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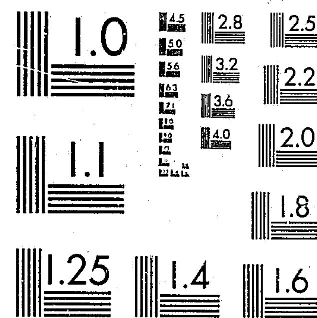

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CALIFORNIA DEPARTMENT OF JUSTICE

INFORMATION PAMPHLET NO. 8

CHILD ABUSE

THE PROBLEM OF THE ABUSED AND NEGLECTED CHILD

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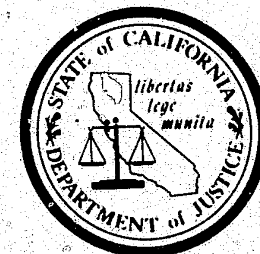
[OFFIC]E OF THE ATTORNEY GENERAL
[C]RIME PREVENTION UNIT



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MESSAGE FROM THE ATTORNEY GENERAL

Concern for the problem of the abused and neglected child has reached national attention. No concern is more important to a community than the protection and welfare of its children. Babies and young children are among the most vulnerable victims of violent crime in California. Child abuse and neglect is an ugly reality, both a crime and a disease.

In California alone, more than 72,000 suspected cases of child maltreatment were reported in 1977 by the various agencies involved in the problem; however, the magnitude of child abuse and neglect is generally accepted as much greater since many cases go unreported.

Child abuse and neglect is found in all cultural, ethnic, occupational and socio-economic groups. It is a problem which requires our immediate and serious attention and the development of interagency and community cooperative efforts in prevention, education, reporting, training and treatment.

Although the right of parents to control and raise their own children is accepted as a fundamental right in our society, intervention is justified by a paramount social interest--protection of the safety of the child. The Fourteenth Amendment of the United States Constitution states that everyone has equal protection under the law. Intervention for the protection of a child may involve a broad range of possible action including counseling and treatment, the filing of criminal charges, and/or the removal of a child from the control and custody of a parent, guardian or other caregiver.

The serious and pervasive problem of child abuse and neglect is recognized and currently dealt with by a variety of disciplines. Many law enforcement and justice system personnel, the medical community, social service workers and others have developed strategies for handling the problem. Laws have been passed and enforced, medical diagnostic techniques discovered, counseling offered and direct services provided to families in difficulty. None of these strategies alone, however, can effectively combat child abuse. These communities which have established cooperation and communication among all the involved parties have learned that consistent, thorough and effective reporting, treatment and prevention of child abuse occurs when the expertise of all involved disciplines is utilized.

The willful breaking of a child's leg by a parent or guardian is a physical assault by one human being upon another. It is clearly a crime and, as a result, those agencies of government responsible for dealing with crime must maintain a major role. Once such intervention has occurred , however, it is recognized that it may not always be appropriate to handle this type of criminal activity with a traditional crime and punishment approach. In making that decision, all segments of the system must work together to pool their collective experience and judgment in order to make the best decision. Only then can we be sure that the best interests of society, and particularly of the child, have been protected and served. Rather than any effort to compartmentalize our approaches to child abuse and neglect, we should all be moving to ensure even greater cooperation between law enforcement and social agencies as a team.

The purpose of this pamphlet is to heighten public awareness and understanding of the problem. It should also serve as a practical aide to those persons who work in the field of child abuse and neglect.

We must all be concerned with the detection, treatment and, above all, the effective prevention of child abuse and neglect for the sake of children, parents and society as a whole.

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INTRODUCTION

Childrearing has traditionally been a private, family matter. In our society, parents and other family members have cared for and disciplined their children in the manner they saw fit with a minimum of outside interference.

Times have changed, however, and a growing awareness of the incidence and degree of child mistreatment is altering the public's attitude regarding childrearing. There is increasing concern that children must be protected from harm regardless of the origin of the harm.

The right of a child to enjoy a healthy, satisfying life should be granted equal status with parental rights.

WHAT IS CHILD ABUSE?

To many, child abuse is narrowly defined as having only physical implications. In reality, child abuse is any act of omission or commission that endangers or impairs a child's physical or emotional health and development. This includes:

Physical Abuse and Corporal Punishment
Emotional Abuse
Emotional Deprivation
Physical Neglect and/or Inadequate Supervision
Sexual Abuse and Exploitation

The infliction of injury or the resulting injury, rather than the degree, is the determinant for intervention. A parent or caretaker may begin by inflicting minor injuries and go on to cause more serious harm over a period of time. Therefore, detecting initially inflicted small injuries and intervening with preventive action may save a child from future permanent injury or death.

