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National Institute of Justice Office of Juvenile Justice and Delinquency Prevention

Research in Brief

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Issues and Findings

Discussed in this Brief: The methods employed in San Diego, California, to assess child physical abuse, collect evidence, refer cases to prosecutors, and prosecute; and the implications of these methods for application in other jurisdictions. This case study, sponsored by the National Institute of Justice and the Office of Juvenile Justice and Delinquency Prevention, draws on a 1993 nationwide survey conducted by the American Bar Association, funded by the National Center on Child Abuse and Neglect.

Key issues: More cases of child sexual abuse are prosecuted than cases of child physical abuse and neglect although the incidence of physical abuse is significantly higher. One reason for this situation is the common *assumption* that the prosecutor is unwilling to process these cases. San Diego was studied because it actively prosecutes child physical abuse cases.

Key findings: The San Diego multiagency approach has several distinctive characteristics:

- The Police Department and the District Attorney's office each have specialized units with specially trained staff members who request assignment to the unit. Child Protective Services provides a 6-8 week training program on investigating child abuse and neglect cases to their newly hired workers.

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Prosecuting Child Physical Abuse Cases: A Case Study in San Diego

by Barbara E. Smith

Nationally, prosecutors process many more cases of child sexual abuse than physical abuse and only a few neglect cases. Analysis of a 1993 American Bar Association national survey¹ reveals that 91 percent of 600 prosecutors interviewed stated that they prosecuted fewer physical abuse cases than sexual abuse cases, with 80 percent reporting that they prosecuted "substantially" fewer numbers of physical abuse cases than sexual abuse cases.² However, statistics from the American Humane Association and child protective service agencies across the country document a significantly higher incidence of child physical abuse and neglect cases as compared with child sexual abuse cases.³

Why are prosecutors seeing more sexual abuse cases despite this situation? Prosecutors surveyed for the 1993 ABA study most frequently replied that they were referred far fewer cases of physical abuse and neglect by the police and child welfare agencies than cases of child sexual abuse.

To learn more about the factors that affect the comparatively low number of child physical abuse prosecutions and how a jurisdiction could address this issue, the National Institute of Justice

(NIJ) and the Office of Juvenile Justice and Delinquency Prevention (OJJDP) sponsored a case study of the San Diego prosecutor's office, which aggressively pursues the prosecution of physical abuse cases.

This Research in Brief report discusses the study's methodology; investigation and case processing through multiagency cooperation by law enforcement, child protective services, and the medical community; and implications of applying the San Diego approach to other jurisdictions.

Methodology

The search for a suitable site for a case study of the prosecution of child physical abuse cases included a secondary analysis of the nationwide telephone survey conducted among the prosecutors who participated in the 1993 study.⁴ To be identified as a potential candidate for the case study, the office needed to have figures (or estimates) that reflected that a significant number of physical abuse cases were prosecuted and that the ratio of physical abuse to sexual abuse cases prosecuted was above the "average" among the 600 offices surveyed (the average number of physical abuse cases prosecuted was 20 in the fiscal year preceding the interview).

Issues and Findings

continued . . .

- The roles and responsibilities of each agency are delineated in a memorandum of agreement to ensure that one agency does not interfere with the work of another.
- The medical community plays a pivotal role in collecting and interpreting evidence of child physical abuse.
- Multiagency meetings (that also involve doctors, teachers, and other interested citizens) foster coordination of individual cases and provide a forum for discussing general issues.

Although the San Diego personnel interviewed generally expressed satisfaction with the multiagency approach, they believed that sentences imposed in child physical abuse cases were too lenient.

One reason is that while sexual abuse of children is clearly perceived as unacceptable, child physical abuse requires distinguishing between appropriate discipline and criminal intent—a line frequently blurred.

The researchers concluded that public education is needed to highlight the problem of child physical abuse—as has occurred with child sexual abuse—to encourage the public to report these behaviors to authorities.

Other implications of the San Diego approach—coordinated agency action, training, and specialization—also could improve case processing and services for children who are physically abused.

Target audience: State and local policymakers, prosecutors, child protection service professionals, and health professionals.

Seven possible candidates were identified and narrowed down to one, using the following criteria:

- The prosecutor maintained reliable statistics on the number of physical abuse cases prosecuted.
- The actual (or estimated) number of physical abuse cases prosecuted was 15 percent higher than the number of sexual abuse cases prosecuted.
- The prosecutor's office had clear policies to guide the aggressive pursuit of physical abuse cases.
- Special attention to physical abuse was not limited to the very young (children under age 6).

San Diego, California, emerged as the most promising candidate for the case study because it assertively prosecutes physical abuse cases by giving these cases priority and allocating resources for their successful prosecution. Specific reasons for selecting San Diego included:

- The prosecutor's office has a long-standing commitment to the prosecution of physical, as well as sexual abuse cases, illustrated by its distinction as one of the first in the country to prosecute a parent for an injury that was caused because the child was not placed in an infant car seat.
- The number of physical abuse cases handled was significantly greater than the average number handled by the 600 offices surveyed in the 1993 study.
- The prosecutor's office maintains comprehensive statistics on its cases that would allow some quantitative analysis.
- The coordination between the prosecutor's specialized child abuse unit, the medical centers, and the spe-

cialized San Diego Police Department's child abuse unit appeared promising for study.

