of representatives from child protective services and the district attorney's office. The use of the approach is more prevalent among larger sized

departments, with 80 percent of the macro and 55 percent of the large agencies reporting its existence. However, it was also found to be present among a greater number of smaller sized agencies than expected - 33 micro departments indicate its use, as do 49 small and 54 medium agencies.

Approximately 33 percent of the departments that responded to the survey item on this issue of the investigative team approach indicate that rather than a multi-disciplinary team, they use a "within the department team" to investigate crimes against children, which consists of officers from various departmental units, such as the juvenile, patrol, and detective/investigative division. An additional 17 percent (63) report the use of interagency agreements with other law enforcement agencies to manage child victim cases, and only 5 percent (19) of the 363 departments responding to this survey item state that they participate in an interagency task force, which in all probability functions more as a community education or planning body rather than as a case specific investigative team.

A much more positive, but somewhat ambiguous, response to the interagency team approach was expressed by the State's district attorneys. The literature emphasizes the importance of the direct and early involvement of the district attorney in the team investigative process, with some experts advocating the presence of a representative from this office at the initial interview conducted by law enforcement and child protective services. On the basis of survey results, it appears that the interagency team approach has been implemented in one form or another in the majority of all sized district attorney's offices across New York State. Approximately 88 percent (43) of the agencies responding to a survey item on this issue indicate the use of interagency teams in child abuse investigations. While more specific

information as to how this team actually functions -- who convenes it, when, what it actually does -- was not available from the survey results, certain inferences from these findings are possible. It appears that district attorneys generally are not present during the investigative interview conducted by police agencies and child protective services, as only 9 percent of police and sheriffs' departments report their direct involvement at this level of the investigation process. Given that 76 percent of the district attorneys state they conduct joint interviews of the child victim with other agencies, it seems that the interagency approach is utilized by prosecutors at a later point in time or for case preparation purposes. In light of the previous finding, these other agencies are, in all likelihood, non-law enforcement or service providing agencies, especially child protective services, medical and mental health organizations or rape crises groups.

Recommendations:

Cooperation by Police and Sheriffs' Departments with Child Protective Services to Develop and Implement the Multi-Disciplinary Team Approach

Law enforcement agencies should ensure that the local child protective services units in their jurisdictions have a clear understanding of the law relating to this issue of the multi-disciplinary investigative approach. On the basis of the language of the law and recommended practice in the child victimization area, the multi-disciplinary approach generally involves the use by law enforcement and social services of the joint interview process during child abuse investigations.

Law enforcement should establish, in collaboration with local child protective services units, protocols which direct the use of multi-disciplinary teams in child abuse investigations, when appropriate, and which

specify the roles and responsibilities of all participants in this process. In smaller sized departments, an officer should be designated as the liaison with child protective services for the purpose of participation on the interagency team.

For incidents which entail the victimization of a child by a non-familial member and, as a result, would not involve the participation of child protective services, departments should make arrangements with other victim services agencies in the community, such as medical facility counselors, rape crises or domestic violence centers, to provide necessary assistance in implementing a multi-disciplinary approach to the investigation and disposition of these cases.

The Role of the District Attorney for the Multi-Disciplinary Team -- Consultation and Coordination

While it is generally not recommended by DCJS that the district attorney's office be present at the initial investigative interview of the child victim given personnel limitations, legal implications and the possibly adverse impact on the child of having too many adults involved in early questioning, a representative of the district attorney's office should be available to the law enforcement/child protective investigative team for consultation and advisory purposes with respect to legal procedures regarding child abuse.

It is further recommended that the district attorney act to facilitate and coordinate law enforcement's involvement with child protective services. To facilitate this involvement, the district attorney should initiate, if necessary, and take an active role in a community-wide interagency task force on abuse and maltreatment. The district attorney's office also should act to coordinate law enforcement's interaction with child protective services through

the exercise of leadership in implementing policy and procedures which assure the use of a multi-disciplinary team approach in child victimization investigations and which provide clear definitions of the appropriate roles of each agency in this investigative process.

**B. PERSONNEL RESOURCES FOR RESPONDING TO CRIMES COMMITTED AGAINST CHILDREN --
DEGREE OF SPECIALIZATION AND BASIC COVERAGE**

Findings:

The Nature and Extent of Specialization in New York State Law Enforcement Agencies

Experts in the child victimization and domestic violence fields stress the importance of law enforcement agencies developing a specialized response capability within their organizations to deal with crimes committed against children. In police agencies, it is suggested that this response be in the form of a specialized unit, if resources and demand are great enough to sustain such a personnel commitment. Where they are not, or in smaller police and sheriffs' departments, it is recommended that an individual officer be designated and specially trained in the handling of child victimization offenses. Similar response capabilities also are suggested for district attorneys offices, where the concept of vertical prosecution has become widely accepted as the preferred intervention strategy in both domestic violence and child abuse cases.

DCJS survey findings reveal that the degree to which specialized units have been established in police and sheriffs' departments is size-related. Generally, specialists are available only in larger departments, where they typically function through detective/investigative or juvenile units to handle child victimization cases. In addition, from the descriptions provided by

respondents, it appears that in larger departments, cases involving child victims tend to be distributed among various units according to the type and seriousness of the crime involved, as well as the age of the child.

The use of individual specialized officers who do not comprise a discrete child victimization unit are reported by only 7 percent (25) of all departments responding to the DCJS survey. This response is most prevalent among the small and micro departments, and, therefore, indicates at least a degree of the recommended size-appropriate specialization for these agencies. As an alternative to this form of size-appropriate specialization, it is apparent from comments made by respondents that smaller-sized departments in New York State typically make use of the resources available in county or State law enforcement agencies to conduct follow-up investigations into offenses involving children.

In contrast to the rather limited degree of specialization found in police and sheriffs' departments, the majority of district attorneys who responded to the DCJS survey (58 percent or 29 offices) indicate the use of a specialist or special unit to process child victimization cases, although it is not clear from survey results whether this specialization is at the investigative level of the prosecution process or at the case preparation level. The tendency toward specialization is much more common among larger offices. All of the responding macro and large offices and 90 percent of the medium offices report the use of specialists or specialized units in this area, as compared to 41.2 percent (7) of the small offices and 23.1 percent (3) of the responding micro offices. It should be noted that DCJS is currently supporting seven enhanced child abuse prosecution programs across the State with funds provided through the Federal Justice Assistance Act.

Basic Coverage in Police and Sheriffs' Departments for Handling Child Victim Cases

Personnel resources for an around-the-clock response to child victimizations are available in virtually all police and sheriffs' departments in New York State, although the smallest agencies in the State typically defer to county or State law enforcement resources to obtain this 24-hour coverage. For most departments, this coverage is achieved through the use of routine patrol, with a minority of departments (16.5 percent) indicating that specialized units are available for response 24-hours a day or that the department relies on both routine patrol and special units to provide around-the-clock coverage. The nature of the coverage employed by departments is size-related: coverage through routine patrol is most prevalent in smaller agencies and the use of both specialized units and routine patrol specialists is more typical of larger departments.

Recommendations:

Integration of Specialized Units Into Police and Sheriffs' Department Operations

Departments should continue to develop their capabilities for a specialized response to crimes involving children. While it appears that larger departments have developed and incorporated into their operations a specialized unit response to child victimization, these departments are cautioned about the proliferation or the more likely exclusionary use of these units to deal with incidents involving children. While a number of criteria may be appropriate for distinguishing for investigation purposes some types of cases from others (e.g., where the offender is another juvenile), there are, in fact, other characteristics which may not be and which may deflect the focus of

the unit from the child's needs (e.g., intrafamilial sexual offenses vs. those committed by strangers). Where it is necessary for operational purposes to distribute child victim cases to multiple units throughout the agency, departments are advised to develop administrative procedures and mechanisms whereby case and service information can be easily shared between units.

Increasing the Use of Size-Appropriate Specialization in Police and Sheriffs' Departments

For smaller sized agencies without the need for a discrete unit, it is recommended that individuals be designated and trained as specialists in the child victimization area. These specialists should act as the department's liaison with those county or State law enforcement agencies relied upon for investigative purposes.

C. SPECIAL AND MULTI-DISCIPLINARY POLICY AND PROCEDURES FOR RESPONDING TO CRIMES AGAINST CHILDREN

Findings:

The Nature and Extent of Policy and Procedure Development by Police and Sheriffs' Departments

In addition to specialized units or personnel, the literature also emphasizes the necessity for law enforcement to develop policy and procedures for directing official intervention into child abuse cases. It is suggested that these guidelines incorporate procedures which reflect a sensitivity to the needs of the child victim and witness, and that they promote a multi-disciplinary response strategy for cases involving child victims.

While survey results indicate that police and sheriffs' departments in New York State have developed written policy and procedures for dealing with child victimization cases, the existence of these guidelines varies across the State

according to the size of the law enforcement agency. In addition, analyses reveal that those procedures developed by departments are tailored, for the most part, to specific types of crimes committed against children. Written guidelines are more prevalent for those offenses less frequently handled by departments, such as cases of neglect and sexual crimes committed against children, or where police activity entails involvement with the State, such as in missing children cases. In contrast, only 28.2 percent (42) of responding agencies indicate the development of written policy in the physical abuse area, where the need for additional child-centered standards does not appear to be felt by departments, given the long-established response repertoire of police agencies for dealing with crimes of assault. In addition, the survey revealed that the least amount of policy development regardless of department size is in the handling of crimes committed against children on school grounds and buses. It also appears that while departments have initiated the development of written policy and procedures to direct the involvement of other law enforcement and non-law enforcement agencies in child victimization cases, they have not extensively done so.

Multi-Disciplinary Procedures for the Investigation and Prosecution of Child Victimization Cases

The study also sought information relating to the nature of multi-disciplinary procedures or the extent of interagency cooperation experienced by law enforcement in the investigation and prosecution of crimes committed against children. On the basis of survey findings, it appears that for police and sheriffs' departments interagency cooperation in the investigation of these offenses is size-related. The larger the police or sheriff's department, the more frequent is the reported contact with service and other law enforcement

agencies during investigations of child abuse cases. The only exception to this finding occurred with the category "other police or sheriffs' departments," where the relatively high rating received from the smaller-sized agencies was considered to be indicative of the referral of cases for investigation from these departments to the greater resource-equipped county law enforcement agencies or the State Police.

Upon analyses, two levels of interagency cooperation were found to exist among police agencies in the State, one of which distinguished larger departments from smaller sized agencies. Generally, for all sized departments the frequency of cooperation is greatest (or in the usually-occasionally range) for social services, district attorneys' offices and other law enforcement agencies. While these agencies appear to constitute the core of the network of organizations which respond to child victimizations throughout communities in New York State, survey analyses revealed that the types of agencies and organizations comprising a larger or "extended" network is size-related and generally dependent on the distribution or availability of resources in a particular community, such as domestic violence task forces, rape crisis centers or shelters and group homes.

District attorneys also were asked to indicate the extent of their contact with a variety of service and law enforcement agencies in investigating crimes against children. As expected, the greatest number and range of contacts reported by respondents are with police or sheriffs' departments. Also, of all the agencies ranked by prosecutors, police or sheriffs' departments are the only agencies with which no one reported never having contact. Sixty-four (64) percent (32) of the respondents indicate they always have contact with law enforcement on these matters and 26 percent (13) note usual contact. For the

most part, little variation in terms of size was found, with different sized agencies reporting the extent of contact with law enforcement being in the "usual" or "always" range. A similar pattern of responses was seen with respect to the relationship with social services: the majority (84 percent or 42) of district attorneys across different sized agencies indicate that this contact was "usual" or "always." Overall, the pattern of contacts with the remaining agencies ranked by district attorneys, including hospitals, schools, victim assistance organizations, mental health agencies and the New York State Crime Victims Board, was one of steadily decreasing frequency across all sized offices.

Limitations on Interagency Cooperation Reported by Police and Sheriffs' Departments

The survey also assessed the quality of reported interagency arrangements by asking police and sheriffs' departments to indicate the frequency with which they experienced a lack of cooperation from various service and other law enforcement agencies. Overall, the responses are very encouraging in that they reveal a generally low problem rating for all agencies assessed by departments. However, as with frequency of interaction, the frequency of reported problems relating to cooperation tends to be greater in larger departments than smaller police agencies. An exception to this finding is the degree of cooperation experienced with other criminal justice agencies. For these agencies, police and sheriffs' departments report significantly fewer problems than is the case with other organizations regardless of department size.

Most agencies assessed by departments received a rating in the "seldom" range and the few that did not, such as hospitals, schools, and shelters and

group homes, approached, but did not fall within the "occasional" problem rating range. A content analysis of comments provided by departments revealed the following as typical complaints for each of these organizations. For medical organizations, the most common problems mentioned include the reluctance of medical personnel to report incidents to the police, to participate in proper evidence gathering procedures or to give testimony at hearings. Comments regarding the relationship of departments to school districts centered primarily on problems relating to the reluctance of education personnel to report incidents to the police and the notification of parents by school officials that they may be under investigation for an incident of abuse and maltreatment by law enforcement agencies. For group homes and shelters, departments cited the advocacy role served by these organizations on behalf of residents as sometimes conflicting with police investigations into child victimizations.

