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IACP National Law Enforcement Policy Center

Investigating Child Abuse

NCJRS

Concepts and Issues Paper

MAY 26 1995

February 1995

ACQUISITIONS

I. INTRODUCTION

A. Purpose of Document

This paper is designed to accompany the Model Policy on Investigating Child Abuse established by the IACP National Law Enforcement Policy Center. This paper provides essential background material and supporting documentation to provide greater understanding of the developmental philosophy and implementation requirements of the model policy. This material will be of value to law enforcement executives in their efforts to tailor the model to the requirements and circumstances of their communities and their law enforcement agencies.

B. Background

Nearly three million cases of child abuse and neglect were reported in 1993 according to the National Committee on the Prevention of Child Abuse (NCPCA), a 23-percent increase in only five years. Of these cases, about 1,300 resulted in death. However, these reported cases represent only a portion of all actual instances of child abuse. In addition, the escalation of drug abuse in the United States has added another tragic dimension to the child abuse problem.

It has long been recognized that there is a high incidence of substance abuse among abusing parents and other adults. Historically, substance abuse has been involved in between 30 and 40 percent of all child abuse cases. However, now a greater number of more violent and drug-dependent addicts are contributing to child abuse statistics. Child abuse, in all its varied forms, is a symptom of a pathologic social environment in general and, in particular, is a signal of a family in distress. However, the greater availability of highly addictive and generally more affordable drugs, such as "crack" cocaine, has an added impact on families with children who are already at risk, as well as creating additional cases of drug dependency and family crisis. The debilitating and all-consuming nature of these drugs directly fuels the environment, which fosters child abuse and neglect.

One of the traditional problems in dealing effectively with

child abuse has been the inability of the two lead investigative authorities--social welfare and law enforcement agencies--to work together in a strategic manner. These agencies often work along parallel lines with one another, each addressing its respective component of the same individual or family problem. Obvious reasons for this are based on differences in philosophy and training of personnel as well as the administrative and statutory demands under which they must work. While the duties and responsibilities of these two components cannot and should not join, there are points at which they do intersect.

The model policy on child abuse investigations takes the position that often child abuse can best be addressed by law enforcement if it is viewed from a preventive standpoint. Once a situation of abuse or neglect has been reported to law enforcement authorities, it has often reached a point where permanent or irreparable damage has been enacted upon the child. Law enforcement and social welfare agencies share a responsibility in seeing that children do not become the targets of adult violence and parental neglect. Routine sharing of information by these agencies in a strategic manner, where permissible and appropriate, can often prevent child abuse or neglect from taking place. The point at which social welfare problems start to become law enforcement matters often represents a critical juncture for the welfare of children involved. The key is often to determine the appropriate point for law enforcement intervention. This is generally best performed by pooling the interests and capabilities of welfare officers, law enforcement, prosecutors and relevant others in a team approach to meet the needs of specific cases.

C. The Nature of Child Abuse

Child abuse is a generic term that incorporates a variety of purposeful acts resulting in child injuries. Probably the most dramatic of these and the most often reported to the police is physical child abuse that results in death or serious injury. However, child abuse is far more pervasive and often more subtle.

The scope of child abuse is incorporated in the definitions offered by the model policy. These are offered as operational definitions for the model policy and this discussion paper, recognizing that these definitions are often subject to state law. From these definitions, one can see that abuse and neglect are multifaceted.

For example, physical battering may be the result of a parent's momentary fit of anger, or it may be part of an ongoing abusive situation. In the case of sexual abuse situations within families, offenses are more frequently calculated and may form a long-term pattern of sexual abuse. Physical neglect of a child's needs for nourishment or medical care, reckless disregard for his safety, or failure to provide food or medical care are all elements of the child abuse and neglect problem.

The physical effects of child abuse are only part of a child's injuries. The psychological and emotional impact of abuse frequently have long-term consequences for the child. Many children blame themselves for the abuse, adopting the feeling that they are bad and deserve the abusive treatment. Others may adopt the long-lasting perception that violence is a natural, even acceptable, component of family life and interpersonal relationships. As a consequence, many abused children carry to the next generation the same type of treatment that they endured. Other children translate physical abuse into later criminal violence. The fact that so many violent offenders have histories of child abuse and neglect is testimony to the fact that child abuse is often an inter-generational phenomenon. As such, it is important, not only for the current victim, but for future generations to identify child abuse whenever possible and to bring appropriate enforcement and treatment to bear on the problem.