- The prosecutor's office and the police department expressed a strong commitment to cooperate with the study, ensuring the type of access to case files, data, and personnel that is so critical for conducting any case study.

This case study involved a 3-day site visit to San Diego during April 1994 and consisted of extensive interviews and data collection (see "Interviews and Collection of Data"). The single case study approach has the advantage of allowing an indepth study of a site at minimal cost, but has the disadvantage of limiting the results to one example. Still, a close examination of this one jurisdiction's approach may help other local governments consider new strategies for prosecuting child physical abuse cases.

Police and child protective services investigate

The study of San Diego's system of case processing focused on the response of the county of San Diego's child protective service agency and the city of San Diego's police department.⁵ Law enforcement and the child protective service agency are mandated by California law to cross-report cases of child abuse (i.e., if law enforcement officers first receive a report of suspected abuse, they are required to notify child protective service and vice versa).

The police response. The immediacy of the police response to a report of child abuse depends on the assessment of the imminent danger posed to the child. If the report suggests a child is in imminent danger, law enforcement will dispatch a uniformed officer to respond immediately, but if there appears to be no immediate danger, the report of

Why Are Prosecutors Referred More Cases of Child Sexual Abuse Than Physical Abuse?

Prosecutors are referred fewer cases of physical abuse and neglect by the police and child welfare agencies than cases of child sexual abuse. Prosecutors speculated that five primary reasons accounted for that phenomenon.⁶

Sexual abuse is viewed as wrong while physical abuse is viewed as a parental prerogative. Sexual abuse, especially of young children, is generally considered wrong and unacceptable according to the vast majority of people. In physical abuse and neglect cases, the behavior may be considered understandable, or sometimes even appropriate, especially if the perpetrator is a parent (or caretaker) and the intent was to punish the child for unacceptable behavior. Thus, the lines between punishment and criminal intent to harm the child can become blurred in our society.⁷ Police and child protective service workers may share the difficulty of the general public in sorting out one type of event from another. Even in cases in which investigators decide that the line between punishment and abuse has been crossed, they may hesitate to refer cases to the prosecutor because (a) they anticipate that the prosecutor will not agree that the case warrants criminal prosecution, or (b) they foresee that a jury of the defendant's peers will not be convinced

beyond a reasonable doubt that the abuse was intentional, rather than the unintended result of appropriate discipline.

Physical abuse may be difficult to prove in court. Victims in physical abuse and neglect cases tend to be young—indeed, many are not yet verbal—thus the case often rests solely on medical evidence that may be complicated and difficult for lay people (particularly jurors) to understand and interpret. Further, medical evidence may be contradictory, leaving jurors with reasonable doubt about the cause of the injury. That situation is exacerbated when the prosecution and defense wage a “battle” of the medical experts, with one physician presenting the prosecution viewpoint and another presenting the defense viewpoint.

Even when medical evidence seems fairly clear, the identity of the perpetrator may be difficult to prove. If more than one caregiver is suspected as the assailant, it may be difficult to obtain evidence that supports identifying one of them as the perpetrator, especially if the victim is a child whose verbal skills are not developed; thus, the child may be unable to name the assailant.

Child protective service workers may offer treatment more often for physical abuse than sexual abuse. Prosecutors hy-

pothesized that child protective service workers, as part of their mandate to reunite the family, are more likely to rely upon their own agency, sometimes coupled with civil court orders, to oversee counseling of those who physically abuse their children, than to offer these services to those who sexually abuse their children. Prosecutors speculated that child protective service workers may be less concerned about leaving physically abused children in the home (especially when the abuse was minor and appeared unintentional) than sexually abused children, and may feel better prepared to develop service plans for physical abuse offenders than for sexual abuse offenders. Combined, these two factors appear to foster more internal child protective service treatment plans for physical abuse as opposed to sexual abuse cases.

Prosecution may not serve the child's interests even when clear evidence of abuse exists. Child protective workers and law enforcement officers may perceive that prosecution will further traumatize the child and may opt for a more informal resolution to protect the child from that perceived trauma. Further, child protective service workers may perceive that criminal prosecution will “shatter” families that they are attempting to reunify.

abuse will be assigned to an investigator for followup, usually within 24 hours.

The San Diego Police Department has a specialized unit to handle all child abuse cases, including physical abuse, severe neglect, and sexual abuse cases. The department was the first in the country to establish such a unit, in 1976. This type of unit, with specially trained investigators, is seen as pivotal in building sound cases for the pros-

ecutor, according to Lieutenant Richard Bennett, who is in charge of the unit, as well as other law enforcement officers and the prosecutors interviewed.

Fourteen child abuse investigators who receive extensive training are assigned to the special child abuse unit in the police department. All of the investigators in the unit must request the assignment and demonstrate a sincere interest in investigating child abuse

cases. Assignment to the unit is seen as prestigious within the department and most investigators remain in the unit for several years.

The response of child protective services. San Diego County Child Protective Services (CPS) is mandated to respond to intrafamilial reports of child abuse and cases of institutional abuse in which children are involved. Its primary mission is to protect children from harm.

There is no specialization among the workers within CPS for investigating child physical abuse or sexual abuse. (CPS previously had both a special unit for sexual abuse and a special unit for severe physical abuse cases, but this unit was recently disbanded due to budgetary constraints.) Newly hired workers receive 6–8 weeks of training in investigating child abuse and neglect cases.