While social services or child protective services generally received a fairly low problem rating by police and sheriffs' departments ranging from "no problems encountered" to "seldom experience problems," a substantial number of comments were made by departments about troublesome areas of interaction with these agencies. For the most part, these comments emphasized the following issues: complaints about the State Child Abuse and Maltreatment hotline system, especially with respect to the time involved in accessing the hotline or receiving return calls from hotline personnel; the lack of information-sharing by child protective services during the law enforcement investigative process; jurisdictional or turf conflicts between social services and law enforcement agencies which hinder reciprocal reporting and joint investigations into cases; lack of confidence or trust by social services in the criminal

justice process; and lack of feedback to police agencies by child protective services on the disposition of cases referred for protective proceedings and action.

Recommendations:

Operational Areas Requiring the Development of Policy and Procedures by Police and Sheriffs' Departments

Departments should continue the process of policy and procedure development in the child victimization area. Attention should be placed on formulating child-specific procedures for the more frequently handled crimes, such as assault, as the range of existing investigative practices may not necessarily address the needs of the child victim. Emphasis also should be placed by local authorities on developing operational guidelines for the handling of school-related crimes, given the reported extent of these offenses and the degree of cooperation necessary with educational personnel and the school district to investigate, reduce and prevent them.

Where appropriate, policy and procedures developed by departments should include, but not be limited to, provisions for the following: notification procedures for reporting the case to child protective services and the district attorney's office; arrangements with medical care facilities to examine and treat the victim; the implementation of a multi-disciplinary response capability for these offenses which specifies the roles and responsibilities of all parties involved in the team approach to child victimization; arrangements with other State and county law enforcement agencies relied upon for follow-up investigative purposes which include provisions for the involvement of child protective services, where appropriate, and other victim assistance service groups in non-familial abuse cases; investigatory practices for handling crimes

against children, including special evidence gathering techniques and interview procedures for the child victim and other family members; and arrangements for providing the victim with community service and treatment referral information.

DCJS should encourage and facilitate departmental activity in this area by developing and including in its New York State Law Enforcement Accreditation Program those standards deemed necessary which require policy and procedure development for responding to crimes committed against children. To promote compliance with these standards, the Bureau for Municipal Police should ensure that technical assistance is provided to departments through the Law Enforcement Accreditation Program.

Coordinating the Development of Policy and Procedures with Service-Providing Agencies to Clarify Respective Roles and Responsibilities

The development of written policy and procedures should be accomplished, where appropriate, through collaboration with protective and other service-providing agencies in the community, both to enlist their expertise in the formulation of these standards and to increase their awareness and confidence about police operations in the child victimization area. This collaboration is especially called for when specifying in writing the roles and responsibilities of non-law enforcement agencies in the disposition of child victimization cases. At present, the Department of Social Services Administrative Directive 83 ADM-70 requires each local child protective services unit to develop written procedures to guide their involvement with the police and district attorney on child abuse and maltreatment matters. While information about the extent and quality of these procedures was not available to DCJS through this survey and law enforcement needs with respect to child protective services will often go beyond abuse and maltreatment cases, it is suggested that both parties would

benefit from collaboration on the development of policy and procedures in the child victimization area.

Inclusion of Health Professional Liaisons on Multi-Disciplinary Investigative Teams

Health professionals should be included as liaisons to multi-disciplinary investigative teams. This is not only necessary for the expertise these professionals bring to certain abuse and maltreatment investigations, but is also recommended as a means by which to facilitate improved interactions with the larger medical community. It is apparent that a number of the problems experienced with health professionals are related to concerns about liability issues and ideological differences with respect to the roles and responsibilities of these professionals in abuse and maltreatment investigations. Medical team members should participate in policy and procedure development with law enforcement and child protective services and should coordinate the communication of these guidelines to other health professionals. They also should act as the team's representative in educating the medical community about liability concerns and the importance of these professionals' cooperation for detecting and substantiating incidents of abuse and maltreatment.

Required Medical Personnel Cooperation in Processing Cases of Child Abuse

Given the importance of timely and thorough medical involvement in the investigation and disposition of cases of suspected abuse and maltreatment and the problems voiced by law enforcement about the nature of this involvement, it is recommended that the Legislature statutorily require all necessary cooperation by these mandated reporters with law enforcement and child

protective services and establish penalties for the failure to do so which are commensurate to those presently authorized for the willful failure to report a case of suspected abuse or maltreatment.

Expansion of the State Central Register Reporting Mandate for Health Professionals

The cases which health professionals are required to report to the State Central Register should be expanded beyond those which constitute abuse or maltreatment, as defined by Social Services Law, to include any injury or condition requiring medical attention and treatment which the physician reasonably believes has been non-accidentally inflicted on or caused a child. This would include those cases which involve allegations against a person not legally responsible for the child or those for which doubt as to the identity of the perpetrator exists. Although these cases may lie outside the jurisdiction of child protective services, the law enforcement referral process recently instituted by the SCR could be used to forward this information to the law enforcement agency of jurisdiction for investigation.

The format for this statutory requirement on health professionals should parallel that which currently exists in Penal Law, Section 265.25 for the mandated reporting of injuries caused by the discharge of a firearm or the use of a sharp instrument, and should include similar penalties for the failure to report these child victimization incidents to the appropriate authorities.

Establishment of Separate Telephone Line at the State Central Register for Mandated Reporters

To address complaints about timely access to the hotline and to encourage more complete reporting by mandated reporters, the Department of Social

Services should establish a separate toll-free telephone line at the State Central Register for the receipt of calls from individuals required by law to report suspicions of abuse or maltreatment, such as law enforcement, medical and education personnel. While it may not be necessary to operate this line on a 24-hour basis, the SCR should conduct an analysis of the patterns of usage of the hotline to determine those hours of the day or night when the volume of calls is such as to preclude timely access by mandated reporters. For those time when the separate line would not be in service, calls received on this line could be redirected to the main toll-free number for handling by hotline personnel.

Providing for Child Protective Services Feedback to Law Enforcement of Case Dispositions

Chapter 718 of the Laws of 1986 was intended to address a common complaint of law enforcement agencies involved in the reporting of abuse and maltreatment allegations, and that is the inability to obtain follow-up information on the disposition of cases referred to child protective services for investigation. According to this legislation, a person or official required to make a report of suspected abuse and maltreatment may request, at the time of making the report or any time thereafter, the findings of the investigation conducted by child protective services. On the basis of comments made on this survey, it appears that knowledge about this change in the law may be limited or that the procedures developed for implementing it may be problematic. It is recommended that law enforcement agencies incorporate into their departmental State Central Register reporting procedures the explicit request for feedback as to the disposition of alleged incidents referred to child protection. In addition to addressing the officer's concern about case-specific follow-up actions, this

information can also be used by departments as a means by which to assess law enforcement investigatory activity and needs in the child victimization area.

D. POLICE AND SHERIFFS' DEPARTMENTS REPORTS AND RECORD KEEPING

Findings:

Inherent Limitations of Record Keeping on Child Victim Crimes

Child victimization data in New York State is inadequate to provide a full description of the nature and extent of crimes committed against children. Accurate measurement of these crimes is made difficult by the format of the data collection instruments themselves; the often overlapping responsibility for child victimization cases between social services and law enforcement agencies; and the process by which information is gathered and maintained by police and sheriffs' departments in the State.

Detailed data on specific crimes against children was provided by a minority of police/sheriffs' departments in response to this survey. Only 28.4 percent (104) of responding departments indicate that they maintain statistical records concerning crimes against children, with the reporting of such record keeping ranging from 18.4 percent in the micro departments to 50 percent in the macro departments. In comments provided on the survey, many departments stated that this lack of data is due to the fact that information about victims' ages generally is not recorded so that it is not possible to distinguish for statistical purposes crimes committed against children from those involving adult victims. Observations made by respondents also indicate that difficulties in providing accurate incident data on child victimization cases are caused by the sealing of juvenile records and the involvement of child protective services in these cases at both intake, where reciprocal

reporting to the police is said to be problematic, and in the referral of cases to social services for investigation. The following comment is illustrative of these latter problems and how they impact on police statistics being able to accurately reflect the extent of child victimization in this State:

In child abuse cases [Child Protective Services] is contacted and they often take over the case taking it out of the hands of the police department. Also, criminal cases that are reported to [CPS] I feel are handled...in numerous cases without any contact with police agencies. This creates a false illusion that the police, or the area according to the police report have few child abuse cases, but if you check with [CPS], I believe this is where you find most of the reports.

Pursuant to Chapter 717 of the Laws of 1986, the State Central Register is required to refer all reports which are outside of the jurisdiction of the Department of Social Services to law enforcement agencies for investigation. Accordingly, the SCR has instituted as of November 1986 a regional law enforcement referral process. For all counties outside of the greater New York City metropolitan area, reports which constitute crimes against children are forwarded to the State Police for distribution to the appropriate agency with jurisdiction. In the New York City metropolitan region, allegations are referred through the Manhattan Sex Crimes Unit.

Although the literature suggests that runaways are often victimized and sexually exploited while out of the home, there is currently little information available at the local or State level about the nature or extent of this victimization. At the department level, the survey revealed that a procedural shortcoming with respect to the gathering of information contributes to the lack of data. Only half of the departments surveyed indicate that runaways are routinely interviewed upon recovery about the nature of victimizations experienced while out of the home.

Limitations in statewide information are due to a data collection system on missing children which captures limited descriptive material about individual cases. In February 1987, DCJS, working in conjunction with the New York State Police, enhanced the Missing Children Register of the State by introducing a tracking system for children in the database. As a part of this effort, mechanisms were developed to capture information regarding the situation of the child (i.e., disabled, endangered, disaster victim or involuntary); the "circumstances" of the disappearance (i.e., lost, runaway, familial abduction, acquaintance abduction, stranger abduction or circumstances unknown), and a more descriptive reason for cancellation of the case by law enforcement (i.e., voluntarily returned home, recovered deceased, recovered but not arrested nor victim of exploitation, etc.).

Recommendations:

Implementation of Uniform Crime Reporting System Redesign Project

That law enforcement agencies do not collect data on crimes involving children does not represent a conscious decision to exclude such information from departmental record keeping, but rather results from the lack of systematic data collection for the victims of crime in general. This scarcity of victimization data in New York State will be addressed through the implementation of the redesigned incident-based Uniform Crime Reporting System. With this system, incidents involving child victims will be identified clearly and, as a result, more accurate counts of these cases will be possible. In addition, the redesigned system's ability to link incidents with case outcomes presents the potential for future evaluation of the effectiveness of law enforcement's response to crimes committed against children.

Use of the Law Enforcement Referral Process to Create Child Victimization Database

The Uniform Crime Reporting System Redesign Project is still in its initial implementation stage and is not expected to be fully operational throughout the State for about five years. However, a mechanism by which to collect child specific crime victimization data is currently available to departments through the law enforcement referral process instituted by the Department of Social Services. While this information comprises only those reports of criminal victimization received by the State Central Register, it is suggested that departments use the opportunity and format presented by the effort to compile department-wide child victimization data and create an inclusive database of crimes committed against children.

Improving Data Collection and Analyses Capabilities for Missing and Exploited Children Cases

The DCJS Missing and Exploited Children Clearinghouse should extend the enhanced data collection efforts of the Missing Children Register to establish and analyze a case database of non-identifying facts and statistics relative to missing and exploited children for the purpose of assisting the State's law enforcement agencies in their investigations of these cases. To provide the State with the necessary information for this important data collection and analysis effort and to improve their own investigative capabilities in the missing children area, local law enforcement agencies should develop and implement procedures whereby apprehended runaways are routinely and systematically questioned about any criminal victimization experienced prior to their recovery.

E. SPECIALIZED LAW ENFORCEMENT TRAINING IN THE CHILD VICTIMIZATION AREA

Findings:

Specialized Training for Supervisory Personnel and Patrol Officers

While it appears that many law enforcement officers receive some type of training in the handling of crimes committed against children, a substantial proportion of officers in the State do not. In fact, nearly a third (115) of the departments responding to a question on the extensiveness of training indicate that no one in their department has received special training in the child victimization area. In general, however, it appears that about half of the staff in the majority of police/sheriffs departments in the State have received some kind of training in this area. This was particularly the case with respect to supervisory and patrol training.

Thirteen percent (37) of responding departments stated that "all" supervisors had received specialized child victimization training and 35 percent (103) said that "some" supervisors are now receiving such training. For patrol officer training, only 8 percent (22) report that all officers have received special training, with 40 percent (48) indicating that at least some personnel have received or are now receiving training. With the exception of macro departments, which generally reported substantially more extensive training for all levels of personnel surveyed, there was, for the most part, more consistency than expected across different sized departments about staff trained in the child victimization area.

Training Methods Utilized by Police and Sheriffs' Departments

In-service training was the most frequently reported training method used by departments, followed by the use of bulletins, brochures and other literature. On the basis of descriptive comments provided by respondents, the content of specialized in-service training was said to stress interrogation and interview techniques for both suspect and victim, aids to recognizing signs of child abuse and maltreatment and procedures for networking with child protective services during the investigative process.

Sponsorship of Police and Sheriff Training Programs

Sponsorship of training programs was attributed by respondents to the following sources: the Bureau for Municipal Police (which accounted for 56 percent of the responses); police departments themselves (nearly 50 percent of the responses); and the State Police, Federal agencies, social services and other law enforcement agencies (21 percent, 17 percent, 39 percent and 37 percent of the department responses, respectively).

The Nature and Extent of Training Reported by District Attorneys

District attorneys who reported the use of child victimization units or personnel in their offices also were asked to indicate the types of training these individuals had received to better process these cases. While nearly all of the respondents report that training has been received in the areas of sexual abuse investigation and interview techniques for the child victim and witness, variation between different sized agencies was found to exist in the remaining training areas rated, including recognizing behavioral indicators of abuse, specialized legal training, detecting signs of physical abuse, the use

of anatomically correct dolls, and forensic evidence. The general pattern was as expected: as size of office increased, so too did reported training.