D. Responsibility for Reporting

All states have laws that mandate reporting of suspected cases of child abuse. About half the states require that such reports be filed with child protective agencies, and the remainder include police departments as appropriate reporting agencies. In all but a few states, criminal penalties are provided for individuals who suspect but do not report such cases. It is not necessary that individuals have conclusive evidence that a child abuse situation exists, only that there is reasonable cause to suspect that such an act took place or situation exists.

Even with these laws, there is substantial underreporting of child abuse by medical, educational and social service agency personnel as well as law enforcement officers, all of whom are in particularly opportune positions to identify such cases. In addition to having negative consequences for the victim, failure to report carries potential civil liabilities for damages resulting from the abuse. Civil liability extends to police officers who fail to take appropriate action.

Most state statutes provide for immunity from criminal prosecution for individuals who act in good faith in reporting child abuse cases. Should a complaint be unfounded, however, there is no guarantee that a civil suit will not be lodged. Nevertheless, it is exceedingly difficult for a parent, guardian or similarly responsible individual to prevail in

such a case if the complainant acted in good faith and with reasonable care.

Police officers should be aware that there is also a problem associated with improper reporting of suspected child abuse cases. Individuals may file such complaints with police departments in good faith, but with little knowledge of child abuse or ability to interpret available information. Such situations can create some difficulty for police departments as the investigating agency and for parents who may be inappropriately drawn into an investigation of their conduct, generally alleged to have taken place in the confines of their own home.

Inappropriate reporting is an issue that should be recognized by police officers. However, until an investigation can be conducted, all complaints of child abuse should be taken seriously, whether eyewitness or secondhand accounts, or whether filed personally or anonymously by telephone. Police officers must be in a position to make knowledgeable judgments about suspected child abuse and neglect cases based on an awareness of the signs and symptoms of such crimes.

In short, there is a great deal of both hesitancy and misunderstanding in reporting and investigating alleged cases of child abuse. Many individuals are confused about their responsibilities for reporting, a factor often compounded by a desire to give parents the benefit of the doubt or, the belief that parents or similar persons should be allowed to discipline and otherwise raise their children as they see fit. Others may be more zealous in their desire to report such crimes or may even make such reports out of spite or malice.

II. PROCEDURES

A. Investigative Resources

The point at which an investigation of child abuse begins depends largely upon the reporting party or agency and the degree to which a case of abuse, neglect or abandonment can be legally established. For example, abused children who require immediate medical attention suggest a point of investigative departure through interviews with medical staff. In most cases, investigation of child abuse will require contact with one or more sources of information depending upon the nature of the complaint and the perceived scope of the abuse. Basic types of questions are presented in the model policy for conducting interviews with individuals who report child abuse. Such inquiries are generally warranted prior to direct contact with the family and the child.

Other basic types of information available through the police department should also be collected early in the investigation. This includes such information as the existence of criminal records or charges against any members of the family or court protection orders that may have been filed against any family members. Other general sources of investigative information can be gathered from a variety of resources in the community. These are reviewed in the following sections.

B. Medical Examiners and Emergency Room

Personnel

In the worst possible scenario, the death of a child, a medical examiner may be the primary source of contact for investigative purposes. Police departments in general and investigative personnel in particular must develop a good working relationship with the medical examiner's office. In these and related circumstances, a collaborative relationship generally proves to be far more productive than either the police or medical personnel working independently. The investigative officer should be present at the autopsy or at the initial examination of the body and should brief the examining physician on the circumstances of the alleged accident if information is available. This also holds true for emergency room physicians who treat a child following a presumed serious but nonfatal accident. In both cases, physical examinations may reveal certain types of injuries that confirm or suggest abuse. These include the following:

External Signs. Some injuries have identifiable patterns that can be linked to specific objects used in an attack. For example, one may be able to identify bite or scratch marks; coat hanger or hot iron impressions, fingertip marks caused by tight gripping; straight, curved, curvilinear or jagged lesions that may indicate whipping by specifically shaped objects; and scald or peculiar burn marks.

The location of some injuries is also indicative of abuse. These include injuries to the genitals, buttocks and rectal areas, as well as trauma to the torso, upper arms and thighs. These and related injuries are particularly incriminating if they are not accompanied by other relatively common injuries suffered by children, such as skinned knees and bruises to the elbows, shins and forehead, or by other injuries that would have probably been received as part of the accident. For example, most often children who are involved in accidents also display these signs of typical childhood play. On the other hand, children who are abused, may show few or none of these signs and, except for the abusive injuries, may even appear well groomed and dressed.