Initial referrals to CPS come in via a 24-hour hotline. The hotline supervisor determines the urgency of the call:

- If the child appears in immediate danger, he or she must be seen by a caseworker within 2 hours.
- If the case does not appear to need followup, the call is put in the “general” file; i.e., the case is simply filed without assigning it for investigation (usually general neglect cases are put in this category).
- If the case warrants attention, the call is assigned to Initial Services for

review. A supervisor from the Initial Services unit then reviews the case and may decide to “general file” the case or assign it to a CPS worker for investigation.

Every hotline report, and every case that results in an investigation, is forwarded to law enforcement, which decides whether to pursue a criminal investigation.

The response of the medical community. The prosecutor believes the medical community (especially the hospitals) plays a very important role in the prosecution of physical abuse cases because of the paramount importance of collecting and interpreting medical evidence in these cases. The researchers interviewed Dr. Marilyn Kaufhold, assistant director of the Child Protection Center, at Children’s Hospital, because Children’s Hospital treats many of the abused children in which a prosecution is undertaken. Dr. Kaufhold described a multiagency interaction among the medical, legal,

and social service communities in San Diego that contributes to identifying and prosecuting child abusers. Children’s Hospital has a long-standing commitment to participating in that interagency response.

The Family Protection Division in the District Attorney’s office prosecutes

In 1985, then San Diego District Attorney, Edwin L. Miller, Jr., established the Child Abuse Unit. It was renamed the Family Protection Division in 1990 and expanded to prosecute domestic violence and child abduction cases. All felony cases⁸ of abuse of children under the age of 14, including cases of sexual abuse, physical abuse, child endangerment, and fatalities, are prosecuted in the Family Protection Division. Currently, the division has 10 deputy district attorneys, 2 investigators, and a victim/witness counselor assigned to work exclusively with the division. The division chief, Catherine Stephenson, has been a deputy district attorney since 1984 and has served as division chief since 1991.

The division chief hand-picks her deputies from among those who request assignment to the division. Such an assignment is perceived as prestigious because the district attorney is believed to attach special importance to this division’s cases. Deputies average 3 years of service in the division. The child abuse deputies handle an average of 30–40 active cases at any given time. Despite the number of cases they prosecute, the division chief believes that her deputies never lose an appreciation of the shocking nature of these cases. “Burn-out” is not a problem since deputies may transfer out

Interviews and Collection of Data

Interviews in San Diego consisted of the following:

- One-on-one interviews with
 - The prosecutor in charge of the San Diego District Attorney’s Child Protection Unit.
 - The lieutenant in charge of the San Diego Police Department’s Family Protection Section.
 - A senior supervisor at Child Protective Services.
 - The physician in charge of the Child Protection Center at Children’s Hospital.

- Focus group interviews with
 - Three deputies in the San Diego District Attorney’s Child Protection Unit.
 - A sergeant and three investigators in the special law enforcement unit.
 - Two child protective service workers.
- Data from the District Attorney’s office on child physical abuse prosecutions, including the number of child abuse cases presented to the office, the number of cases filed, the outcomes, and the sentences imposed, were collected.

whenever they wish (if there is an opening in the office).

To guide the handling of cases in the office, deputies are provided with specialized training that includes substantial instruction on child abuse prosecution. A procedures and policy manual that includes a section on child abuse investigations is also provided to members of the unit.

Flow of cases through the office. Law enforcement officers are encouraged to consult with prosecutors before making an arrest in any child abuse case in which they have questions regarding the sufficiency of the evidence or the type of evidence the prosecutor will need to convict. If the police determine there is insufficient time or have no questions for the prosecutor, they will forego the consultation process and make the arrest. Following the arrest, officers send a copy of their arrest report to the chief of the division (or hand deliver it in particularly complicated cases, or if the suspect is in custody and the case must be filed quickly before he or she is released from custody). The chief of the division reviews each arrest report and assigns it to a deputy for review. If the suspect is in custody, the district attorney must file charges within 2 days. If the district attorney fails to file charges within that time, the defendant will be automatically released from custody. Of course, the prosecutor can always file charges at a later time, but the suspect may flee the jurisdiction or destroy important evidence once released. If the suspect is not in custody, the filing decision is usually made within a few days to a few weeks.

After a deputy prosecutor in the division reviews the case, he or she notes a filing recommendation and returns

the case to the chief of the division for review. The victim, or the victim's family, is seldom interviewed during this stage of the process. In physical abuse cases, the medical report is generally the most important piece of evidence. Unlike the situation with child sexual abuse cases, in physical abuse cases victims are rarely required to testify in any court proceeding, in part because many are not yet verbal, offenders admit the abuse, and/or medical evidence is present to substantiate the abuse. Medical evidence is far more common in physical abuse than in sexual abuse cases, and indeed is often a prerequisite for the prosecution to proceed. As a result of these circumstances, the child's ability to be a credible witness is rarely a factor in the prosecutor's decision to prosecute physical abuse cases, as it is in sexual abuse cases.

During the review process, deputies have four basic choices:

- File the case as a felony.
- Reject the case outright.
- Send the case back to the law enforcement investigator to gather more evidence before the district attorney's office reaches a filing decision.
- Reject the case for felony disposition and refer it to the city attorney's office for misdemeanor charges.