Recommendations:

Enhancement of Basic Training for Police Officers

The Municipal Police Training Council should act through the Bureau for Municipal Police to enhance and update the coverage allotted to child victimization in its Basic Course for Police Officers. Currently, this coverage is limited to two hours of an 18 hour domestic violence component in the course curriculum. While adequately addressing the etiology and physical and behavioral indicators of abuse and the legal and moral responsibilities of the police officer in handling these cases, little attention is placed on clarifying the roles and responsibilities of non-law enforcement agencies. More importantly, the course predates and, therefore, does not reference the procedures specified in Chapter 263 of the Laws of 1986 for implementing a streamlined, multi-disciplinary approach to the investigation of crimes committed against children.

Enhanced Interdisciplinary Training for Patrol Officers

The training provided to patrol officers should be improved, given the reliance placed on these officers for responding to child victim cases. Accordingly, it is recommended that the Municipal Police Training Council, through the Bureau for Municipal Police, develop, institute and certify, in cooperation with the Department of Social Services, the Governor's Commission on Domestic Violence and the State Police, specialized in-service training programs in the child victimization area. This training should be regionally

based and emphasize strategies for initiating and implementing a variety of multi-disciplinary, "specialist" approaches to the investigation of child victim cases. It is further recommended that all in-service training programs be attended and delivered in an interdisciplinary fashion, with participation and instruction provided by representatives from both law enforcement and the local child protective services unit serving the community. In particular, the district attorney should be involved in the training so as to assure the relevance of the program to local community needs and as a means by which to coordinate the practices of law enforcement agencies in the area. It is also important that these training programs be offered on a relatively frequent basis to account for the attrition and mobility of child protective and law enforcement personnel.

F. SPECIAL INVESTIGATORY METHODS FOR HANDLING CHILD VICTIMIZATION CASES

Findings:

The Nature and Extent of Special Investigatory Practices in Police and Sheriffs' Departments

Even on the basis of a limited review of the literature, it is evident that there is increasing support in this country for the greater involvement of criminal justice agencies in the disposition of child victimization cases. This change in approach to the handling of what traditionally have been viewed as family, rather than criminal, problems is consistent with the more authoritative procedures seen in law enforcement's response to incidents of domestic violence, in general. While the best interests and protection of the child victim remain paramount in intervention, it is becoming increasingly acknowledged that these interests are not necessarily addressed nor is the child protected from further harm by the avoidance of justice system

involvement and prosecution, in particular. Furthermore, there is greater acceptance of the belief, among law enforcement and service-providing professionals alike, that the prevention or deterrence of crimes committed against children can often best be effectuated through recourse to criminal prosecution. Accordingly, law enforcement has developed and implemented special investigative and prosecutorial practices for dealing with child victims, both to protect these children during their involvement with the adult justice system and to ensure that they and their families participate in this process through adjudication.

For the most part, the number and variety of special investigatory practices reported by police and sheriffs' departments in New York State is very encouraging. While the employment of the majority of these practices was found to be size-related, smaller agencies generally make a respectable showing, given resources and needs, for both the nature and extent of special methods reported. The most frequently indicated practices are those which are intended to streamline and lessen the trauma of the investigatory process on the child victim. For example, nearly 70 percent of all departments report the use of procedures which reduce the number of interviews conducted with the child and 61 percent indicate that a special setting is employed in their departments to interview child victims. A variety of special interview procedures also are reported by close to the majority of departments.

Two findings of particular interest were the low reported use of electronic equipment to videotape a child's statements and the lack of special evidence gathering techniques. The use of a child's videotaped statement has been highlighted in the literature as a means by which to streamline the interview process for the child victim and as an important evidentiary tool

which increases the likelihood of confessions and guilty pleas by the offender. Only 20 percent (54) of New York's law enforcement agencies report the use of this practice during the investigative process, however. While a definitive interpretation or explanation for this finding is not possible on the basis of survey results, limited inferences can be drawn from the comments provided by departments on the issue. From these comments, it seems that departments have restricted their reliance on this practice because of the inability to use these statements during trial in lieu of direct testimony or the statutory limitation on videotaped statements to grand jury proceedings. The low use of the practice also could be accounted for by the attrition of these cases from the criminal justice process or the low rate at which they reach grand jury level of that process.

The importance of developing special evidence gathering techniques in child victim cases has been stressed given the legal limitations (e.g., procedural requirements for establishing the testimonial capacity of a child under 12) and unique difficulties often presented by these cases (e.g., their private nature and the impact of the victim/offender relationship). While some of these problems may, in fact, be unavoidable, it appears that a larger number of them might be addressed through increased training and knowledge about legal requirements relating to the quality and sufficiency of evidence necessary for successful prosecutions. The finding that training generally was not related to the scope of investigatory practices employed by departments may be an indication that current training practices are not focused specifically enough on these procedural issues involved in investigations. The lack of extensive special policy and procedure development by departments, especially in the area of child physical abuse, also highlights this need for greater

emphasis on developing special evidence gathering techniques for investigating crimes committed against children.

Resource and Legal Limitations to Police and Sheriffs' Departments Investigations of Crimes Against Children

The majority of police and sheriffs' departments surveyed by DCJS indicate that the translation of theory into practice has not been problem-free. The most prevalent problem reportedly faced by departments in dealing with child victimization cases is the lack of personnel, followed by lack of training and financial resources. Financial problems and limitations in personnel seem to be more strongly experienced by the two extreme size categories (i.e., micro and macro departments), whereas the lack of training appears as a smaller sized agency phenomenon. With few exceptions, the remaining problems identified by departments, including jurisdictional problems among law enforcement agencies, restricted access to records (especially those records maintained by child protective services), bureaucratic delays in obtaining records, and the attitude that child abuse is a family rather than criminal problem, appear to be positively associated with the size of the agency -- as size increases, so too does the reporting of these limitations.

Only 21.6 percent (75) of the respondents reported legal constraints on their investigatory activity, with large and macro departments greatly overrepresented in this number. While over a third of these respondents cite the holding of a particular case for its adverse impact on police practices (People v. Rogers, 48 NY2d 167), departments also state that the following are particularly limiting on law enforcement investigatory activity: corroboration requirements; qualifying child witnesses; social services regulations which require prompt notification of persons suspected of abuse and maltreatment and

those governing the confidentiality and eventual expungement of information maintained by social services; statute of limitations provisions; education law restrictions on the ability of the police to interview a child without the parent's knowledge, even in cases where the parent is a suspect; the limitations of assault statutes; and the noncompliance by medical personnel with the law governing mandatory reporting of suspected abuse and maltreatment.

Innovations and Limitations in the Prosecution of Crimes Against Children

The DCJS survey instrument included a number of items designed to assess the degree to which procedural innovations have been implemented in this State for the prosecution of crimes involving child victims. Two areas of activity were examined, in particular. The first dealt with the specific issue of the use of electronic devices during the investigation and adjudication of these offenses, and, the second addressed the much wider range of investigatory practices employed by prosecutors to streamline the disposition of cases with child victims.

With respect to the first area of activity, district attorneys report that they never or, at best, very infrequently use closed circuit television to obtain the testimony of child witnesses pursuant to Article 65 of Criminal Procedure Law. District attorneys who never use this device are associated with the smallest offices in the State, with infrequent use (at most five times) reported by larger offices. The use of videotaped statements for introduction at grand jury proceedings, while showing more variation across different sized offices, also appears to be relatively infrequently used by district attorneys in this State. While few substantive comments were provided by prosecutors to account for their low use of electronic devices with child

victims, it seems that the acceptance of these practices may be limited by concerns about their constitutional implications (or more specifically, a defendant's sixth amendment right to confront his accuser), their impact on proceedings and the jury in particular, and the value which live testimony by the child is thought to have on obtaining convictions.

These findings with respect to the use of electronic devices are in marked contrast to those which were obtained for alternative investigatory practices. In fact, the majority of district attorneys report the use of the following investigative procedures in cases involving child victims: utilization of interagency team for investigation; use of anatomically correct dolls; supportive person (advocate) present during most proceedings; special pre-trial preparation techniques; interviews conducted jointly with other agencies; special agreement with media that victims' names not be released; and use/provision of drawing materials.

Five distinct types of problem areas are cited by district attorneys as limiting their investigations into child victimization cases. These include resource limitations; legal and evidentiary issues; interagency problems; problems with parents; and other non-legal problems. By far, the majority of problems are said to be related to legal and evidentiary issues. The inability of victims of ongoing abuse to name specific dates and times of incidents as required by law is reported by 91.7 percent (44) of the offices. Problems with corroborative evidence is indicated by 77.1 percent (37) of the district attorneys, and 72.4 percent (35) state that the lack of hearsay exceptions for children limit the successful prosecution of these cases.

Recommendations:

Legislative Proposals to Strengthen the District Attorney's Ability to Prosecute Crimes Against Children

As stated earlier, there is increasing support for modifying and enhancing the approach and involvement of criminal justice agencies in child victimization cases, both for immediate child protection purposes and to better detect and prevent the occurrence of these offenses. However, the constraints to investigation and prosecution just delineated are significant obstacles to law enforcement's ability to successfully and forcefully respond to crimes committed against children. A number of these problems relate to the legal and evidentiary issues presented by child victim cases, and others are explained by the shared jurisdiction for these cases by law enforcement and social services.

Addressing the Law's Requirement for Specificity -- Expansion of the Definition of Sexual Abuse to Apply to a "Course of Sexual Conduct." With respect to legal and evidentiary issues, DCJS supports several legislative proposals which are intended to strengthen the district attorney's ability to effectively prosecute crimes committed against children. As stated above, 91.7 percent of the State's district attorneys identified the law's requirement for specificity as to the times and dates of incidents as a limitation on their ability to prosecute crimes against children. To address this constraint, DCJS supports the reintroduction of a bill formulated by the New York State District Attorneys' Association for the 1987 legislative session. This bill (S.5915/A.8017) amends the Penal Law by expanding the definition of sexual abuse and aggravated sexual abuse to apply to a "course of sexual conduct" with a child under 11 years of age. A "course of sexual conduct" is defined as "more than one act of sexual intercourse, deviate sexual intercourse or sexual

contact with the same victim." This expanded definition is described by the association as the linchpin of the proposal, as it reflects what is, in many cases, the actual nature of sexual abuse committed by family members or other adult acquaintances. This abuse typically does not take the form of an isolated act on a single occasion, but rather may include a variety of acts committed against the child over an extended period of time. Two new felonies for persons who engage in a course of sexual conduct are established by the bill. A subdivision to sexual abuse in the first degree is added and a class D felony is created for acts of sexual conduct which involve sexual contact. A class B felony is established with the addition of a new subdivision to the crime of aggravated sexual abuse and consists of a course of sexual conduct which includes one or more acts of sexual intercourse or deviate sexual intercourse.

In its statement of support for this proposal, the District Attorneys' Association discussed how the repeated and extended nature of sexual abuse and immaturity of child makes it difficult, if not impossible, for the victim to relate precisely which act or combination of acts occurred on which date or dates. It is observed that under current law this poses a serious obstacle to the felony prosecution of cases involving children who have been repeatedly sexually abused over a long period of time, and that, in these cases, prosecutors often only have recourse to the much lesser and far from commensurate charge of endangering the welfare of a child.²

Addressing Limitations in the State's Assault Statute -- Inclusion of Battered Child Syndrome as a "Serious Physical Injury" and Expansion of the "Deadly Weapon or Dangerous Instrument Subdivision." DCJS also supports the reintroduction of two components of another legislative proposal developed by

the District Attorneys' Association for the 1987 legislative session. The first of these involves the amendment of the Penal Law's definition of "serious physical injury" to include those significant injuries normally indicative of the battered child syndrome, such as "subdural hematomas, deep-body trauma to the liver, kidneys or other vital organs, human bite marks, an unusual amount of abrasions, lacerations, bruises or other soft tissue injury, subconjunctival injury, second degree or third degree burns or scalds, combinations of fractures, dislocations or other multiple skeletal injuries or neurological signs of intracranial damage."

The second component of this bill consists of language which expands the deadly weapon or dangerous instrument subdivision of Section 120.10 of the Penal Law to include "any means likely under the circumstances of the case, to result in serious physical injury." In its statement of support for this bill, which as originally drafted was intended to upgrade the classification of certain assaults, the District Attorneys' Association noted that under current law many parents who seriously and consistently physically abuse their children are often only charged with a misdemeanor because the abuse does not fall within the statutory definition for "serious physical injury."³ This definition requires that the "injury create a substantial risk of death or cause protracted disfigurement, protracted impairment of health or protracted loss of impairment of the function of any bodily organ."

A child victim of a severe beating who receives timely, sufficient medical care and, as a result, recovers quickly without permanent scarring or impairment, in all likelihood, will not be covered by this definition, regardless of findings establishing a pattern of abuse or the greater vulnerability of the victim to injury as a result of age. The greater

vulnerability of the child victim is also the rationale for the revision suggested for the law's language about deadly or dangerous weapons, which are considered aggravating factors in the commission of assault. The bill is intended to provide for the victim who is particularly weak and vulnerable, such as a child, and, as a result, can be grievously injured by means (e.g., beating with the fists) which would not be likely to cause grievous injury to most other victims.