Of course, inflicted physical injuries, physical neglect, and malnutrition are more readily detectable than the subtle and intangible injuries which result from emotional maltreatment or deprivation.

It is not easy to judge the quality of family emotional relationships since each culture, ethnic, racial and economic group has its own style of interacting with children.

Assessing family emotional relationships is a critical aspect of child abuse investigating procedures. When observing a family, it is important to be fully aware of our personal biases and preconceptions, and to be able to differentiate between practices of childrearing which are truly harmful to children and those practices which merely reflect different lifestyles.

Interest has recently been focused on the degree of stress placed upon families and the lack of security created by the difficulties in obtaining the basic necessities of life including food, shelter, clothing, medical care and education. It is believed that parents under such stress may be less capable of providing adequately for the emotional needs of their children. In struggling for survival, such a parent may be incapable of resolving stressful situations rationally. In such situations, clashes with children would be likely.

Physical Abuse and Corporal Punishment

The most common cause of inflicted physical injury is over-punishment which occurs when corporal punishment is unreasonably severe. This usually happens when the parent is extremely agitated or angry, and either throws, or strikes the child too hard or continues to beat him. Other forms of punishment may place a child in a situation where injury occurs or the child's health or person in endangered.

Intentional, deliberate assault such as burning, biting, cutting, poking, twisting limbs or otherwise torturing a child is also included in this category of child abuse.

The combination of physical punishment and rage can be deadly. In addition, many experts agree that it is not effective as a discipline technique. While it may deter a child from future negative behavior, the use of excessive corporal punishment also teaches a child to resolve conflicts violently--to use physical power rather than reason to obtain results or to express anger. Physical punishment is more effective for relieving the parent of tension than for disciplining the child. Frequently, it leaves the parent with feelings of guilt and remorse, as well.

While there are many who feel that all corporal punishment is abusive, there are many others who feel it useful under restrained conditions as a method of discipline. Discipline and punishment are not the same. Parents and children need to establish mutual respect and rules of behavior. Among some techniques suggested for maintaining good discipline are the giving of choices, suggesting substitutes, giving face-saving commands, removing tempting objects, setting up rituals and cooperative activities, being sensitive to a child's needs and values, and keeping a sense of fair play.

Basically, the clinical signs of physical abuse are as follows:

> Evidence of bodily injury, bruises, abrasions, cuts, lacerations, burns, soft tissue swelling, hematoma, dislocation, fracture. Neurologic signs indicating intracranial injury; subdural hematoma, coma, retinal hemorrhaging, convulsions and "whiplash shaken infant syndrome". Absence of a reasonable explanation for injury.

Reportable suspected child abuse would then generally fall into the following categories:

1. Any injury unusual for a specific age group. (Any fracture in an infant)
2. History of previous or recurrent injury.
3. Unexplained injury. (Unable to explain, discrepancies in given explanation, blame placed on a third party, explanation inconsistent with medical diagnosis)
4. Excessive bruising in an area other than usual traumatic contact, (shins, elbows, forehead). This includes specific bruising patterns such as a belt buckle mark, handprints, cigarette burns, etc.
5. Evidence of poor supervision. (Repeated falls down stairs, repeated ingestions of harmful substances.)
6. Evidence of neglect. (as described later)
7. Any indication of sexual abuse. (As described later)
8. Verbal threats against the life of a child made by parent(s) or guardian.

More specific factors of suspected physical abuse include the following:

1. Burns:

Burns are very often difficult to evaluate. Many burns, however, are characteristic of abuse in that they appear to have the shape of a recognizable object evenly burned into the skin of the victim indicating prolonged contact, i.e., the grill of an electric heater or the element of an electric stove or an iron.

Another burn that does not appear to be accidental is a scald burn between the shoulder blades which is the result of immersion of a child's upper back in hot water. When children are held by their hands and legs under a running hot faucet, the tissue on their abdomen and upper legs folds up preventing burning in the creases. Such examples of scalding are clearly evident and are called "zebra burns".

The reflex response of children who step into a tub of water is to sit down in it. (It may not be as hot at first to the feet as it is later to the buttocks.) This results in burns of the feet and the entire surface of the buttocks. In contrast, when children are forcibly held down in a sitting position in a tub of hot water, the center part of the buttocks (if pressed tightly against the tub) is spared from burning, thus resulting in a "doughnut" shape burn of the buttocks.