The deputy's recommendation is reviewed by the division chief because she believes that consistency demands that she personally approve all filing and plea agreements.

Determining the type of case. The division chief's charging philosophy is to issue the case as a felony only if it clearly fits within the felony range. If it

falls in the grey area between corporal discipline and intentional injury, she considers a number of factors in determining whether the case should be handled as a felony or as a misdemeanor, although there are no hard-and-fast rules to follow. Important questions include the following:

- How serious were the injuries? Obviously, the more serious the injuries, the more likely the case will be filed as a felony.
- On what part of the body was the child injured? In general, injuries to the face and extremities warrant more serious consideration of the case as a felony than strikes on the buttocks, for example.
- Are the scars/injuries permanent? Injuries that result in obvious permanent disfigurement or disabilities more often warrant felony charges.
- With what was the child hit? The use of some type of weapon—a bat, rod, chair, scalding water, closed fist, sharp object—would usually be considered more serious than the use of the open hand.
- Has this happened before? A case in which a child was hit by the same perpetrator on previous occasions would generally be viewed as more serious than a first-time offense.

Case processing. The San Diego District Attorney's Office maintains data on the number of cases filed as felonies. The available data (from 1986 to 1992⁹) compare the filing ratio of child molest cases and child nonmolest cases (these include cases of child physical abuse, child endangerment and child fatalities). While the nonmolest category includes cases other than child physical abuse, the

majority of the cases are child physical abuse cases. The percentage of cases filed has shifted somewhat over the years (see exhibit 1). The percentage of any type of child abuse cases filed ranged from 57 to 76 percent. The ratio of nonmolest to molest cases filed, however, has remained remarkably constant, with roughly the same ratio of nonmolest cases filed to molest cases between 1986 and 1992.

Once the case is filed as a felony, no diversion is possible. The case proceeds to arraignment, at which time the defendant is notified of the charges pending against him or her and (for those in custody) bail is set. If the defendant is in custody, arraignment must occur within 2 days of the arrest. For defendants not in custody, the arraignment may occur within several days to several weeks after the filing decision.

After arraignment, the case proceeds to a Felony Disposition Calendar, where a "Readiness Conference" is held. This is the first opportunity for the defense attorney, prosecutor, and judge to meet and discuss the particulars of the case. The three meet in the judge's chambers, and the prosecutor extends the office's "best" offer, which is open for consideration for that appearance only (unless there is some reason that the offer should remain open for a longer period of time). According to office policy, defendants should be presented with the "best" offer early in the process and the offer should become less favorable as the defendant continues to consume very limited and costly court resources. However, exceptions can be made to the general rule when it is believed that the interests of justice would be served.

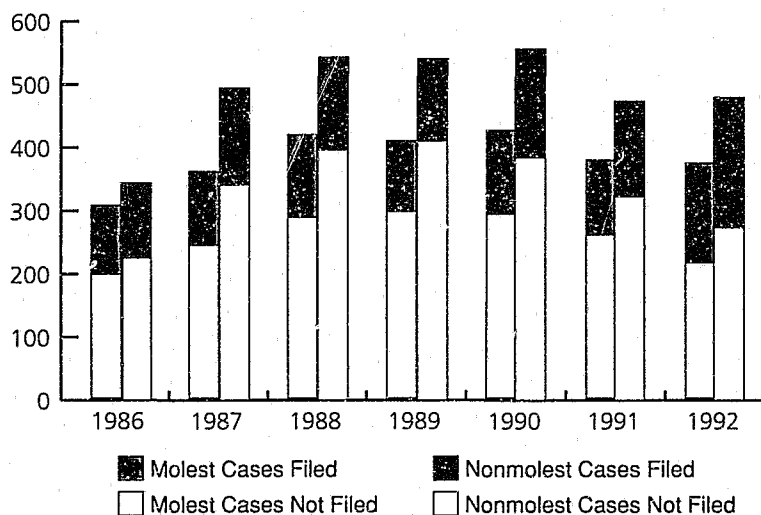
If a plea agreement is not reached at the Readiness Conference, the case

proceeds to the preliminary hearing. At the hearing, the prosecutor must prove there is sufficient evidence to bind the defendant over for trial. If probable cause is found, the case proceeds to arraignment in Superior Court. From there, it goes to a Superior Court Readiness Conference, where the defendant will most likely be offered another opportunity to plead guilty, as part of a plea agreement. As in the lower court setting, this conference takes place in the judge's chambers and includes the judge, prosecutor, and defense attorney. If no agreement is reached, the case proceeds to trial.

Plea offers made at any stage of the process must be approved by the chief of the Family Protection Division. In San Diego, the chief of the unit believes in maintaining tight control over plea offers. There are two prime reasons. First, it provides consistency in the offers; without such consistency she believes the office would lose credibility. Second, it ensures that the most senior prosecutor makes that all-important decision. In physical abuse cases, the division chief considers such factors in making the plea offer as the defendant's prior record, whether the case represents an isolated incident, whether the evidence is strong enough, and how well the victim has recovered both physically and emotionally from the incident.

Outcomes in child physical abuse cases. Using statistics available from the district attorney's office, the researchers compared outcomes in cases in which the charge was a molest charge with those that had a nonmolest charge for the years 1986–1992. The conviction rates were extremely high for both types of cases for the 7-year period, with the vast majority of cases resulting in a felony conviction (see

Exhibit 1: Percent of Child Abuse Cases Filed by Prosecutors in San Diego



Note: Molest cases refer to sexual abuse; nonmolest cases include child physical abuse, child endangerment, and child fatalities.