Addressing Limitations in the State's Assault Statute for Less Serious Crimes of Assault Against Children. The inclusion of those injuries typically indicative of the battered child syndrome in the Penal Law definition of serious physical injury should address the present deficiency in the State's assault statute with respect to the more grievous physical violence committed against children. The District Attorney's Association bill does not provide for the less serious crimes of assault, however, and, as a result, the apparent intent of the bill, which is to treat with greater seriousness assaults perpetrated on particularly vulnerable victims, is not fully realized.

Senate Bill Number 285 and Assembly Companion Number 438 have been drafted to address this issue and as such are much more expansive in their treatment of crimes involving assaults upon child victims. There are three components of this bill which DCJS finds particularly valuable and worthy of support. The first deals with the legislation's creation of a new class D felony of assault in the second degree. This is accomplished with the addition of a new subdivision 8 to Section 120.05 of the Penal Law, which covers the situation where a person over 18 assaults a child under the age of 13 with the intent to cause physical injury and causes such injury. The creation of this new offense category for child victims of physical assault, as opposed to serious physical

assault, is justified for two reasons. It is called for in the first instance by what is, in fact, the typical nature of physical abuse committed against children, that it is not usually an isolated occurrence as are many adult assault confrontations. The inclusion of this form of victimization in the offense of assault in the second degree is also justified by the unique vulnerability of children to the physical and psychological trauma sustained as a result of physical abuse.

The second noteworthy component of S.285/A.438 is the addition of a new subdivision 4 to Section 125.20 of the Penal Law, which provides that a person over 18 is guilty of manslaughter in the first degree (a class B felony) if he acts with intent to cause physical injury to another person and causes the death of a child less than 13 years of age. Presently, the law requires that for such a charge to be lodged, the person must have acted with the intent to cause serious physical injury. As with the previous revision discussed, this amendment to the law gives expression to the special vulnerability of children. It also addresses what can be a troublesome issue associated with crimes committed against children, and that is the difficulty of proving the intent of the alleged perpetrator. While under the current law it must be established that the offender intended to cause serious physical injury to the victim, the present revision to the manslaughter statute only requires proof of intent to cause physical injury to the child victim.

This issue of intent is also taken into consideration in the third component of note in the bill, which adds a new subdivision 5 to Section 120.10 of the Penal Law, assault in the first degree. The new subdivision creates as a class C felony the situation where an adult acts with intent to cause physical injury to another person and instead causes serious physical injury to

a child less than 13 years of age. By doing so, the law addresses the not so unusual case in child victimization where minor beatings repeatedly administered over a period of time result in serious physical injury, even though the offender acts on each occasion with the intent to cause only physical injury. As stated in the memorandum in support of the bill, this and the legislation's other amendments put adults on notice that they must be cognizant of a child's vulnerability to physical injury and treat children accordingly or with the appropriate degree of care, or they will suffer serious consequences under the law.

Extension of Authorization for the Presence of a Child Victim Support Person to Court Proceedings. As a means to enhance the district attorney's ability to prosecute crimes against children and to increase the justice system's responsiveness to the needs of the child victim and witness, DCJS recommends that the child victim and witness be permitted to have present at trial a support person, as currently authorized by Section 190.25 of the Criminal Procedure Law for children 12 years old or younger at grand jury proceedings. On the basis of survey findings, it appears that the involvement of such a person in criminal proceedings is preferable by the State's district attorneys to the assistance provided by other means (i.e., electronic devices) to obtain the child's testimony at trial. In addition, such a provision would extend into the courtroom, to some extent, the multi-disciplinary concept which is intended to characterize the child's involvement with the criminal justice process in this State.

Enhancing the Prosecution of Cases Involving "Vulnerable Child Witnesses" Through Extension of the Sunset Provision for Article 65 of Criminal Procedure Law. DCJS also recommends that the Legislature act to extend for a two year

period the sunset provision on the statutory authorization for using live, two-way closed circuit television to obtain the testimony of vulnerable child witnesses. While very few of the State's district attorneys report the use of this procedure over the past year, it is thought that the statute has been drafted in such a way as to sustain constitutional challenge and that, on the basis of this highly restrictive language CCTV will not be inappropriately employed in criminal proceedings. More importantly, it is believed that recourse to criminal action is perhaps most appropriate in the very sensitive cases of child abuse, or for those incidents where the use of CCTV is presently authorized. By allowing this law to sunset, the Legislature would effectively be excluding these cases from the criminal justice process and, therefore, would contribute to the further victimization of the child by that process.

Legislative Proposals to Address Constraints Caused Law Enforcement by the Shared Jurisdiction for Child Victimization Offenses

A number of the limitations on child victimization investigative and prosecutorial procedures reported by law enforcement agencies in response to this survey derive from the shared jurisdiction for these cases by the criminal justice and social services systems and the necessary involvement of representatives from other disciplines, such as the medical and educational fields, in their resolution. The recommendations presented below are intended to address several of the more significant problems said to be caused by the interagency collaboration required for the disposition of crimes committed against children.

Improved Information-Sharing During Investigations -- Enhancing and Clarifying Law Enforcement's Access to Child Protective Services Records. A common complaint voiced by police and sheriffs' departments dealt with the

problems caused investigative activity by restrictions placed on law enforcement's access to records maintained by child protective services. Nearly a third of the State's district attorneys also identified this restricted access as a limitation on their ability to effectively investigate and prosecute crimes against children. With the exception of missing children investigations, the law currently authorizes only the most limited access to law enforcement of reports and information maintained by child protective services. In particular, it is stated that this access is premised on an investigation being "reasonably related to the allegations contained in the report."

While recognizing the importance of confidentiality to victims, offenders, sources, and service providers alike, it is thought that the language of the law is unduly restrictive and counter-productive to law enforcement investigatory activity in the child victimization area. To remedy this situation of limited information-sharing, it is recommended that Section 422 of the Social Services law be amended to provide district attorneys and police and sheriffs' departments with access to child protective services reports and records in situations where these individuals certify that there is reason to suspect that a child, child's sibling, parent, guardian or other person legally responsible for the child is a person named in an indicated report of child abuse or maltreatment and that this information is necessary in order to conduct a criminal investigation or prosecution of the subject of the report.

While the implementation of this recommendation should address a sizeable portion of the comments made by police and sheriffs' departments about the problems caused by restrictions in access to CPS records, it appears, in light of the nature of the comments received in the survey, that there is

considerable misunderstanding and confusion about existing law on this issue of information sharing (i.e., that it is even more restrictive than it actually is). Accordingly, it is recommended that jurisdictions devote explicit coverage in their joint law enforcement/child protective services training programs to the substance and intent of pertinent sections of the law dealing with these issues of confidentiality and access to CPS records. To reinforce and continue shared understanding about these issues, it is further recommended that departmental policy and procedures specifically address the area of confidentiality and conditions under which law enforcement access to CPS records is required (i.e., in situations where determinations about protective custody must be made) and allowed.

Modification of the Child Protective Services Expungement Process.

Several comments were received from law enforcement personnel about another problem caused by overlapping jurisdiction for child victimization incidents. More specifically, departments expressed a great deal of concern about the limitations placed on criminal investigations by the statutorily mandated CPS expungement process for unfounded reports of abuse/maltreatment. It has been documented in numerous studies that a significant number of children who are seriously physically abused and often killed in the home are known to child protective services and have been the subjects of unfounded reports. This was most recently and most dramatically demonstrated by the case involving Elizabeth Steinberg. If child protective services retained unfounded reports and provided investigators with this information upon receipt of additional allegations, certain patterns of abuse or the methods used to evade detection could be more easily discerned. Accordingly, DCJS supports the recommendation made by the New York State Senate Standing Committee on Child Care that Section

422 of the Social Services Law be amended to provide that unfounded reports of abuse and maltreatment made by identified sources be sealed and retained for a period of five years, rather than expunged. This legislation also specified that the information contained in these reports shall be made available to law enforcement or child protective services if, during this five-year period, a subsequent report of abuse and maltreatment is received on a subject named in the report.⁴

******* RECOMMENDATIONS FOR FUTURE POLICY-ORIENTED RESEARCH *******

While New York State has engaged in numerous research efforts aimed at assessing the operations of its child protective system in dealing with the abuse and maltreatment of children, comparatively little scrutiny has been made of law enforcement's involvement in the investigation and disposition of these offenses. This situation has existed in spite of the problems of coordination and trust said to exist between these two systems. And, it has continued even as the cooperation required of law enforcement and child protective services has been statutorily increased:

Given this lack of research, the intent of this study of law enforcement's handling of crimes committed against children was exploratory in nature. While meant to provide as much descriptive information as possible about the criminal justice response to these crimes, the areas of primary interest for the inquiry were determined by recent statutory activity directing a multi-disciplinary emphasis and approach in law enforcement's handling of child victim cases. As such, the study essentially presents an assessment of the degree to which these legislative innovations to establish cooperative arrangements with child protective and other victim-related services have been implemented by law enforcement agencies in this State.

In concluding this assessment of New York State's law enforcement response to child victimization offenses, some general observations are indicated for the direction which future policy-oriented research should take. These recommendations are discussed below.

Future research in this area should move beyond the exploratory focus which was necessary for this preliminary inquiry to identify, through intensive case study analyses, those police procedures and arrangements which are found to result in effective case dispositions and also are generalizable to other jurisdictions throughout the State. Given the desired outcome of this endeavor, which is to suggest exemplary inter-disciplinary approaches to the problem of child victimization, it is recommended that the research be conducted jointly by the Division of Criminal Justice Services and the Department of Social Services.

An additional recommended study for the Division of Criminal Justice Services and the Department of Social Services should have as its major focus the relationship between family court child abuse and neglect proceedings and those initiated concurrently in criminal court. Although such a focus was not possible or taken in the present study, given the mandate for the inquiry, miscellaneous comments made by respondents to the survey indicate that significant difficulties often adhere to these bifurcated proceedings. In particular, it appears that coordination and cooperation between the two judicial systems is problematic, as is timely case resolution and the provision and monitoring of treatment services to the victim and alleged offender. The joint study conducted by DCJS and DSS should identify interagency procedures and arrangements to improve cooperation during family court and criminal proceedings and should examine means by which the potential for trauma caused

the victim by participation in the two separate proceedings can be reduced, such as transferring to criminal court jurisdiction the preliminary and dispositional powers possessed by family court for those cases where the prosecutor elects to proceed criminally.

Future research efforts also should assess the effectiveness of the enhanced child abuse prosecution efforts undertaken in New York State over the past several years. These efforts should be directed at determining the following: the effectiveness of these units in streamlining justice system involvement for the child victim; the extent to which these units have eradicated jurisdictional and attitudinal conflicts between law enforcement and service providing agencies and the means used to do so; the roles played by these units to facilitate the development of a coordinated, multi-disciplinary response to child abuse intervention, with specification as to the form this response takes in communities with different needs and resources across the State; the impact which these units have had on law enforcement and service providing agencies in terms of agency-specific and multi-disciplinary policy and procedures development; the extent to which Closed Circuit Television, as authorized by Article 65 of Criminal Procedure Law, is used by prosecutors throughout the State, with emphasis on determining the case criteria that suggest its use and the concerns which trial participants have about the practice as presently authorized; the extent to which the use of vertical prosecution in child victimization cases limits the attrition of these cases from the justice process; and the degree to which the form or procedures of these units are applicable in other jurisdictions of the State.

The law enforcement referral process instituted by the Department of Social Services to transmit to police agencies cases of child victimization

received at the hotline which are not within DSS jurisdiction should be carefully monitored and scrutinized. In addition to ensuring that potentially criminal cases come to the attention of law enforcement and do not fall through the gaps which exist between the two systems, this process, on its face, appears to present the opportunity for facilitating a coordinated response to crimes against children which also involve allegations of abuse and maltreatment. While it is not possible, on the basis of this survey, to comment directly on this issue or the effectiveness of the law enforcement referral process, in general, there seem to be some indications that the procedures instituted by DSS could obstruct, rather than promote, this coordination. In particular, the practice of not informing the police agency with jurisdiction that the case, in addition to its criminal component, has been registered as a report of abuse or maltreatment by the State Central Register seems counter-productive to the process of coordination. While this practice comports with DSS confidentiality requirements, it seems somewhat detrimental given the authorization provided in existing law for law enforcement to request access to CPS information under these conditions (i.e., that this information is necessary to conduct a criminal investigation and that such investigation is reasonably related to the allegations contained in the report).

Given the systemic implications of procedural and attitudinal changes occurring in this State with respect to incidents of child victimization, judicial involvement in the disposition of these cases also is called for as an area for necessary research. In particular, the following areas should be examined through research: the degree to which judicial compliance with the provisions of Section 642-a of the Executive Law exists throughout the State

and the actions taken by the courts to achieve this compliance with the law; sentencing considerations and practices; and informational and training needs of criminal court judges with respect to the special needs presented by children as witnesses and the procedures and practices available to accommodate the justice process to those needs.

ENDNOTES

1. New York State Legislative Commission on State-Local Relations, New York's Police Service: Perspectives on the Issues (Albany, New York: November 1985), p. 35.

2. New York State District Attorneys' Association, Memorandum in Support (March 1987).

3. New York State District Attorneys' Association, Memorandum in Support (February 1987).

4. New York State Senate Standing Committee on Child Care, Chairman's Report, Child Protective Services: A System Under Stress (Albany, New York: January 1986), p. 41.