Abuse should also be suspected when burns are pointed or deeper in the middle, suggesting that hot liquid was poured on, or pressed in by an object (poker, utensil). Cigarette burns are difficult to diagnose, but when inflicted they are usually multiple. There is a searing effect with charring around the wound.

"Glove" burns and "sock" burns are the terms used to describe burns to the hands and feet as a result of forced immersion into hot water
above, or the entire foot up to or above the ankle), and the immersion line is readily evident.

2. Whipping:

Linear marks or strap marks sometimes covering a curved body surface (wrap-around) are evidence of inflicted trauma. Belt buckles cause a "C" or "U"-shaped dark wound, called a "gull wing" laceration. Belt buckles can cause other shaped wounds as well. Loop marks on the skin maybe caused by a doubled-over electrical cord or rope.

3. Pummeling:

Blows from a heavy blunt object such as a baseball bat on soft tissue results in deep muscular bruises, or hemorrhage. These are rarely discolored. In time, such a collection of blood can be seen on x-ray. Blunt trauma to the abdomen may cause serious intra-abdominal injuries to the liver, spleen, pancreas, kidney and other vital organs. There may be no visible surface evidence of such trauma.

4. Head injuries:

Skull x-rays may reveal an "egg shell" fracture of the back of the skull. Since an accidental trauma to the head usually involves impact on the shoulders also, the blow to the skull rarely produces more than a single crack. When children are slammed against the wall or thrown there, however, the back of the head shatters. Subdural hematoma, or trapped blood around the brain, should be looked for carefully. Any child with a suspected head injury has the potential for subdural hematoma which, if left untreated, may cause brain damage, paralysis, mental retardation, or death.

5. Whiplash shaken infant syndrome:

The essential elements in the whiplash shaking syndrome present an extraordinary diagnostic contradiction. They include intracranial and retinal (behind the eyes) hemorrhage, and the absence of signs of external injury to the head. Habitual, prolonged shakings may produce an insidious progressive clinical picture. It usually first becomes evident at school age when minor motor defects are first detected along with mild mental retardation. Permanent impairments of vision and hearing may also be identified for the first time when the children are 5 or 6 years of age.

6. Bruises:

Inflicted abuse should be suspected when:

(a) bruises are either multiple and all of the same color; or multiple and of different colors (which indicate various stages of healing);

(b) the child is less than 12 months old (children this age would be unlikely candidates for multiple bruises);

(c) bruises are found on multiple surfaces of the body, particularly on the back, and around the genitals or mouth;

(d) bruises are multiple and in the same area, and appear to be instrument-inflicted; and/or

(e) bruises are on both sides of the face (two black eyes would be highly suspect, unless in the case of a proven accidental broken nose).

The timing or age dating (ecchymoses) of bruises can be an important factor. The following are approximations, but can be used as a rough guide:

immediate - few hours	red
soon - 6 to 12 hours	blue
later - 12 to 24 hours	black-purple
4 - 6 days	green tint, dark
5 - 10 days	pale green to yellow

Single bruises to forehead and chin, in addition to shin or knee bruises, are usually normal for small children.

Contusions which should be suspected are those which clearly resemble impressions of jewelry such as rings, where injuries, for example, may have resulted from direct blows with fists.

7. Abrasions, lacerations and scars:

Again, the multiplicity and location of wounds as with bruises, should be considered, i.e., numerous straight line lacerations in the same general area. In the event of amputations, sharp incisions would be suspected. Lacerations within the mouth, especially under the tongue of infants, could be due to a rubber nipple being jammed into the infant's mouth, and not intentional infliction of injury.

8. Fractures:

Any fracture in an infant under 12 months is suspect. Long bone (arm and leg) fractures that are the result of twisting are characteristic as "spiral" fractures that are almost always due to inflicted trauma.

"Chip" fractures at the end of long bones are suspect, and highly so in an infant. Fractures resulting from yanking and jerking are suspect. Rib fractures (especially back rib fractures) should be suspect, and an x-ray indicating multiple healing or healed fractures is an important factor to consider.

Some concluding factors that should raise suspicion and further investigation include the following:

1. Very young children with injuries on the back surfaces of the body from the neck to the knees. This is a primary target zone and the largest percentage of injuries are directed to this area.