There may also be signs of old injuries to various parts of the body that are in different stages of healing. Some children seem to be accident-prone and may accumulate a variety of injuries over time. However, injuries that are not common to childhood and that appear to have been received over a period of time can be signs of a steadily escalating cycle of abuse.

In all cases of suspected abuse, injuries should be photographed in color in order to assist in establishing the extent of damage and the age of injuries at later trial presentation.

Internal Signs. As noted, some injuries are not characteristic of childhood activities and common accidents. For example, it is very unlikely that pre-toddlers would be able to break a major bone such as a thigh or upper arm bone, nor likely to break other smaller bones given the child's lack of mobility and the inherent difficulty in breaking the bones of young children. Some fractures will be apparent externally. Others, particularly older fractures, require radiological examination in order to be identified. The nature

of some fractures provide almost indisputable evidence of abuse. These include spiral fractures, indicating vigorous handling, shaking or twisting; and fractures to the rear and upper part--occipital and parietal bones respectively--of the skull, suggesting that the child was swung by the feet into a solid object or suffered a blow to the head. Subdural hematomas, without evidence of contusions on the scalp, or skull fractures may suggest violent shaking of an infant that caused whiplash of the child's head and subsequent internal injuries.

Like the emergency room physician, the medical examiner may be confronted by a child where the history, pattern or extent of injuries does not correlate with the alleged cause of death. Also typical of the abused child is an inordinate parental delay in seeking medical attention, evidence of administration of home remedies for a serious injury, a history of prior visits to different emergency rooms, frequent changes of physicians, any prior diagnosis of "failure to thrive," even multiple emergency room visits with a well child. If any of these situations is encountered, one should consider child abuse as likely.

At the autopsy, there are procedures that should be performed to establish the full scope of current and past injuries to the child, as well as any possible contributing causes of death. A principal purpose of the medical-legal autopsy is to establish a cause of death. However, this is not the only purpose. As one noted pathologist states: "If the purpose of the examination did not extend beyond this (determining the immediate cause of death), much evidence concerning the nature of the perpetrator, the degree of injury, the intervals between episodes of injury, the magnitude of force directed at unexamined portions of the body, and perhaps the presence or absence of underlying natural disease or old trauma which may have contributed to the death, may not be revealed."¹

Some medical examiners may feel comfortable with simply establishing a cause of death. However, at trial, they probably would not be able to positively exclude other possible causes of death because of the limited scope of the examination. This factor could compromise the prosecutorial effort. By the same token, the lack of any external trauma does not necessarily mean that the child did not die from abuse. Many fatal internal injuries are not detectable through external examination alone. The importance, therefore, of a detailed and thoroughly documented autopsy cannot be over-emphasized in cases of suspected child abuse. Photographic evidence coupled with detailed measurements and laboratory data are essential for both investigation and prosecution.

Based on the judgment of a physician, the diagnosis of one or more of these suspicious injuries may be sufficient evidence to conclude that the child suffered from abuse. These injuries are particularly incriminating when they do not correlate with parental explanations of how they were incurred. This underscores the importance of a close and ongoing communication between police investigating officers and physicians. Examining physicians must be kept informed about the course of the investigation and the types of questions that should be answered as the result of their examination.

C. Social Welfare Personnel

Child abuse is evident at all socioeconomic levels, and police officers should not assume that a seemingly affluent or socially acceptable family is immune to these crimes. In contemporary American society, however, a significant percentage of child abuse is found in homes where there is considerable apparent domestic and economic stress.

The most common victim of abuse is under three years of age--a period of development characterized by considerable crying, toilet training petty disobedience and general selfish demands. For some, these demands can be difficult to handle, especially when coupled with other personal difficulties such as loss of or intermittent employment, substance abuse and emotional problems. Many offenders are those who have little tolerance for these and other stressors. These include teenage parents, baby sitters, boyfriends, or nonbiological parents who may also display other coping problems. As such, those who come to the attention of police officers for child abuse and neglect are often those who have received assistance from other local support agencies such as social welfare and child protective agencies.

These public and private agencies may provide police with a wealth of valuable information on such matters as family background, employment, economic and domestic stability, and related matters that serve to shed light on the dynamics of the family environment. If the family is from another jurisdiction, these agencies will also often have additional materials that will help to establish whether they have been involved previously in child abuse or neglect.

While child abuse and child neglect are crimes, they are also at the center of a web of interrelated social problems. Law enforcement is one solution to child abuse and neglect, but it is not always the only solution. Job placement; educational and vocational assistance; mental health, family, and substance abuse counseling, housing assistance; and related aid may be of equal or greater value. Unfortunately, in many communities these agencies often work independently.