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APPENDIX A

**CHAPTER 263 OF THE LAWS OF 1986
CHILD VICTIMS AND WITNESSES -- RIGHTS
OF AND ASSISTANCE TO**

such vote directly from the voting machine, such board or committee shall recanvass the vote by comparing the vote on the printed copy of the canvass made from such removable device with the printed or photographed copy of the canvass made directly from the voting machine at the close of the polls. No person who was a candidate at such election shall be appointed to membership on the committee. The said board or committee shall during such time, make a recanvass of any absentee and military, special federal, special presidential, emergency and write-in ballots theretofore delivered to the board of elections by the person filling returns. Before making such canvass the board of elections, with respect to each election district to be recanvassed, shall give notice in writing to the voting machine custodian thereof, to the state and county chairman of each party or independent body which shall have nominated candidates for the said general or special election or nominated or elected candidates at the said primary election and to each individual candidate whose name appears on said machine, of the time and place where such canvass is to be made; and the state and county chairman of each such party or independent body and each such individual candidate may send a representative to be present at such recanvass. Each candidate whose name appears on said machine, or his representative, shall have the right personally to examine and make a copy of the vote recorded on such machine and ballots.

§ 18. This act shall take effect on the one hundred twentieth day after it shall have become a law, provided however, that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of the foregoing sections of this act on their effective date are authorized and directed to be made and completed on or before such effective date.

CHILD VICTIMS AND WITNESSES—RIGHTS OF AND ASSISTANCE TO

Memoranda relating to this chapter, see Legislative and Executive Memoranda, post

CHAPTER 263

Approved July 1, 1986, effective as provided in section 11

AN ACT to amend the executive law, in relation to providing rights and assistance to child victims and witnesses

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Declaration of policy and legislative intent. The legislature recognizes that a significant number of children under sixteen years of age are victimized by crime, and that these children are particularly vulnerable to criminal attacks by adults, including family members. The legislature further recognizes that children who are called upon to testify as witnesses in criminal proceedings involving crimes allegedly committed against them may suffer additional trauma. The

deletions by [brackets]

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legislature finds and declares that special protection, consideration and assistance must be provided child victims and witnesses to minimize such trauma, and any ensuing problems occurring later in life that such trauma may cause.

This act accords child victims and witnesses additional rights, protections and services during their involvement with the criminal justice system. The crime victims board is required to advocate for child victims and to ensure that the necessary assistance is provided; the crime victims board is also authorized to promulgate rules and regulations for awarding grants to child victims and their families; and the division of criminal justice services is mandated to search for more effective methods to combat and reduce the incidence of such crimes. The legislature urges the news media to use restraint in revealing the identity of child victims and witnesses, especially in sensitive cases.

§ 2. Section six hundred twenty-one of the executive law is amended by adding a new subdivision eleven to read as follows:

11. For purposes of this article "child victim" shall mean a person less than sixteen years of age who suffers physical, mental or emotional injury, or loss or damage, as a direct result of a crime or as a result of witnessing a crime.

§ 3. Subdivision one of section six hundred twenty-four of such law, as amended by chapter seventy-four of the laws of nineteen hundred eighty-six, is amended to read as follows:

1. Except as provided in subdivision two of this section, the following persons shall be eligible for awards pursuant to this article:

- (a) a victim of a crime;
- (b) a surviving spouse, parent or child of a victim of a crime who died as a direct result of such crime;
- (c) any other person dependent for his principal support upon a victim of a crime who died as a direct result of such crime;
- (d) any person who has paid for or incurred the burial expenses of a victim who died as a direct result of such crime, except such person shall not be eligible to receive an award for other than burial expenses unless otherwise eligible under paragraph (a), (b) or (c) of this subdivision;
- (e) an elderly victim of a crime; and
- (f) a disabled victim of a crime;
- (g) a child victim of a crime; and
- (h) a parent, guardian, brother, or sister of a child victim of a crime.

§ 4. Section six hundred twenty-six of such law, as amended by chapter six hundred eighty-eight of the laws of nineteen hundred eighty-five, is amended to read as follows:

§ 626. Out-of-pocket loss; definition. 1. Out-of-pocket loss shall mean unreimbursed and unreimbursable expenses or indebtedness reasonably incurred for medical care or other services necessary as a result of the injury upon which such claim is based. Such expenses or indebtedness shall include the cost of counseling for the eligible spouse, parents or children of a homicide victim, the victim of a sex offense as defined in article one hundred thirty of the penal law¹ and crime victims suffering from traumatic shock. Such counseling may be provided by local victim service programs, where available. It shall also include the cost of residing at or utilizing services provided by shelters for battered

spouses and children who are eligible pursuant to subdivision two of section six hundred twenty-four of this article, and the cost of reasonable attorneys' fees for representation before the board and/or before the appellate division upon judicial review not to exceed one thousand dollars.

2. Out-of-pocket loss shall also include the cost of counseling for a child victim and the parent, guardian, brother, or sister of such victim, pursuant to regulations of the board.

¹ Penal Law § 130.00 et seq.

§ 5. Subdivision three of section six hundred twenty-seven of such law, as added by chapter eight hundred ninety-four of the laws of nineteen hundred sixty-six, is amended to read as follows:

3. Claims shall be investigated and determined, regardless of whether the alleged criminal has been apprehended or prosecuted for or convicted of any crime based upon the same incident, or has been acquitted, or found not guilty of the crime in question owing to criminal irresponsibility or other legal exemption. Where a child has been reported missing for a time period exceeding thirty days, there shall be a rebuttable presumption for the purposes of this article, that such child is a victim of a crime. Nothing in this section should be construed as limiting law enforcement efforts to locate the child during such thirty day period.

§ 6. Subdivision two of section six hundred thirty-one-a of such law, as added by chapter six hundred eighty-eight of the laws of nineteen hundred eighty-five, is amended to read as follows:

2. The crime victims board shall promulgate regulations, relating to these grants, including guidelines for its determinations.

(a) These regulations shall be designed to promote:

(i) alternative funding sources other than the state, including local government and private sources;

(ii) coordination of public and private efforts to aid crime victims; and

(iii) long range development of services to all victims of crime in the community and to all victims and witnesses involved in criminal prosecutions.

(b) These regulations shall also provide for services including, but not limited to:

(i) assistance to claimants seeking crime victims compensation benefits;

(ii) referrals, crisis intervention and other counseling services;

(iii) services to elderly victims [of crime appropriate to their needs] and to child victims and their families;

(iv) transportation and household assistance; and

(v) outreach to the community and education and training of law enforcement and other criminal justice officials to the needs of crime victims.

§ 7. Subdivision five of section six hundred forty-two of such law, as added by chapter ninety-four of the laws of nineteen hundred eighty-four, is amended to read as follows:

5. Victim assistance education and training, with special consideration to be given to victims of domestic violence, sex offense victims, elderly victims, child victims, and the families of homicide victims, shall be given to persons taking courses at state law enforcement train-

ing facilities and by district attorneys so that victims may be promptly, properly and completely assisted.

§ 8. Such law is amended by adding a new section six hundred forty-two-a to read as follows:

§ 642-a. Guidelines for fair treatment of child victims as witnesses. To the extent permitted by law, criminal justice agencies, crime victim-related agencies, social services agencies and the courts shall comply with the following guidelines in their treatment of child victims:

1. To minimize the number of times a child victim is called upon to recite the events of the case and to foster a feeling of trust and confidence in the child victim, whenever practicable, a multi-disciplinary team involving a prosecutor, law enforcement agency personnel, and social services agency personnel should be used for the investigation and prosecution of child abuse cases.

2. Whenever practicable, the same prosecutor should handle all aspects of a case involving an alleged child victim.

3. To minimize the time during which a child victim must endure the stress of his involvement in the proceedings, the court should take appropriate action to ensure a speedy trial in all proceedings involving an alleged child victim. In ruling on any motion or request for a delay or continuance of a proceeding involving an alleged child victim, the court should consider and give weight to any potential adverse impact the delay or continuance may have on the well-being of the child.

4. The judge presiding should be sensitive to the psychological and emotional stress a child witness may undergo when testifying.

5. In accordance with the provisions of article sixty-five of the criminal procedure law, when appropriate, a child witness as defined in subdivision one of section 65.00 of such law should be permitted to testify via live, two-way closed-circuit television.

6. In accordance with the provisions of section 190.32 of the criminal procedure law, a person supportive of the "child witness" or "special witness" as defined in such section should be permitted to be present and accessible to a child witness at all times during his testimony, although the person supportive of the child witness should not be permitted to influence the child's testimony.

7. A child witness should be permitted in the discretion of the court to use anatomically correct dolls and drawings during his testimony.

¹ CPL § 65.00 et seq.

§ 9. The division of criminal justice services shall cause a study to be conducted of the methods used by all law enforcement agencies to apprehend those who commit crimes against children. No later than three hundred sixty-five days after the effective date of this act, the division of criminal justice services, in consultation with other agencies, shall submit a report to the governor and the legislature analyzing such methods, recommending improvement of such methods and recommending methods for preventing, detecting and reducing the incidence of such crimes.

§ 10. The crime victims board shall conduct research on the status of services to child victims and their families. Not later than one hundred eighty days after the effective date of this act, the board shall, in consultation with other agencies, submit a report to the governor and the legislature describing existing services and making recommendations for improvement of such services.

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§ 11. This act shall take effect January first, nineteen hundred eighty-seven; provided however, that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of the foregoing sections of this act on their effective date are authorized and directed to be made and completed on or before such effective date.

CITY UNIVERSITY OF NEW YORK

CHAPTER 264

Approved and effective July 1, 1986

AN ACT to amend the education law, in relation to transfers of real property of the city university of New York and appropriations by the state and city of New York for purposes of the city university of New York; and the public authorities law, in relation to bonds issued by the dormitory authority in connection with facilities for the city university of New York

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision two of section sixty-two hundred thirteen of the education law, as amended by chapter three hundred seventeen of the laws of nineteen hundred eighty, is amended to read as follows:

2. The city university of New York shall have the power to acquire real property in the name of the people of the state of New York by purchase or appropriation for senior college purposes in accordance with the provisions of section three hundred seven of this chapter, except that the powers and duties in said section mentioned to be performed by the commissioner of education, shall be performed by the board of trustees.

§ 2. Subdivision one of section sixty-two hundred nineteen of such law is amended by adding a new paragraph c to read as follows:

c. If the city shall (i) use property so deeded to it with improvements wholly paid for by the state or (ii) sell or otherwise dispose of property so deeded to it with improvements wholly paid for by the state, then, within thirty days after the beginning of the city fiscal year immediately following such conveyance, the city shall pay to the state an amount equal to the current appraised value of such improvements in such property.

§ 3. Paragraph three of subdivision A of section sixty-two hundred twenty-one of such law, as added by chapter three hundred five of the laws of nineteen hundred seventy-nine, is amended to read as follows:

3. The state shall annually appropriate and pay an amount equal to the net operating expenses of such senior college programs and services less that amount payable, if any, by the city of New York pursuant to paragraph two of this subdivision. Such state payment shall be made in four installments, on or before April twenty-fifth, June twenty-fifth, October twenty-fifth and [January] February twenty-fifth.

deletions by [brackets]

APPENDIX B
ADVISORY PANEL MEMBERS

Advisory Panel Members

Lt. Henry J. Beattie
Commanding Officer
Bronx Sex Crimes Squad

Donald M. Christensen
Sergeant
Rensselaer County Sheriff's
Department

Steven Heider
Sergeant
Town of Colonie Police Department

Carol J. Johnston
Senior Investigator
New York State Police

Roy Mahon
Deputy Bureau Chief
Family Court
Nassau County Attorney's Office

William Mayer
Major
Criminal Investigation Division
Rochester Police Department

Thomas J. McNamara
Assistant District Attorney
Saratoga Co. District Attorney's
Office

Barbara F. Newman
Bureau Chief
Sex Crimes/Special Victims Bureau
Kings County District Attorney

Joyce P. Noble
Director
Erie County Child Protective Service

Ron Olson
Lieutenant
Nassau County Police Department

Karen A. Pappis, C.S.W.
Child Protective Legal Liaison
Children and Family Services
Albany Co. Department of Social
Services

Patricia A. Siracuse
Sergeant
Erie County Sheriff's Department

David M. Wall
Captain
Onondaga County Sheriff's Department

APPENDIX C

**INVESTIGATING CRIMES AGAINST CHILDREN SURVEY
QUESTIONNAIRE DESIGN AND DATA ANALYSES**

I. POLICE AND SHERIFFS' DEPARTMENT SURVEY

A. DEVELOPMENT OF SURVEY INSTRUMENT

The language of Chapter 263 of the Laws of 1986 provided DCJS with little specificity or direction as to the focus of this inquiry into the management by law enforcement of crimes committed against children. In fact, a close reading of the law would suggest such extensive and all accompanying parameters for the study that completion of the inquiry within a year's time would have been doubtful at best. The types of crimes to be researched were not specified, nor was the nature or point of involvement by law enforcement in the investigation-disposition process. While the law required DCJS to analyze methods used by law enforcement to apprehend individuals who victimize children and, therefore, seemed to imply a preadjudication investigation focus, it also indicated that the analysis conducted should result in the development of recommendations for the prevention, detection and reduction of the incidence of such crimes, implying a much more systemic focus for the inquiry.

As stated in the report, the parameters for the study were determined after discussions with an advisory panel of law enforcement and social service professionals and also on the basis of a review of the literature and legislative intent and history for the mandate. In developing the survey instrument, it was generally agreed that the focus for the inquiry should be limited to crimes involving the physical and sexual abuse of children. This focus was suggested because of the unique investigative problems posed for law enforcement by these crimes, some of which are related to the special needs of the child victim and witness and others of which derive from the shared agency jurisdiction and response necessitated by crimes against children. It should be pointed out that confirmation for limiting the focus of the inquiry in this fashion was indicated by the qualitative comments made by law enforcement officials on the survey instrument itself. On the basis of these comments, police and sheriffs' departments are especially concerned about improving or coordinating with other agencies their investigative response to crimes committed against children. It also is clear from survey comments that when law enforcement officials think of "crimes against children," they tend to think of physical and sexual abuse more frequently than other types of crime.