2. Bruises, scars and wounds on the back of arms and hands which are characterized as "defense" wounds.

3. Excessive layers of clothing, especially in hot weather, should arouse curiosity since clothing may be hiding wounds.

One of the most important grounds for suspicion appears to be the one that is discussed the least--when the child tells someone. It is essential that such a child not be ignored, or the situation diminished. It should be remembered, too, that when a child tells a particular person who happens to be one of those mandated to report, there is no privileged communication. That person must report what the child has related to him or her. This applies to any type of abuse a child may relate, i.e., situations of physical abuse, emotional assault or deprivation, physical neglect, or sexual abuse.

Emotional Abuse

Just as physical injuries can scar and incapacitate a child, emotional cruelty can similarly cripple and handicap a child emotionally, behaviorally and intellectually. Severe psychological disorders have been traced to excessively distorted parental attitudes. Less serious emotional and behavioral problems are very common among children whose parents abuse them emotionally.

Excessive verbal assaults (belittling, blaming, sarcasm), unpredictable responses (inconsistency), continual negative moods, constant family discord, and double-message communication are examples of ways parents may subject their children to emotional abuse.

Emotional abuse may be "suspected" if:

-- Child is very withdrawn, depressed and apathetic.

-- Child "acts out", and is considered a "behavior problem".

-- Child is overly rigid in conforming to instructions of teachers, doctors, and other adults.

-- Child displays other signs of emotional turmoil -- (repetitive, rhythmic movements; inordinate attention to details; no verbal or physical communication with others).

-- Child unwittingly makes comments about his own behavior, such as, "Daddy always tells me I'm bad..."

The behavior patterns mentioned may, of course, be due to other reasons, but the suspicion of abuse should not be precluded.

Emotional distress may result when:

-- Parents make demands on child based on unreasonable or impossible expectations.

-- Parents use child as their "battleground" for marital conflicts.

-- Parents use child to satisfy their own ego needs, and child is not mature enough or old enough to understand.

Parents who emotionally abuse their children, as well as many parents who abuse their children in other ways, tend sometimes to "objectify" their children by referring to them as "it" (it cried... it died).

Emotional abuse has been characterized as a self-fulfilling prophecy. If a child is degraded enough, the child will begin to live up to the image held by the abusing parent or guardian.

Regarding marital conflict, when two parents are tearing each other apart in front of the child (in custody hearings, for example), the child's image of himself is being chipped away (your mother's no good... your father's no good). However poor, a child's image of himself is locked into the parents.

Emotional abuse cases are extremely difficult to prove, and accumulative documentation by witnesses is imperative. Such cases are usually diverted to treatment as soon as possible.

Emotional Deprivation

Robert M. Mulford, a member of the National Advisory Committee of the Children's Division, American Humane Association, defines emotional deprivation as "...the deprivation suffered by children when their parents do not provide the normal experiences producing feelings of being loved, wanted, secure and worthy."

When parents ignore their children, whether because of drugs or use of alcohol, personal problems, or other preoccupying situations, such as outside community affairs, serious consequences may occur.

Emotional starvation, like emotional abuse, is one of the most difficult types of abuse to detect and is perhaps the most tragic. It is the opinion of many experts that while physical abuse may produce "violent criminals", emotional abuse and neglect has also been correlated with "delinquent" behavior in adolescents and criminal behavior in adults.

Emotional deprivation should be "suspected" if the following examples are observed:

-- Child refuses to eat or eats little, and is very frail.

-- Child is not thriving in general. (unable to perform normal learned functions for a given age, i.e., walking, talking, etc.)

-- Child displays anti-social behavior (aggression, disruption), or obvious "delinquent" behavior (drug abuse, vandalism); conversely, the child may be abnormally unresponsive, sad or withdrawn.

-- Child constantly "seeks out" and "pesters" other adults (such as teachers, neighbors, etc.) for attention and affection.

-- Child may display exaggerated fears.

Again, there may be other causal factors than deprivation, but it should not be summarily ruled out. Emotional deprivation may result if parents show little or no interest in a child's activities, or express neither warmth nor anger. As discussed later in this pamphlet, lack of attention and affection at home has led many children into more serious situations outside the home.

Physical Neglect

Physical neglect is essentially the failure of a parent or caretaker to provide a child with adequate food, shelter, clothing, protection, supervision, and medical and dental care.