Exhibit 2: Outcomes in Child Abuse Cases

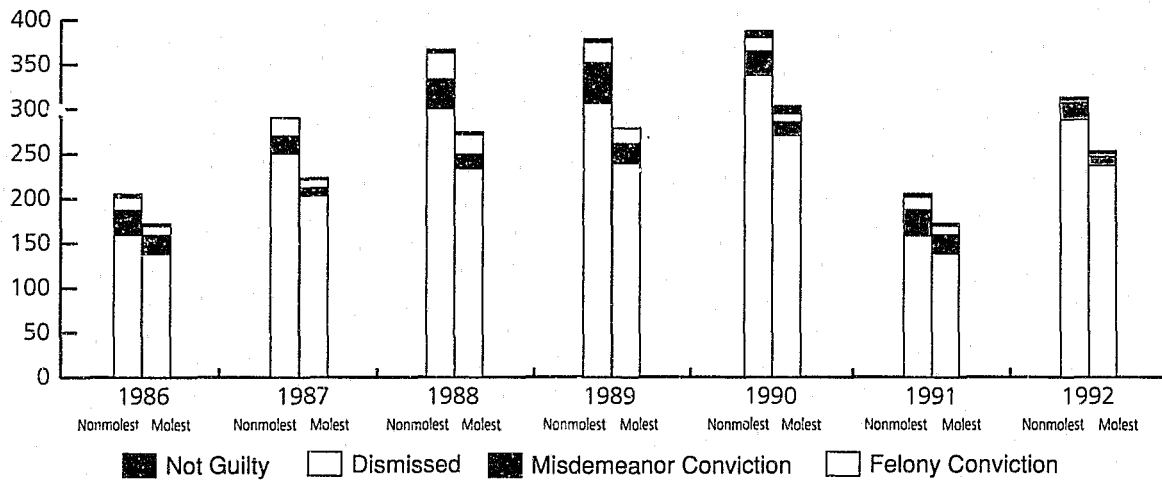


exhibit 2). In none of the 7 years did either the molest or nonmolest cases result in a dismissal or not guilty outcome for more than 9 percent of the cases. During the entire 7-year period, nonmolest cases ended with a felony conviction somewhat less often than molest cases, but the differences were not large. Sentencing patterns re-

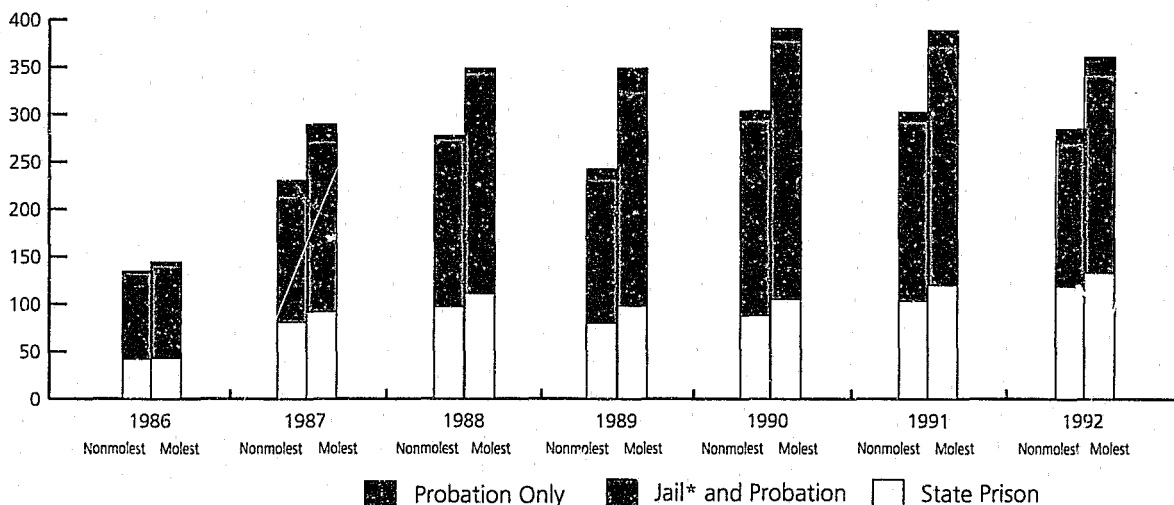
mained fairly consistent over the years (see exhibit 3). State prison sentences were imposed in roughly one-third of the cases; jail plus probation in about three-fifths of the cases; and straight probation in about 1 in 20 cases. Nonmolest cases tended to receive less severe sentences than molest cases throughout the 7-year period. In par-

ticular, the imposition of sentences to State prison occurred in molest cases slightly more often than in nonmolest cases.