This limitation in focus was incorporated into the definition which respondents were advised to refer to as they proceeded through the questionnaire. For the purposes of the survey, crimes against children were defined as being:

Crimes perpetrated against victims under eighteen (18) years of age, including homicide, assault, assaultive or exploitative sexual crimes (e.g., use of child in sex performance, patronizing or promoting child prostitution) or crimes uniquely directed at children (e.g., custodial interference, abandonment, endangering the welfare of a child, etc.).

In the general instructions to the instrument, respondents also were made aware of the exploratory rather than evaluative nature of the survey. This information gathering objective for the survey was evident in design of the questionnaire, the items of which were formulated to provide a wide variety of response choices for officials. Descriptive information about law enforcement practices in eight (8) substantive areas was sought. These areas were:

- Resources
- Policies and Procedures
- Training
- Reports and Record Keeping
- Investigatory Practices
- Interagency Relations
- Prevention
- Missing Children

A copy of the questionnaire developed by DCJS for this law enforcement survey is provided in Appendix D below.

B. DESCRIPTION OF SAMPLE

After critical review and revision by members of the advisory panel, the questionnaire was distributed to the chief executives of all 579 police and sheriffs' departments in New York State on August 21, 1987. It was requested that completed questionnaires be returned to DCJS within four weeks or by September 18, 1987. Despite this relatively short period of time in the field, the level of response to the survey was extremely high and well above that usually achieved with mail surveys of comparable complexity. Subsequent to follow-up letters and selective phone contact with departments, 424 of the 579 agencies surveyed or 73 percent completed and returned their questionnaires to DCJS. Approximately 390 of these returned instruments were usable for the quantitative analysis conducted. Sixteen questionnaires were received too late for inclusion in the analysis, and the remaining 18 were omitted from the sample because they contained far too many unclear or ambiguous responses.

An indication of the representativeness of the sample in terms of agency size was obtained by comparing the number of full-time sworn officers reported by departments in the sample with that number reported to DCJS through the Uniform Crime Reporting (UCR) Program. This comparison revealed that the survey sample contained a slightly disproportionate number of larger departments. According to UCR data, the median number of full-time sworn officers is 12 for all departments whereas the median determined for responding departments was 14. A comparison of means provided by the two data sources also is indicative of the disproportionate number of larger-sized departments in the sample. UCR data places the mean number of full-time sworn officers for all departments statewide at 115 in contrast to the 154 found for responding departments.

The resulting over-representation of larger departments in the sample, while unplanned, was thought to be useful to this study for several reasons. In the first place, since these departments serve the majority of persons in the State and handle many more crimes committed against children than smaller

agencies, it was considered critical for policy making purposes to study and assess their operations in the child victimization area. In addition, given the nature of these offenses and the multiagency response often associated with them, it was determined that a focus of the inquiry should be placed on describing the means by which coordination between agencies with jurisdiction was effected. Larger departments which function in the context of larger networks of law enforcement, social services and other community agencies were thought to provide the opportunity for this kind of assessment.

For the purposes of the quantitative analysis, five different size categories of departments were created, based upon the number of full-time officers reported by respondents in the sample. Table A describes the numbers of personnel and agencies in each of these five categories.

TABLE A
NUMBER OF RESPONDING DEPARTMENTS
IN FIVE SIZE CATEGORIES

Size Category	No. Full-time sworn	No. Departments
Micro*	0 - 5	116
Small	6 - 25	142
Medium	26 - 100	100
Large	101 - 500	19
Macro	501 and over	10
Total		387

*Including part-time departments.

Median size of responding departments was 14.

Average size of responding departments (excluding NYCPD which reported 28,981 full-time sworn officers) was 79.

The smallest departments, categorized as "micro" departments, included those full- and part-time agencies which employed no more than five full-time officers. "Small" departments were classified as being those agencies with between six and 25 full-time officers. "Medium" departments employed between 26 and 100 full-time officers, and "large" departments between 101 and 500 officers. The largest departments, which included agencies like the New York City Police Department, and the police departments of the Port Authority of New York and New Jersey, the New York City Transit and Housing Authorities, were classified as "macro" departments.

C. ANALYSES OF RESPONSES TO SURVEY ITEMS

As stated earlier, the survey instrument used in this study was organized so as to elicit information from law enforcement officials about eight substantive areas of police operations in the management of crimes involving child victims. The following questions guided both the development and analyses of items included in the survey for these areas of practice and operations:

What kinds of manpower and material resources do departments have to devote to investigating crimes against children and through what types of specialized units (e.g., detective or juvenile) are such investigations being handled? How pervasive is the use of special written policies to guide investigations and for what types of crimes are policies being formalized?

To what extent are departments currently collecting systematic information about crimes perpetrated on children? What is known about the numbers of incidents being investigated by police departments at this time? From which agencies or individuals are police receiving most of their reports about these offenses?

How widespread is special training in this area? Which kinds of personnel are being trained and through what modes are they being trained?

What kinds of specific investigatory practices are being used by departments (e.g., conducting interviews in special settings, streamlining the interview process, etc.)? What kinds of limitations, legal and otherwise, are said to interfere with investigations of crimes against children?

With which service or law enforcement agencies do police departments work most closely on the problem of child victimization? Are such interagency relationships working smoothly? What suggestions do departments make for improving such relationships? How prevalent is the use of a team or task force approach to the problem?

In what kinds of prevention programs and practices do departments participate (e.g., school education campaigns, workshops for parents, etc.)? Are such programs being sponsored by departments or are they generally sponsored by other community organizations?

What is the nature of police follow-up action on reports of missing children?

Given the assumed variation between police departments statewide in terms of the nature and quantity of incidents involving child victims, a primary objective of this study was to examine responses to survey items according to department resources or size. It seemed reasonable to expect that smaller agencies coping with relatively fewer incidents would employ a narrower range of investigatory practices, engage in less training, participate in fewer

prevention programs, etc. However, it was considered important to validate this assumption prior to formulating policy recommendations which would affect departmental practices in the child victimization area.

Initial analysis of the responses revealed a general and, as implied above, anticipated correlation between department size and the "sophistication" of response to crimes committed against children. Larger departments, for example, were found to be more likely to have specialized units to deal with these crimes, to have involved more of their officers in training, and to report the use of a broader range of investigative alternatives than smaller departments. Further analysis was conducted to determine the extent to which the numbers of incidents handled - or the demand presented by caseload - was correlated with agency size and, therefore, sophistication of response.

Survey data revealed that while caseloads do vary directly with department size (as measured by the reported number of full-time officers), there is also considerable variation in the number of incidents for departments within most of the different-sized categories. The extent of this variability is clearly evident in Table B which presents the median and range of reported incidents by size of agency.

TABLE B
MEDIAN, MEAN AND RANGE FOR NUMBER OF INCIDENTS
INVOLVING CHILDREN IN 1986 BY SIZE OF DEPARTMENT AND
PERCENT OF DEPARTMENTS PROVIDING INCIDENT DATA

Size Category	Median	Mean	Range	% of Departments Providing Incident Data
Micro (N = 101)	2	8	0 - 140	87.0
Small (N = 119)	8	16	0 - 320	83.8
Medium (N = 77)	20	56	0 - 500	77.0
Large (N = 10)	233	314	42 - 1000	52.6
Macro (N = 3)	455	491	288 - 729	30.0

From the ranges of incidents depicted in this table, variability with respect to the numbers of cases handled is greater for larger departments than it is for smaller-sized agencies. It should be noted, however, that even among the latter departments, there is a considerable amount of variation in the caseloads of incidents reported. For example, one department with only five full-time sworn officers reported 140 incidents in 1986, while the median

number of incidents for the micro category in which this department would be included was two. Similarly, three median departments specifically noted that they had no incidents in 1986, while the median for these kinds of departments was 20 incidents.

On the basis of what this data reveals about the wide range of variation in incidents within categories, it should be evident that generalizations about the demand for response in different sized departments must be made cautiously. When reviewing this data, it is also necessary to keep in mind that the nature of its source (i.e., that it is self-reported information in response to a survey that may have been inconsistently interpreted) may explain some of the variation seen in the number of incidents reported. This caution about the introduction of variation through inconsistent interpretations made of questionnaire items should be remembered by the reader throughout this presentation and interpretation of survey results. The reader is also advised that as most of the questions included in the questionnaire were posed in such a way as to allow for multiple responses by departments, the percentages of the majority of items will not add up to 100 percent. As the total number of responses available for analysis varied for each item, the percentages which appear in the presentation are calculated, unless otherwise specified, on the basis of that number of responses for each particular item.

II. SURVEY OF DISTRICT ATTORNEYS IN NEW YORK STATE

A. DEVELOPMENT AND DISTRIBUTION OF SURVEY INSTRUMENT

In the statutory mandate which directed DCJS to conduct this study, the Legislature indicated that the scope of the inquiry was to include all law enforcement agencies in the State. After much discussion and a limited review of the literature, it was decided that, if time permitted, the mandate would be read quite literally and a survey also would be designed and conducted of all district attorneys' offices in the State. While the intent of the legislation does not appear to have required this additional analysis, as emphasis in the statute is placed on investigative methods used by law enforcement for the apprehension of offenders, it was determined that the prosecutorial function could be a critical influence on methods developed and used in this area and, therefore, that efforts should be made to assess the nature of this function.

A survey instrument for district attorneys was designed subsequent to the questionnaire developed for law enforcement agencies. It was decided after discussions with advisory committee members that the format and content areas examined by this instrument should parallel or be similar to those included in the law enforcement survey. District attorneys were provided with a comparable set of instructions and the same definition of the term "crimes against children" as police and sheriff agencies. They also were asked to respond to items designed to measure activity or policy in the following content areas:

- Degree of Specialization and Training
- Process for the Receipt and Review of Child Protective Services Reports
- Prevention Efforts

Use of Electronic Devices During Investigations and Adjudication to Record
a Child's Statements and Televising his Testimony
Investigatory Practices
Inter-Agency Relations
Limitations Placed on Investigations
Statistical Information on Crimes Against Children Reviewed, Investigated
and Prosecuted

At a number of stages prior to finalization, the survey instrument was reviewed by assistant district attorneys from various sized offices in the State. The input of these reviewers was invaluable to the design of a comprehensive instrument which would be easily and consistently understood by respondents. A copy of the final instrument developed for this survey of district attorneys is provided in Appendix D.

The survey was distributed on September 4, 1987, with a requested return date of September 18, 1987. In spite of this limited two week time in the field, the response rate for the instrument would be considered relatively high according to statistical research standards. Fifty of the state's 62 district attorneys offices completed and returned the questionnaire, yielding a response rate of 80.5 percent.

Of the 12 counties that did not respond to this survey, one would probably have been categorized as a medium size office (see below for an explanation of size categories). The rest of the non-responding offices would have been classified in the smallest size categories, as either micro or small offices. The uncertainty expressed here with respect to size categorization arises from the fact that categories were formulated on the basis of self-report information from each office relating to staff resources. For non-responding offices, 1985 published staff size information was used to estimate personnel resources for the Fall of 1987.

Upon close examination of the responding and non-responding offices, it appears that the largest deficit or underrepresentation is found for the "mid-size smaller" offices (as opposed to the smallest of the small or the largest of the small offices). The response rate for the combined micro and small offices was 73 percent (or 30 of 41 offices). This is not a serious underrepresentation of these types of offices if one is willing to assume that there are no findings of the analysis which would not apply equally to this particular subgroup of district attorney offices.

B. SURVEY RESULTS -- FREQUENCY DISTRIBUTIONS AND VARIATION BY SIZE

The first item on the survey instrument requested district attorneys to provide information about the staffing resources in their offices. Respondents were asked to indicate the number of assistant district attorneys (ADA's) on staff and the nature of their employment, whether it was full- or part-time. The same information about investigators also was requested.

1. DA Office Size -- Number of ADA's

The variable used in this analysis to represent office size (DAOFCSIZ) was formulated on the basis of a combination of the reported number of full-time and part-time ADA staff. The variable was computed as follows: $DAOFCSIZ = (FT \# \text{ ADA's}) + 1/2 (PT \# \text{ ADA's})$. The resulting continuous variable (the values of which ranged from 1 to 431; mean 45.6, median 6.7) was then recoded into five categories based on the observed clustering of staff sizes. The following clusters were found in the data:

- Micro Offices -- 13 Offices (ranging in size from 1 to 2.5)
- Small Offices -- 17 Offices (ranging in size from 3 to 6)
- Medium Offices -- 11 Offices (ranging in size from 7 to 60)
- Large Offices -- 5 MPA County Offices - Erie, Monroe, Nassau, Suffolk and Westchester (ranging in size from 61 to 200)
- Macro Offices -- 4 New York City District Attorneys' Offices (ranging in size from 201 to 431)

It should be noted that although the variable of size was found to correlate with many of the other variables in the survey, a primary purpose of the analysis was to identify intervening factors or variables influencing the impact of size on office function as such variables are more amenable to policy change than staff resources.

2. DA Office Size -- Number of Investigators

The number of full-time investigators in responding offices ranged from 0 to 89 (27 offices indicated 0 or that they did not have investigators); with a mean of 8.0 and a median of 0.06. The correlation of the number of full-time investigators with the number of full-time ADA's was found to be very high (.8), while the correlation of the number of full-time investigators with the number of part-time investigators was found to be negligible.