To overcome this problem and take greater advantage of these resources, many police departments rely on an interdisciplinary team composed of representatives from community service agencies and the police department. These teams work cooperatively on common cases that cut across agency responsibilities. An attempt is made in each case to develop a solution or strategy that meets the responsibilities of specific agencies while serving the best interests of the family and the child.

When criminal charges are warranted, they should be filed. But, rather than file charges in some instances, it may be deemed more useful to employ the aid of other community service agencies to work with the family in an effort to stop the abuse. As long as there is no threat to the child, arrest and prosecution may be deferred, local agencies can come to a joint decision on appropriate actions.

D. Teachers

If the child is enrolled in school, his teacher may provide a variety of information that may shed light on the suspected

child abuse. The child's record of attendance, grades, demeanor, socialization, motivation and perceived emotional stability are among the factors that may provide insights about possible problems at home. The investigator should explore these areas of information with the teacher and school counselor, as available, to determine whether there are any behavioral indicators of child abuse. These behavioral indicators include the following:

- Recurrent injuries or complaints of parental physical mistreatment.
- Marked changes in the child's behavior or achievement.
- Exaggerated reactions to being touched.
- Strong antagonism toward those in authority.
- "Incorrigible" actions or acting out.
- Severe withdrawal from peers or adults.
- Statements indicating that the child is frightened of the parents
- Assaultive behavior.
- Extremely provocative behavior designed to incite physical confrontations.
- Delinquent acts.
- Running away from home.
- Truancy
- Emotional disturbances, such as depression and withdrawal.
- Refusal to dress out for physical education.

These indicators can also be used when interviewing any individual, such as a neighbor, who may have personal knowledge of the family situation in general and the child-parent relationship in particular.

E. Family Interview

Based on information from the above sources and others, a decision may be made that an interview should be conducted with the family in question. Whenever there are indications that a child is the victim of abuse, separate interviews should be conducted with the parents or guardians and the child. It is best to conduct the interview in the child's residence. This will give the officer a good opportunity to examine the residence and observe the family in familiar surroundings. It will also reinforce the officer's intent and the parents' perception that the interview is a non-accusatory, informal, fact-finding session. If officers plan to make charges, however, it may be preferable to conduct the interview at the police station. Under such circumstances, officers should have discussed the case and the bases for the charge(s) with the local prosecuting attorney.

It is not possible here to adequately explore techniques for interviewing adults and children. These are more appropriate for separate policy statements. However, there are some basic rules that should be followed. For example, one should limit the number of interviews with children in order to avoid further traumatization. It is often preferable to incorporate child protective workers or others into the interview in order to avoid duplication of questions in separate sessions. Social welfare officers are also frequently able to bring special

insights into such investigations due to extensive exposure to these types of cases.

The officer should begin interviews with parents with a general non-threatening and non-accusatory introduction. One may simply inform the parents that it is departmental policy to conduct interviews in such cases. The officer should ask questions in an open-ended manner so as to allow parents complete latitude in providing answers. For example, it would be appropriate to begin by simply asking the parents to describe how the child was injured as opposed to asking them initially to respond to specific questions concerning the injury.

There are several criteria that police officers may use to determine the truthfulness of a parent's explanation. For example, the explanation should be reasonable in relationship to the physical injuries involved. In making these types of judgments, the police officer needs the full report of the examining physician or medical examiner and the doctor's assessment of the injuries. It would not be plausible, for example, if a parent attempted to explain a skull fracture by attributing it to a simple fall or an accidental dropping.

It would also be unreasonable to believe that an infant or small child could incur self-inflicted injuries of particular types. In some cases, the child may not be of sufficient maturity, such as in cases that would require a degree of manual dexterity or the ability to walk or stand. In other cases, the instrument alleged to be involved in the accident may not be consistent with the nature or degree of injuries sustained by the child.

Some parents may attempt to explain or excuse the incident as a legitimate attempt to discipline the child. Several criteria may be used to establish whether such explanations are reasonable. For example, the severity of the punishment should be appropriate to the misbehavior involved. But even in cases of serious transgressions, a parent does not have the right to inflict serious bodily injury. The child should also be of an age to understand why the punishment was administered. One would not expect an infant or toddler to adequately understand the relationship between physical punishment he received and specific acts in question.