Issues of concern in San Diego

Outcomes of prosecution. In terms of satisfaction with the prosecution of

Exhibit 3: Sentences Imposed



Jail time could include "time served" (time spent in jail while awaiting the disposition of the case) and/or jail time imposed at the time of the sentencing.

child abuse cases, everyone interviewed from all three agencies had a universal response. Their single greatest dissatisfaction with the outcome of these cases was the leniency of the sentences imposed. Those interviewed in San Diego usually described the sentences as a "mere slap on the wrist" that were far out of line considering the injuries inflicted on children. The San Diego professionals certainly are not alone in perceiving sentences in child abuse cases as "too lenient." This was a common complaint voiced by many of the prosecutors interviewed for the 1993 ABA study.¹⁰

Other concerns were raised. The chief of the Family Protection Division noted that the prosecution has a difficult time at trials. She expressed the opinion that physical abuse prosecutions are at the stage that sexual abuse prosecutions were 10 years ago. Jurors simply do not believe that parents, or caretakers, *intentionally* harm their children, but instead see the injuries as the accidental result of discipline and corporal discipline that parents can, and often should, impose. The lieutenant in charge of the police department's child abuse unit likened the jurors' attitude toward child physical abuse prosecutions to their attitude several years ago to drunk driving cases. He credited MADD (Mothers Against Drunk Driving) with changing attitudes toward drunk driving and he believes a similar public campaign is needed to help change attitudes about individuals who physically harm children.

The police, child protective service workers, and prosecutors were all asked about their satisfaction with the way cases were handled within their own agency and by other agencies. The police and prosecutor both noted excellent understanding between the

two agencies and emphasized the importance of specialization within the two agencies in building good cases and establishing rapport between law enforcement officers and prosecutors. The police and prosecutor respondents also portrayed a good relationship with the child protective service agency but added that high turnover among the large number of nonspecialized CPS workers (approximately 600) made it difficult to build close working relationships.

Therefore, the need for more extensive training was seen as acute. The high turnover rate at CPS makes it difficult for workers to build interpersonal working relationships with law enforcement officers and prosecutors. This hinders coordination and rapport, but it was pointed out that San Diego is not unlike other counties in that respect. In spite of this challenge, San Diego's strategy depends upon multiagency cooperation.

Agencies cooperate

Roles in initial investigation. Law enforcement has established an understanding with CPS that CPS workers will concentrate their interviews on the child and avoid extensive questioning of the alleged perpetrator so as not to jeopardize any criminal investigation. However, law enforcement recognizes that CPS workers often need to interview the alleged abuser to determine the safety needs of the child when the suspect is the child's parent or other caregiver. Usually a CPS worker is the first official to respond to a report of suspected child abuse. Although CPS and law enforcement would prefer a joint response and investigation, such a response is usually precluded by time and personnel constraints.¹¹ In most cases, therefore, the CPS worker

is seldom accompanied by a police officer, and a joint investigation is rare.

According to the lieutenant and all of the investigators interviewed, despite these difficulties, CPS and law enforcement generally understand each other's roles in the investigation. On rare occasions, questioning by CPS may result in the perpetrator destroying evidence or leaving the county. For example, in one case when a child was found with teeth marks on her back, CPS asked her uncle, the suspect, to submit to photographs of his teeth. This undoubtedly led him to believe he was under suspicion, and he fled the county before law enforcement had the opportunity to question and possibly arrest him. According to the police, CPS should have waited to question the uncle until the police investigators were alerted, so as not to "tip" him off that he was under investigation. But, according to CPS officials, the workers acted properly in questioning the uncle during their investigation, because in deciding whether the child should be removed from the home, they had to determine which family member was involved in order to protect the child's safety. However, it is important to note that this case was raised as an *isolated* example of a disagreement about whether CPS should have interviewed the suspect. The law enforcement investigators interviewed emphasized that, in their opinion, what they perceive to be the "inappropriate" questioning of suspects happens infrequently.

Areas of responsibility. In San Diego, law enforcement has full access to all the information in any report prepared by CPS. CPS and law enforcement recognize that the lines between a criminal investigation and a CPS investi-

ation are not clear-cut. In general, there is an understanding that CPS's prime responsibility is to protect the child and law enforcement's is to investigate the alleged perpetrator for criminal action. Law enforcement decides whether to launch a criminal investigation, generally based upon information supplied by CPS. CPS cannot directly take a case to the prosecutor. Any criminal prosecution requires an investigation by law enforcement and a police report. If both CPS and law enforcement investigations proceed, coordination between law enforcement and CPS workers is largely accomplished through telephone communications.

Having a specialized division within the prosecutor's office is perceived as very important to the successful prosecution of child abuse cases for a variety of reasons. It builds the expertise of deputies in understanding the medical findings. In physical abuse cases, deputies must become proficient at understanding complex medical terminology and explaining the causes of physical injuries (burns, breaks, fractures, contusions, internal injuries, and so on) to jurors. In addition, specialization of deputies allows the accumulation of considerable expertise on the psychology of abusers. It also facilitates the establishment of rapport with law enforcement officers that is so often critical in building strong prosecution cases.

Meetings to enhance coordination.

Established nearly a decade ago, the Children's Hospital Child Protection Center cohosts, along with CPS, weekly team review meetings held at Children's Hospital. Representatives from law enforcement, the prosecutor's office, child protective services, county council members, public health

workers, and physicians are invited to attend. At the meeting, cases in which there is a concern that children were physically abused, sexually abused, neglected, or killed are discussed. Any representative invited to the meeting can ask that a particular case be included on the agenda. The purpose of the meeting is to share expertise on particularly problematic cases to help each other identify the best course of action.