The investigator variables were not incorporated into further analyses of the DA survey data because the functions of investigators with respect to child victimization cases were not defined with specificity in any of the survey items. As was the case with the police and sheriffs' departments survey, most of the items included in the district attorneys' questionnaire were posed in such a way as to allow for multiple responses by prosecutors. As a result, the percentages of the majority of items will not add up to 100 percent and the percentages which appear in the presentation are calculated, unless otherwise specified, on the basis of the number of responses for each particular item.

APPENDIX D
STUDY SURVEY INSTRUMENTS

POLICE AND SHERIFFS' DEPARTMENT QUESTIONNAIRE

SURVEY ON CRIMES AGAINST CHILDREN - BACKGROUND INFORMATION

NAME OF DEPARTMENT: _____

JURISDICTION (TOWN, VILLAGE, CITY, COUNTY, OR OTHER): _____

NAME AND JOB TITLE OF PERSON COMPLETING FORM:

PHONE NUMBER: _____

The following information about your department will assist us in analyzing the results of this survey:

1. What is the total number of full-time sworn officers in your department? ☐ Check box if estimate
2. Is your department a full- or part-time agency?
☐ FULL-TIME ☐ PART-TIME

GENERAL INSTRUCTIONS

This survey covers the following topics as they relate to crimes against children:

- | | |
|-------------------------------|---|
| A. RESOURCES | F. INTER-AGENCY RELATIONS |
| B. POLICY AND PROCEDURES | G. PREVENTION |
| C. REPORTS AND RECORD-KEEPING | H. MISSING CHILDREN |
| D. TRAINING | I. CHILD VICTIMS AND OFFENDERS STATISTICS |
| E. INVESTIGATORY PRACTICES | J. COMMENTS |

For the purpose of this survey, the term "crimes against children" will refer to the following:

Crimes perpetrated against victims under eighteen (18) years of age including homicide, assault, assaultive or exploitive sexual crimes (e.g., use of child in sex performance, patronizing or promoting child prostitution) or crimes uniquely directed at children (e.g., custodial interference, abandonment, endangering the welfare of a child, etc.,).

PLEASE NOTE: IT MUST BE EMPHASIZED THAT THIS IS AN EXPLORATORY RATHER THAN AN EVALUATIVE SURVEY. THE RESPONSE CHOICES OFFERED FOR MOST QUESTIONS ARE NOT INTENDED TO REPRESENT A COMPREHENSIVE LIST OF ALL AVAILABLE RESPONSES NOR A LIST OF THE MOST DESIRABLE APPROACHES.

FURTHER INSTRUCTIONS FOR COMPLETING THE SURVEY ARE AT THE TOP OF THE NEXT PAGE. PLEASE READ THEM BEFORE YOU BEGIN TO ANSWER THE QUESTIONS THAT FOLLOW.

THIS SURVEY IS BEING CONDUCTED BY THE OFFICE OF JUSTICE SYSTEMS ANALYSIS AT THE DIVISION OF CRIMINAL JUSTICE SERVICES. PLEASE CONTACT SHELLEY KATH AT 518-457-8381 WITH ANY QUESTIONS OR CONCERNS.

SURVEY ON CRIMES AGAINST CHILDREN

IMPORTANT INSTRUCTIONS: Unless otherwise specified, please check (✓) the responses that best apply to your agency. If the wording of a particular question does not fit your organization's situation and you would like to explain further, please enter the number of the question and the explanation in the comments section at the end of this questionnaire.

Most of the questions are in "YES/NO" or "CHECK ALL THAT APPLY" format. For the few questions that require a numerical response, a box is provided to indicate if your response is an estimate. Please read all choices provided before selecting your response. If you would like to indicate that a question "does not apply" or that the requested information is not available, please do so in the left margins using the abbreviations DNA AND INA, respectively.

In responding to these questions, please refer to the definition of the term "crimes against children" on the previous page.

A. RESOURCES COMMITTED TO INVESTIGATING CRIMES AGAINST CHILDREN

- Who typically handles investigations of crimes against children in your department? Check all that apply and indicate under the item(s) any features that determine which unit or officers will likely handle the case (e.g., age of perpetrator, age of victim, type of crime).

- ☐ Specialized Juvenile Unit which handles crimes against children
- ☐ Detective/Investigative Unit
- ☐ Sex Crimes Unit
- ☐ Other Specialized Unit Title: _____
- ☐ Missing Persons/Missing Child Unit
- ☐ Specialized Officer(s) - No unit per se. [GO TO ITEM A3.]
- ☐ Any available officer - No specialized officers. [GO TO ITEM A3.]

- If you currently have a unit(s) that investigates crimes against children, how many staff are assigned to each unit? Please use the following codes to identify the type of unit:

J=Juvenile Unit DI=Detective/Investigative Unit SC=Sex Crimes Unit
OS=Other Specialized Unit MP=Missing Persons Unit

Unit	Sworn Staff		Civilian Staff		
	Full-time	Part-time	Full-time	Part-time	
_____	_____	_____	_____	_____	<input type="checkbox"/> Estimate
_____	_____	_____	_____	_____	<input type="checkbox"/> Estimate
_____	_____	_____	_____	_____	<input type="checkbox"/> Estimate

3. Is there someone in your department available 24 hours a day to respond to reports of crimes against children?

☐ YES —————> ☐ Routine patrol
☐ NO ☐ Specialized unit

4. If you have a special unit or investigative specialist for crimes against children, which if any of the following sources provide funding for that unit? (Check all that apply.)

☐ Local (other than department itself)
☐ State
☐ Federal
☐ Private

B. POLICY AND PROCEDURES

1. Does your department have specific written policies for any of the following types of crime? Please attach copies of your written policies. (Check all that apply.)

☐ Physical assault
☐ Sexual crimes
☐ Neglect (e.g., abandonment, non-support)
☐ Crimes against children on school grounds/buses
☐ Missing children
☐ Other (specify: _____)

2. If, in addition to uniform patrol officers, any of the following are detailed to respond to a crime when the victim is known to be a child, how often are such persons utilized? Please rate each item on the following scale:

1 = never 2 = seldom 3 = occasionally 4 = usually 5 = always

Supervisors
Juvenile/Youth Officers
Investigator/Detective
Social Service Case Workers
Other law enforcement personnel
Others (specify _____)

C. REPORTS AND RECORD KEEPING

1. In addition to regular agency incident reports, does your agency maintain statistical records concerning crimes against children?

☐ YES ☐ NO

2. Does your agency have access to lists of convicted sex offenders?

☐ YES

☐ NO

3. How many incidents involving child victims did you investigate in 1985 and 1986?

1985 _____ ☐ Est.

1986 _____ ☐ Est.

4. If the information is available, please provide a count of the total number of children involved in the incidents above for each year.

1985 _____ ☐ Est.

1986 _____ ☐ Est.

5. In reported cases of child victimization, which of the following sources report the crime to you? Please rank by frequency of reports (1 = most frequent). You may put N/A for sources that don't apply and can't be included in the ranking.

Social service agency _____

Family member _____

Babysitter _____

Schools _____

Private Physician _____

Coroner/Med. Examiner _____

District Attorney _____

Hospitals _____

Neighbor _____

Daycare _____

Victim _____

Anonymous _____

Other _____

(Specify) _____

D. TRAINING OF STAFF

1. Which of the following best describes how many persons in your agency have received specialized training in handling the investigation of crimes against children? (Check all that apply.)

- ☐ All persons in the specialized unit(s) referred to in Section A.
☐ Some persons in the special unit
☐ Some persons in the agency (NO SPECIAL UNIT) # _____ ☐ Est.
☐ None

2. Please check which type of training is offered to persons in your agency for handling crimes against children. (Check all that apply.)

- ☐ In-service training (Specify content) _____
☐ Roll call
☐ Videotapes/films
☐ Bulletins, brochures, etc. (Specify) _____
☐ Other (Specify) _____

3. Who sponsors such training? (Check all that apply.)

- ☐ Agency itself
☐ State Police
☐ Other law enforcement agency
☐ Other (specify) _____
☐ Bureau for Municipal Police
☐ Federal agency
☐ Social services agency

4. Which personnel have received or are now receiving specialized training in the handling of crimes against children? (Check all that apply.)

All Some

<input type="checkbox"/>	<input type="checkbox"/>	Supervisors (e.g., Sergeants, Lieutenants, etc.)
<input type="checkbox"/>	<input type="checkbox"/>	Juvenile/Youth Officers
<input type="checkbox"/>	<input type="checkbox"/>	Investigators/Detectives
<input type="checkbox"/>	<input type="checkbox"/>	Patrol Officers
<input type="checkbox"/>	<input type="checkbox"/>	Others (specify _____)

E INVESTIGATORY PRACTICES

1. Do the procedures involved in investigating crimes against children differ from those involved in investigating crimes against adults?

☐ YES _____

☐ NO ———> GO TO ITEM E2.

Please indicate which of the following are used (check all that apply.)

- | | |
|--------------------------|---|
| <input type="checkbox"/> | Procedure to reduce number of interviewers of child victim |
| <input type="checkbox"/> | Use of anatomically correct dolls |
| <input type="checkbox"/> | Use/provision of drawing materials (crayons, paper etc.) |
| <input type="checkbox"/> | Use of video tape to record child's statements |
| <input type="checkbox"/> | Interview setting used <u>specifically</u> for children |
| <input type="checkbox"/> | Parent/Guardian always present |
| <input type="checkbox"/> | Special procedures for interviewing child if suspect is a relative |
| <input type="checkbox"/> | Asst. District Attorney or Deputy County Attorney always present |
| <input type="checkbox"/> | Special techniques for investigating neglect/abandonment cases |
| | Specify _____ |
| <input type="checkbox"/> | Special techniques for apprehending child molesters/pornography rings |
| | (e.g., surveillance, intelligence file, undercover, etc.,) |
| | Specify _____ |
| <input type="checkbox"/> | Special techniques for investigating child prostitution cases |
| | (e.g., surveillance, undercover, special street teams, etc) |
| | Specify _____ |
| <input type="checkbox"/> | Special procedures to facilitate reporting and/or disclosure |
| <input type="checkbox"/> | Special techniques for interviewing parents/guardians |
| <input type="checkbox"/> | Special steps to prepare child for trial if necessary |
| <input type="checkbox"/> | Special procedures for utilizing protective custody if necessary |
| <input type="checkbox"/> | Special evidence-gathering techniques (e.g. photos of "accident" scene) |
| | Specify _____ |
| <input type="checkbox"/> | Other _____ |
| | Specify _____ |
| | _____ |
| | _____ |

2. Are there any limitations, other than particular laws, that hamper your ability to fully investigate crimes against children?

☐ YES _____
☐ NO ———> GO TO ITEM E3.

Please check all that apply. NOTE: PROBLEMS WITH OTHER AGENCIES ARE COVERED UNDER SECTION F (INTERAGENCY RELATIONSHIPS).

- ☐ Lack of financial resources
- ☐ Lack of of personnel
- ☐ Lack of training of personnel
- ☐ Lack of equipment/supplies (Specify) _____
- ☐ Jurisdictional problems among law enforcement agencies
- ☐ Restricted access to records due to confidentiality requirements (Specify) _____
- ☐ Bureaucratic delays in obtaining records (Specify) _____
- ☐ Attitude that child abuse is a family problem rather than a crime
- ☐ Other (Specify) _____

3. Are there any laws that currently hamper your ability to investigate or apprehend offenders who commit crimes against children?

☐ YES _____
☐ NO ———> GO TO ITEM F1.

Please summarize: _____

F. INTERAGENCY RELATIONSHIPS

1. Does your department report all cases of child abuse or maltreatment to at least one of the following agencies in the box below?

☐ YES _____
☐ NO _____

Which of the following agencies?

- ☐ Local Child Protective Services Agency
- ☐ Statewide Central Registry
- ☐ Other (Specify) _____

2. When cases are referred to social resource agencies, how often does your agency continue investigations regarding criminal conduct?

☐ Never ☐ Seldom ☐ Occasionally ☐ Usually ☐ Always

3. To what extent does your department work with the following agencies regarding referrals, emergency care, foster care, temporary housing, etc.? Please rate each agency on the following scale and next to the rating indicate whether your department has a formalized agreement or guidelines with that agency relative to the issue of crimes against children.

1 = Never 2 = Seldom 3 = Occasionally 4 = Usually 5 = Always

	Rating	Formalized Agreement * (Check if applicable)
Social Services	_____	_____
County Domestic Violence Task Force	_____	_____
Local Mental Health Agencies	_____	_____
Local Alcoholism and/or Drug Services	_____	_____
Local School Districts	_____	_____
Local Child Abuse Task Force	_____	_____
Shelters/Group Homes	_____	_____
Religious Organizations	_____	_____
Hospitals	_____	_____
New York State Crime Victims Board	_____	_____
District Attorney's office	_____	_____
Other police/sheriff's departments	_____	_____
Other (specify) _____	_____	_____

*Please attach copies of agreements or guidelines if available.

4. Do you use some type of "team" approach to managing child victim cases?

☐ YES _____

☐ NO ———> GO TO ITEM F5.