Physical neglect is "suspected" if the following conditions exist:

-- Unsanitary conditions in home (garbage, animal or human excretion)

-- Lack of heating or plumbing in home

-- Fire hazards or other unsafe home conditions

-- Sleeping arrangements cold or dirty or otherwise inadequate

-- Nutritional quality of food in home is poor

-- Meals not prepared (children snack when hungry)

-- Spoiled food in refrigerator or cupboards

-- Child lacking in medical or dental care

-- Child always dirty; poor skin hygiene

-- Child always sleepy or hungry

-- Clothing always dirty or inadequate for weather

-- Child under 14 left alone in home or unsupervised under any circumstances (left in car, street, etc.) for any period of time in which injuries occur or when the child's health or person is endangered.

More and more children are being treated for drug overdose from ordinary household drugs, prescription drugs, alcoholic beverages, and now from illicit drugs being irresponsibly left within their reach.

"Failure to thrive" (FTT) is defined as an infant or young child whose height and weight measurements (including head circumference) are below the third percentile of accepted standard growth charts. Before considering FTT as a result of neglect or deprivation, the normal causes should be excluded, i.e., premature birth, disease, malformations, etc. A ravenous appetite and subsequent weight gain in the hospital may be diagnostic. Failure to thrive is not necessarily due to physical factors such as the lack of food or proper care, but can also be a direct result of emotional deprivation, rejection or lack of normal stimulation. Diagnosis is difficult and complicated and, if untreated, the results can be as serious as permanent brain damage or death.

Sexual Abuse and Exploitation

Incestuous/Intrafamilial Sexual Abuse

Sexual abuse of children within the family is the most hidden, least publicized form of child abuse. Because of its taboo nature and the difficulty of observation, some researchers feel it may be even more common than physical abuse. Whereas "incest" refers to sexual activity between persons who are blood-related, "intrafamilial" regards sexual activity between non blood-related family members (step-parents, boyfriends, etc.).

Parents with no prior history of sexual problems can find themselves feeling tempted to abuse a child in the intimacy of family life, especially at times of stress or when adult sexual adjustment is poor. A parent who chooses to involve a child in sexual activity can easily make the child believe that sex is a special game or a necessary part of being loved and accepted. Older children are led to believe that they are at fault for seducing the parent and that they will be disgraced, hated or blamed for breaking up the family if they reveal their secret.

Children who do seek help are accused of making up stories, since most people cannot believe that an apparently well-adjusted parent could be capable of incest. When the matter does come to the attention of authorities, and even if protective attention is gained, the child may give in to pressure from parents to take back the complaint. This process leads society to be skeptical of children's complaints of sexual abuse, and leaves the child feeling helpless and guilty for causing so much trouble. Everything about the secrecy and shame of illicit sexual activity combines to make the victim carry the weight of the problems of the parents.

In most reported cases, the father or another man acting as parent is the initiator of sexual abuse. Girls are the most frequent victims; boys are involved in about one out of ten cases of incestuous assault. The first sexual misuse may occur at any age, from infancy through adolescence, but the largest numbers of cases are reported when the victims are nine to fifteen years old. The sexual activity is usually repeated and progressive, with no escape for the victim until the child is old enough and determined enough to gain attention outside the family.

The mother, who might be expected to protect the child, is typically isolated from the problem. Sometimes she is distant and uncommunicative, or so disapproving of sexual matters that children are afraid to speak up. Sometimes she is insecure and so threatened by the loss of her husband and the fear of scandal that she can't allow

herself to believe or even to suspect that her child is or could be at risk. Frequently she is the victim herself of childhood abuse and rejection: she does not trust her judgment or her right to challenge the authority of her man. Most often, though, the mother would intervene and protect the child if she had the chance. Some mothers know for sure, but for whatever reason, they "look the other way." The sad reality is that the children are trapped in secrecy by the threats of the father and by their own shame and fear.

The assault is typically non-violent. The offender doesn't see himself as doing harm to the child. He convinces himself that he has a duty to "show her the facts of life" or that he is more loving and caring than outsiders who might "spoil" her. Or he may feel so neglected and needy that he feels compelled to exploit the only supporting, loving relationship he can find. He may impose tickling, wrestling and nuzzling on a child as an opportunity for sexualized touching and caressing. He may come in at night and take down the covers to expose a child's body or to explore it with hands or mouth, while the child pretends sleep, confused and fearful of this strange, recurring behavior. Sometimes the approach is more direct, with the child forced to masturbate or fellate the parent, or courted and seduced into mutual arousal. Vaginal intercourse is rare for the small, prepubertal child. Even with older girls the offender may avoid penetration to preserve the hymen.