A number of other multiagency meetings are held in San Diego to foster coordination of individual cases and discuss general issues related to child physical abuse, child sexual abuse, and child fatalities. All of these meetings are open to the community, including representatives of the San Diego Police Department, the San Diego Sheriff's Department, CPS, the prosecutor, county council members, public health workers, physicians, therapists, teachers, the city attorney's office, as well as any citizens interested in child welfare. These meetings include:

- The Metro-Interagency Meeting, attended by representatives of the groups described above, which is held every 2 months to discuss global issues in the area of child abuse.
- The San Diego Community Child Abuse Coordinating Council, which meets on a monthly basis to discuss particular physical and sexual abuse cases that are problematic or complex. This presents another opportunity, in addition to the meeting held at Children's Hospital, for professionals to discuss cases, including those handled by hospitals other than Children's Hospital.
- Child fatality review meetings, which are held each month to review

every case in which the medical examiner performed an autopsy on a child. Such an autopsy is performed when the death is not by natural causes. These cases are reviewed to examine the possibility that someone killed the child.

These multiagency meetings provide the opportunity for experts, and the public, to share their experience in handling child abuse cases and provide guidance on individual cases. Additionally, they serve as a forum for a general discussion of the problems associated with child abuse cases and as a vehicle to make suggestions to improve the response to these cases.

Applying the San Diego method

The San Diego case study suggests four recommendations that could improve the effective prosecution of child physical abuse cases.

Careful scrutiny of any case in which a child's injury appears suspicious will help to determine if criminal action is warranted. The common assumption that prosecutors will reject physical injury cases because they are too difficult to prove need not be true.

Investigation by child protective services, law enforcement, and the medical communities of cases in which children have suspicious injuries would help to determine if the prosecutor should review the case for possible criminal action. By and large, the prosecutor's office is a reactive agency that waits for law enforcement to bring it cases. Physicians are mandated to notify child protective services of suspicious injuries, and in many States the child protective services agency is required to cross-report to law enforce-

ment. In the 1993 ABA study, prosecutors told researchers that they perceive that child protective services and law enforcement often screen out cases of physical abuse, without giving the prosecutor the opportunity to review the cases. Child protective workers and police officers often reply that they believe that since prosecutors are reluctant to accept such cases, there is little point in bringing them to their attention.

If this situation is to change, it seems prudent for prosecutors to have the opportunity to review many more cases of physical child abuse than they currently do in order to assess the feasibility of criminal prosecution. A clear implication from the San Diego case study is the need for prosecutors to communicate to law enforcement and child protective services that they will pursue physical abuse prosecutions when appropriate. In San Diego, that message appears to have been communicated much more effectively to law enforcement than to child protective services. Any community's *assumption* that the prosecutor is unwilling to proceed would no doubt severely limit the prosecution of these cases.

What could be done to facilitate prosecutors' receiving and reviewing more physical abuse cases? Some lessons might be learned from child sexual abuse cases. Twenty years ago, prosecutors saw limited numbers of child sexual abuse cases, but that situation has changed dramatically. Why? Public education has helped to highlight the problem of child sexual abuse and to stress the need for children, their parents, and others to report these behaviors to authorities. Law enforcement officers, child protective service workers, prosecutors, defense attorneys, judges, physicians, teachers,

therapists, and victim advocates have been trained to look for signs of child sexual abuse and to initiate criminal action when there is sufficient evidence. Experts had earlier predicted that it would be very difficult to successfully prosecute sexual abuse cases, and they have been proved wrong. Experts who currently predict that child physical abuse cases would be very difficult to prosecute successfully may be wrong as well.

Other lessons learned from the increase of child sexual abuse cases could also be applied to physical abuse cases. Strategies such as public education, training of criminal justice and medical authorities, and a willingness to take on the challenge of cases that are difficult to prove hold promise for increasing the frequency with which prosecutors accept physical child abuse cases for prosecution. To increase prosecution of child physical abuse cases, it seems likely that some concerted effort will have to be made by a number of agencies in the community, in addition to public education campaigns.

Coordination

A coordinated, multiagency response among child protective services, the police, the medical community, and the prosecutor would further efforts to prosecute physical abuse cases.

The successful prosecution of criminal cases usually depends upon the effectiveness of the prosecutor *and* on the quality of the investigation conducted prior to the prosecutor's receiving the case. Indeed, early investigative work has been known to "make or break" the case for the prosecutor. Therefore, it is important that the medical, child protective service, and law enforce-

ment communities look for signs that a child's injuries were intentionally inflicted and conduct investigations to preserve such evidence for the prosecution and defense. In San Diego, the importance of cooperation by the medical community was emphasized due to the pivotal role medical evidence plays in child physical abuse cases. The prosecutor in any community could help further a multiagency approach by educating law enforcement, physicians, and child protective service workers about the evidence necessary to prove child physical abuse cases.