Check all that apply:

- ☐ Within agency team (e.g., patrol officer and juvenile officer)
☐ Agreements with other law enforcement agencies
☐ Inter-agency team (e.g., police officer, asst. D.A., and social worker).
☐ Participate in an inter-agency Task Force (Specify) _____
☐ Other (Specify) _____

5. How often does a lack of cooperation from the following agencies limit the effectiveness of your department when investigating crimes against children? Please rate each of the items below on the following scale:

1 = Never 2 = Seldom 3 = Occasionally 4 = Usually 5 = Always

School officials	_____
Community mental health services	_____
Parents/guardians	_____
Social services agencies	_____
Hospital personnel/physicians	_____
Shelters/group homes	_____
Criminal Court	_____
Family Court	_____
District Attorney's office	_____
Other (Specify)	_____

6. Do you have any specific suggestions for improving coordination or cooperation with any of these agencies on the issue of crimes against children?

G. PREVENTION

1. Does your agency sponsor any of the following special programs/methods to inform the community of ways to prevent child victimization? Please check all that apply for both children and adults. Please attach a list of the educational/community programs your department offers, if available.

	Children	Adults
Crime Prevention Week	_____	_____
Shopping Center Exhibits	_____	_____
Workshops	_____	_____
Community Bulletin Boards	_____	_____
Prevention/Child Abuse Hotline	_____	_____
School Education Campaign	_____	_____
Public Service Announcements	_____	_____
Community Programs	_____	_____
(e.g., safehouse programs, etc.)	_____	_____
No Special Methods or Programs	_____	_____
Other (Specify)	_____	_____

2. Do you participate in any prevention programs sponsored or coordinated primarily by other local organizations (e.g., community associations, YMCA, religious organizations, neighborhood development groups, etc.,)?

☐ YES _____
☐ NO —————> GO TO ITEM HL.

In which of the following types of programs does your agency participate?

☐ Fingerprinting
☐ Latchkey
☐ In-class lectures etc.
☐ Puppet programs/role-playing
☐ Youth recreation
☐ Other (Specify) _____

H. HANDLING CASES OF MISSING CHILDREN

1. In missing children cases not solved within 1 or 2 weeks, about how often would the follow-up actions listed below be taken? For each item below enter one of the following codes:

1 = never 2 = seldom 3 = occasionally 4 = usually 5 = always

Periodic contact with the family
Investigate new leads
Reinterview witnesses
Circulate posters
Check with runaway shelters/local service agencies
Check with locator services
Other (Specify) _____

2. Does your agency systematically interview apprehended runaways to investigate possible sexual exploitation?

☐ YES
☐ NO

I. CHILD VICTIM AND OFFENDER STATISTICS - OPTIONAL

THE FOLLOWING QUESTIONS ARE OPTIONAL. HOWEVER, IF YOUR INFORMATION SYSTEM MAKES IT POSSIBLE TO PROVIDE THE FIGURES REQUESTED, THE RESULTING INFORMATION WILL GREATLY ASSIST ASSESSING CRIMES AGAINST CHILDREN IN NEW YORK STATE.

1. Please indicate, based on your agency records, the number of crimes committed against children in 1986 by the age categories in the table below. If ages of victims are unknown, enter the number in the "total" column.

	Number in 1986					
	Infant-2	3-6	7-12	13-15	16-17	Total
(1) Homicide						
(2) Assault (Simple and aggravated)						
(3) Sexual Assault (rape, sodomy, sexual abuse)						
(4) Other Sexual Offenses (e.g., sexual exploitation crimes)						
(5) Non-sexual offenses specific to children (e.g., endangering the welfare of a minor, custodial interference, abandonment, etc.)						
(6) Larceny (with and without contact)						

Check box ☐ if figures are estimates.

2. Please indicate, based on your agency records, the number of offenders who committed crimes against children for the most recent year available. If race, ethnicity, and sex are unknown, please enter the number in the "total" column. Leave blanks when information is unknown.

Year _____

	Race			Ethnicity		Sex		Total *
	White	Black	Other	Hispanic	Non-Hispanic	M	F	
(1) Family member								
(2) Acquaintance								
(3) Stranger								
(4) Relationship Unknown								

Check box ☐ if figures are estimates.

* The values reported in each of the subcategories for race, ethnicity, and sex should add up to the value reported in the "total" category.

J. COMMENTS

1. Please comment on any important issues or concerns you have about "child victims" that were not addressed by this survey. If you would like to respond to in more detail to questions in the survey, please specify the section and question number to which you are referring.

DISTRICT ATTORNEYS QUESTIONNAIRE

SURVEY ON INVESTIGATING CRIMES AGAINST CHILDREN

BACKGROUND INFORMATION

COUNTY: _____

NAME AND JOB TITLE OF PERSON COMPLETING FORM:

PHONE NUMBER: _____

- | | <u>Full-time</u> | <u>Part-time</u> | |
|--|--------------------------------|--------------------------------|--------------|
| 1. Total number of Assistant District Attorneys in your office?..... | _____ <input type="checkbox"/> | _____ <input type="checkbox"/> | Check box if |
| 2. Total number of Investigators in your office?... | _____ <input type="checkbox"/> | _____ <input type="checkbox"/> | estimate |

IMPORTANT INSTRUCTIONS: Unless otherwise specified, please check (✓) the responses that best apply to your agency. Most of the questions are in "YES/NO" or "CHECK ALL THAT APPLY" format. Please read all choices provided before selecting your response.

If you would like to indicate that a question "does not apply", or that the requested information is not available, please do so in the left margins using the abbreviations DNA AND INA, respectively,

In responding to these questions, please refer to the definition of the term "crimes against children" below:

Crimes perpetrated against victims under eighteen (18) years of age including homicide, assault, assaultive or exploitive sexual crimes (e.g., use of child in sex performance, patronizing or promoting child prostitution) or crimes uniquely directed at children (e.g., custodial interference, abandonment, endangering the welfare of a child, etc.,).

PLEASE NOTE: IT MUST BE EMPHASIZED THAT THIS IS AN EXPLORATORY RATHER THAN AN EVALUATIVE SURVEY. THE RESPONSE CHOICES OFFERED FOR MOST QUESTIONS ARE NOT INTENDED TO REPRESENT A COMPREHENSIVE LIST OF ALL AVAILABLE RESPONSES NOR A LIST OF THE MOST DESIRABLE APPROACHES.

THIS SURVEY IS BEING CONDUCTED BY THE OFFICE OF JUSTICE SYSTEMS ANALYSIS AT THE DIVISION OF CRIMINAL JUSTICE SERVICES. PLEASE CONTACT SHELLEY KATH AT 518-457-8381 WITH ANY QUESTIONS OR CONCERNS.

SURVEY ON INVESTIGATING CRIMES AGAINST CHILDREN

1. Do you have anyone in your office specifically designated to process or prosecute cases in which the victim is known to be a child?

☐ YES Specialist or Special Unit (specify: _____) ☐ NO

→ Which of the following types of specialized training has this person or unit undertaken? Check all that apply and indicate who offered the training (e.g., police or sheriff's department, social services, etc.).

☐ Detecting signs of physical abuse _____
☐ Behavioral indicators of abuse _____
☐ Interviewing children (e.g., cognitive capabilities) _____
☐ Investigating sexual abuse _____
☐ Specialized legal training _____
☐ Forensic evidence (e.g., sexually transmitted diseases) _____
☐ Training in use of anatomically correct dolls _____
☐ Other (Specify: _____) _____

2. Does your agency have an in-house investigative team for crimes against children?

☐ YES Title: _____ ☐ NO

3. Does your office routinely receive reports of alleged child sexual abuse and physical abuse from the local Child Protective Services (CPS)?

☐ YES → Check all that apply:
☐ A written request was submitted to CPS for such reports.
☐ All reports of child abuse or maltreatment are reviewed.
☐ Only certain categories of cases are reviewed.
specify categories: _____

☐ NO

4. Does your office sponsor or participate in any educational programs aimed at preventing crimes against children?

☐ YES, AGENCY SPONSORS PROGRAM(S) (specify: _____)
☐ YES, AGENCY PARTICIPATES IN OUTSIDE PROGRAM(S) (specify: _____)
Please attach any educational pamphlets, etc., produced by your office.
☐ NO

5. How many times in the past year have you used closed-circuit television during trial pursuant to C.P.L. Article 65?.....
Please describe any problems encountered in trying to employ this technique.

6. How many times in the past year have you videotaped children's statements? _____
Please describe any problems associated with employing this technique.

Please continue on back if necessary.

7. Which of the following procedures does your agency use in the investigation of cases involving child victims? Check all that apply.

- ☐ Utilize inter-agency team for investigation (e.g., D.A., C.P.S and police)
Who convenes the team/task force? _____
☐ Interviews conducted jointly with other agencies
☐ Use of videotape to record child's first statement
☐ Other use of videotape Specify: _____
☐ Use of closed-circuit television during trial
☐ Use of anatomically correct dolls
☐ Use/provision of drawing materials (crayons, paper etc.)
☐ Interview setting used specifically for children
☐ Procedures to expedite disposition of cases
☐ Supportive person (advocate) present during most proceedings
☐ Use of expert witnesses (e.g., testify on child abuse syndrome, etc.)
☐ Special pre-trial preparation techniques (e.g., tour of courtroom)
☐ Special agreement with media that victims' names not be released
☐ Special procedures for interviewing child if suspect is a relative
☐ Special techniques for interviewing suspects
☐ Asst. District Attorney routinely accompanies victims at stationhouse
☐ Special techniques for investigating neglect/abandonment cases
Specify _____
☐ Special techniques for apprehending child molesters, pornography rings,
or promoters/patrons of child prostitution
Specify _____
☐ Other Specify _____

8. To what extent does your office have contact with the following agencies in investigating crimes against children? Please rate each agency on the following scale and check whether a formal agreement or guidelines exists.

1 = Never 2 = Seldom 3 = Occasionally 4 = Usually 5 = Always

	<u>Rating</u>	<u>Formalized Agreement*</u>
Police or Sheriff's Depts.....	_____	_____
Social Services	_____	_____
Hospitals/Drs. Offices.....	_____	_____
School districts.....	_____	_____
Victim Assistance Organizations..	_____	_____
Mental Health agencies.....	_____	_____
New York State Crime Victims Board	_____	_____
Other Specify below	_____	_____

*Please attach
copies of
agreements or
guidelines.

9. Describe suggestions here for improving coordination with any of these agencies.

Please continue on back if necessary.

10. Do any of the following limitations hamper your ability to fully investigate crimes against children? Check all that apply.

<input type="checkbox"/>	Amount of financial resources
<input type="checkbox"/>	Number of personnel
<input type="checkbox"/>	Extent of training of personnel
<input type="checkbox"/>	Amount of equipment/supplies (Specify) _____
<input type="checkbox"/>	Jurisdictional problems among law enforcement agencies
<input type="checkbox"/>	Restricted access to records due to confidentiality requirements (Specify) _____
<input type="checkbox"/>	Bureaucratic delays in obtaining records (Specify) _____
<input type="checkbox"/>	Problems of cooperation with hospitals/physicians
<input type="checkbox"/>	Problems of cooperation with school districts
<input type="checkbox"/>	Problems of cooperation from parents/guardians
<input type="checkbox"/>	Parents' lack of ability to identify problem at early stage
<input type="checkbox"/>	Problems of cooperation with Criminal Court
<input type="checkbox"/>	Problems of cooperation with Family Court
<input type="checkbox"/>	Inability of victims of ongoing abuse to name specific dates and times of incidents as required by law
<input type="checkbox"/>	Attitude that child abuse is a family problem rather than a crime
<input type="checkbox"/>	Procedures for qualifying child under 12 for sworn testimony
<input type="checkbox"/>	Problems with corroborative evidence for unsworn testimony
<input type="checkbox"/>	Regulations requiring filing of petitions in Family Court within 48 hours
<input type="checkbox"/>	Problems associated with collection of forensic evidence
<input type="checkbox"/>	Specify: _____
<input type="checkbox"/>	Lack of hearsay exceptions for children
<input type="checkbox"/>	Spectators not excluded from courtroom
<input type="checkbox"/>	Other (non-legal) Specify: _____

11. Please describe any laws that currently hamper your ability to investigate or apprehend offenders who commit crimes against children below:

Please continue on back if necessary.

THE FOLLOWING QUESTIONS ARE OPTIONAL: PLEASE ANSWER IF YOUR INFORMATION SYSTEM MAKES IT POSSIBLE TO PROVIDE THE FIGURES REQUESTED. USE ESTIMATES IF NECESSARY.

12. How many cases involving sexual and non-sexual crimes against children did you actively investigate and prosecute in 1986?

	<u>Invest.</u>	<u>Prosec.</u>	
SEXUAL (e.g., rape, sodomy, sexual abuse, child pornography, etc.)	_____ <input type="checkbox"/>	_____ <input type="checkbox"/>	Please check box if estimate
NON-SEXUAL (Assault, homicide, endangering the welfare of a child, etc.)	_____ <input type="checkbox"/>	_____ <input type="checkbox"/>	

13. Please list the following statistics on cases involving crimes against children for 1986 by source of referral:

	<u>Social Services</u>	<u>Police/Sheriff</u>	
# Cases Reviewed.....	_____ <input type="checkbox"/>	_____ <input type="checkbox"/>	Check
# Cases Actively Investigated.....	_____ <input type="checkbox"/>	_____ <input type="checkbox"/>	box if
# Cases Prosecuted in lower court.....	_____ <input type="checkbox"/>	_____ <input type="checkbox"/>	
# Cases Prosecuted in superior court.....	_____ <input type="checkbox"/>	_____ <input type="checkbox"/>	estimate

14. COMMENTS Please comment on any important issues or concerns you have about "child victims" that were not addressed by this survey. If you would like to respond in more detail to questions in the survey, please specify the question number to which you are referring.