In order for physical discipline to be considered reasonable, it must also be administered with care and prudence. It is unreasonable, for example, to unnecessarily expose a child to possible injury, to punish the child for no meaningful wrongdoing or to direct physical punishment to vulnerable areas of a child's body, such as the head, face or genitalia.

In determining whether to accept a parent's explanation, police officers should also consider the consistency and reliability of the parent's story. For example, are there inexplicable aspects of the incident? Do the parents claim ignorance of critical details? Or do they contradict certain elements of their explanations?

In addition to the parents' explanation, officers should attempt to assess the home environment. Where appropriate, photographs of the home should be taken if it would serve to better detail the nature of the child's physical surroundings. For example, if possible, one should determine whether the

family has a support system that includes neighbors, friends and family. Many abusive families live in a socially isolated environment and, because they have no one to confide in, tend to take their aggressions out on their children.

It is important to determine whether both parents seem to be involved in or condone the abuse of the other. If only one parent is involved, does the other appear to support the child? If not, there is greater likelihood of abuse to the child. Do the parents appear to support one another in a positive domestic context? If so, there is less likelihood that either will engage in abuse. However, a child's vulnerability to abuse increases in situations where there is serious parental disharmony and lack of mutual support.

Do the parents tend to pick out one of the children as "special" in a negative context? If a parent tends to identify a child as stupid, unattractive or in some other negative manner, the child may be targeted for abuse. Are there frequent or ongoing crises in the family? Crises may be based on a number of factors such as economic, employment, emotional, psychological or physical problems that create stress or strife in the family.

Finally, within the home environment, investigators should be aware of any physical evidence that may bear on the abuse investigation. Guns, knives, drugs, poisons or related items, as well as any other instruments that have bearing on the abuse and/or are in possession of the suspected perpetrator should be identified and, if possible, collected as potential evidence.

F. Protecting the Abused Child

In a confirmed child abuse situation, ensuring the future welfare of the child is the most important consideration. While every attempt should be made to resolve the differences and problems of the family in order to correct the parents' abusive behavior, one should not lose sight of the fact that child abuse is a criminal act. In some cases, arrest of the abusing parent may be the only appropriate response and the only action that will adequately protect the child in spite of pressures to keep the family together.

In addition to arrest, there are some situations in which an officer may need to take immediate action in order to protect a child from danger. Normally, in order to take a child into protective custody, it is preferable to obtain a court order. However, all states permit a police officer to remove a child from the home under emergency circumstances. While state laws may differ, such situations may typically be deemed to exist when, in the officer's best judgment, the child is in imminent danger and there is not sufficient time to obtain a court order or where it appears that abusing parents might flee with the child. Imminent danger may also exist when the child's surroundings or conditions create a physical emergency. Most state statutes define the steps that must be taken following an emergency removal in order that continued custody (normally more than 48 hours) is valid. Continued custody decisions should be made in conjunction with the appropriate child protective agency and court review procedures.

Forced removal of a child for protection may not always be necessary. Many parents will consent to the removal of

their child, and some will even welcome the child's removal as a desired relief. In some cases, it may be possible to place the child with close friends or relatives providing that the child can be adequately protected. In other less urgent circumstances, it may be preferable to seek a restraining order from the court in order to maintain the necessary child-parent separation.

Endnotes

¹Joseph H. Davis, M.D., Chief, Metro Dade County, Florida, Medical Examiner's Office, paper presented at IACP seminar: "Police-Medical Investigation of Death," 1989.

This project was supported by Grant No. 93-DD-CX-K009 awarded by the Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice. The Assistant Attorney General, Office of Justice Programs, coordinates the activities of the following program offices and bureaus: the Bureau of Justice Assistance, the Bureau of Justice Statistics, National Institute of Justice, Office of Juvenile Justice and Delinquency Prevention, and the Office of Victims of Crime. Points of view or opinions in this document are those of the author and do not represent the official position or policies of the United States Department of Justice, or the International Association of Chiefs of Police.

Every effort has been made by the IACP National Law Enforcement Policy Center staff and advisory board to ensure that this model policy incorporates the most current information and contemporary professional judgment on this issue. However, law enforcement administrators should be cautioned that no "model" policy can meet all the needs of any given law enforcement agency. Each law enforcement agency operates in a unique environment of federal court rulings, state laws, local ordinances, regulations, judicial and administrative decisions and collective bargaining agreements that must be considered. In addition, the formulation of specific agency policies must take into account local political and community perspectives and customs, prerogatives and demands, often divergent law enforcement strategies and philosophies, and the impact of varied agency resource capabilities, among other factors.