A pivotal aspect of a multiagency response is delineating the roles and responsibilities of each agency and ensuring that one does not interfere with the work of another. This concept is not a new one. In 1984, the U.S. Attorney General's Task Force on Family Violence¹² recommended the use of a multiagency response, which has been reiterated by other researchers.¹³

The lack of a coordinated response could adversely affect the case compiled by either child protective services, law enforcement, or the prosecutor. For example, in San Diego, concern was expressed by law enforcement that child protective service workers sometimes jeopardize their criminal investigation by "tipping off" suspects about the investigation. A joint response would minimize the chances of this occurring. Of course, lack of resources often inhibits a joint response, but under those circumstances, a memorandum of agreement (or an interagency protocol) between agencies could prove helpful. San Diego has a such a memorandum of agreement—among the prosecutor, child protective services, and law enforcement—that details each agency's

roles and responsibilities in child abuse investigations. Officials noted that the memorandum has proved helpful, and other jurisdictions may wish to follow their example. Joint task force meetings that focus on individual cases and general issues of investigating child abuse cases, such as those held in San Diego, could also provide a forum for key agencies to come together and learn about each others' concerns, limitations, roles, and responsibilities.

Specialization

Specialization, coupled with extensive training, could be considered an important foundation for building sound prosecution cases.

In San Diego, researchers were consistently told that specialization within the police department and the prosecutor's office was important in several respects. First, specialization created a core of professionals who received the best available training in child abuse investigations and prosecutions. This was seen as especially important in physical abuse cases, where the key evidence often rested on complicated medical evidence. It also has facilitated the acquisition of knowledge about the psychology of child abusers and the dynamics of intrafamilial abuse, so common in these cases.

Second, specialization has allowed law enforcement and prosecutors to build extensive experience in investigating and prosecuting child abuse cases. Concentrating on one type of case, rather than occasionally handling a child abuse case, can quickly build expertise in the technical aspects of the case and in dealing with child victims and intrafamilial cases.

Third, specialization means that a small number of law enforcement officers and prosecutors handle child abuse cases. These professionals have had the opportunity to form close-knit interpersonal working relationships. This has apparently occurred to a much greater extent between police officers and prosecutors than among police officers, prosecutors, and child protective workers in San Diego. The lack of specialization in child protective services and the large number of CPS workers made building rapport with individual workers difficult.

Not all communities can, or would choose to, establish specialized units. Some will reject the concept because the offices are too small for specialization, others because they do not like the concept. In the 1993 ABA survey, some prosecutors reported that they were against specialization. The reason cited most often was concern about "burnout." Although this complaint cannot be dismissed, it would be useful for agencies to carefully consider specialization, with all its potential advantages, and weigh those advantages against potential disadvantages.

Education

Public education designed to reach prospective jurors with messages about the nature of child physical abuse may be a major priority.

Every professional interviewed in San Diego stressed the difficulty of prosecuting cases because the general public, and thus jurors, were extremely reluctant to believe physical child abuse allegations. The juror mindset ("there but for the grace of God go I") was described often during interviews. The San Diego study, and the 1993 ABA study, leave little doubt

that the prosecution of child physical abuse cases will remain difficult unless jurors are enlightened about the dynamics of these type of cases. Ten years ago, juror disbelief that child sexual abuse occurs was common, but that has begun to change with public education (although the fallout from some highly publicized cases appears to have created some degree of backlash among the public). The researchers believe that in the area of physical abuse, public education needs to reach the level that it has with sexual abuse. Unless that happens, it is likely that prosecutors will continue to confront jurors who are reluctant to convict.

Notes

1. A national survey conducted as part of the 1993 ABA study funded by the National Center on Child Abuse and Neglect (U.S. Department of Health and Human Services).

2. Smith, B.E., and S.C. Elstein, *The Prosecution of Child Sexual and Physical Abuse Cases*. American Bar Association. Final Report to the National Center on Child Abuse and Neglect, 1993.

3. National Research Council, *Understanding Child Abuse and Neglect*. Panel on Research on Child Abuse and Neglect. Washington, D.C.: National Academy Press, 1993.

U.S. Department of Health and Human Services, *Child Abuse and Neglect: Critical First Steps in Response to a National Emergency*. The U.S. Advisory Board on Child Abuse and Neglect. Washington, D.C.: U.S. Government Printing Office, 1990.

U.S. Department of Health and Human Services, *Report on Data Collection: Study of National Incidence and Prevalence of Child Abuse and Neglect: 1988*. Administration for Children, Youth and Families: National Center on Child Abuse and Neglect, Children's Bureau, 1988.

4. Smith and Elstein, *The Prosecution of Child Sexual and Physical Abuse Cases*.

5. Within San Diego County, there are several police departments but the city police department serves the largest proportion of the county.

6. Smith and Elstein, *The Prosecution of Child Sexual and Physical Abuse Cases*.

7. Giovannoni, J.M., and R.M. Becerra, *Defining Child Abuse*. New York: The Free Press, 1979.

8. Misdemeanor cases are handled by the city attorney's office in the city of San Diego.

9. The office continues to maintain data, but at the time of the study, 1992 was the last full year for which they were available.

10. Smith and Elstein, *The Prosecution of Child Sexual and Physical Abuse Cases*.

11. The child protective services supervisor expressed dissatisfaction that caseload pressures generally preclude joint investigations with law enforcement but characterized as cooperative the working relationship between her agency, law enforcement, and the prosecutor's office.

12. U.S. Department of Justice, *U.S. Attorney General's Task Force on Family Violence*. Final Report 10, 1984.

13. Recommendation reiterated by Besharov, who has argued persuasively that interagency coordination is paramount in protecting children in Besharov, D.J., "Combating Child Abuse: Guidelines for Coop-

eration Between Law Enforcement and Child Protective Agencies," *Family Law Quarterly* 24(3) (1990).

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