However gentle or forceful the approach may be, it happens only when the child is alone and defenseless, and it is followed by guilt-provoking demands for secrecy and threats of terrible harm if the secret is broken. However trivial or coincidental the first approach may have been there is a tendency for repetition and escalation of sexual coercion. The child eventually takes on the blame for tempting and provoking the parent. If she betrays the secret she is blamed for destroying the family. If she maintains the secret she will be condemned for whorish exploitation and incestuous conspiracy.

It should be obvious that incestuous (or intrafamilial) assault is an exploitation of the availability and trusting obedience of a child who looks to the parent or guardian for love, security and guidance. While it is often deceptively non-violent, it is more powerfully compelling and more totally disabling than any strongarm attack from a stranger.

Even though there are many harmful effects on the child who grows up trapped in sexual abuse, there can be striking recovery with effective intervention and help. Intervention alone does not interrupt the trap of sexual abuse; the child remains burdened with guilt and helplessness unless the offending parent is forced to admit and take responsibility for his or her actions. Detection,

reporting, investigation, appropriate prosecution, supervision and counseling are frequently an essential part of a family treatment process. Self-help organizations such as Parents United and Parents Anonymous can be very helpful in providing support and growth to the self-esteem and emotional well being of each family member during the process of discovery, social intervention, adjudication, resocialization and rebuilding.

Sexual abuse should be suspected if:

- -- the child reports sexual activities with parents;
- -- the child shows an early and exaggerated awareness of sex, with either seductive interest or fearful avoidance in close contact with others;
- -- there is tearing, bruising, or specific inflammation of the mouth, anus or genitals, or evidence of semen (oral, rectal, vaginal);
- -- there is venereal disease of the eyes, mouth, anus or genitals of a child under fifteen;
- -- a girl is pregnant and very evasive in naming her partner;
- -- a child with behavior problems hints at conflicts at home, but seems very fearful of talking about one of the parents; and/or
- -- a child is known to be the victim of other forms of abuse by parent(s).

Exploitation/Child Pornography

The Attorney General's Advisory Committee on Obscenity and Pornography conducted a three-month study of the problem of children exploited in the production of pornographic materials in California, a form of child abuse for profit which appears to be a growing industry.

Although it is impossible to make an exact assessment of the number of California children who have been the victims of this kind of sexual exploitation, it is clear that by even the most conservative estimate, the number is alarmingly high. Police have been able to make only a few arrests in California of persons suspected of producing and disseminating child pornography. At the time of those

arrests, literally thousands of films, magazines and still photographs were seized which depicted children (some as young as four years old) involved in sexual activity.

The difficulty in fixing an exact estimate of the number of children involved is compounded by a number of factors. First, the evidence indicates that in the vast majority of cases, this kind of sexual exploitation goes unreported, even to the parents of the children. Additionally, the ever-increasing number of juveniles runaways who have migrated to California in recent years, together with the associated and growing problem of juvenile prostitution, contribute to the difficulty in making this assessment. The runaway juvenile, alone and without support in a strange city, is a particularly attractive target as a model for pornography. Finally, the committee viewed evidence that some parents have used their own children to produce this material. Therefore, the only reasonable conclusion which can be drawn is that the number of children involved is substantial, and that the number appears to be growing.

Regarding distribution, until very recently pornographic films, magazines and still photographs depicting juvenile boys and girls (including pre-pubescent children) were readily available in the approximately 280 bookstores and arcades in California which sell so-called "adult" materials. Presently, however, due to considerable publicity, public pressure, and recently passed legislation, these materials are sold only to "known" customers on an "under the counter" basis. The more limited availability is due in part to a new law which amended sections in both the Labor and Penal Codes, and provides essentially:

-- that anyone convicted of promoting, employing, using or coercing a minor to perform a sexual act in a film or photography is guilty of a felony;

-- that there is a mandatory state prison term of three to five years for a person convicted of involving a minor under fourteen years in a film or photograph depicting sexual conduct; and

-- that the wholesale distributors of films depicting minors engaged in sexual conduct must keep records indicating names and addresses of those from whom the material is obtained (producers.) Failure to keep such records for the specified time period is a misdemeanor offense with a fine of up to $5,000 for each violation. (Such information can be an important investigative tool for law enforcement, and has apparently been a good deterrent to distribution.)

Further detail on this new law is contained in the section "What are the Laws?", beginning on page 19.

Considerable evidence was viewed by the committee which would tend to support the widely held view of law enforcement authorities that a direct relationship exists between pornographic literature of this kind and the molestation of young children. An enormous amount of such material has been seized from such offenders at the time of their arrests. A review of the police reports in these cases indicates that, aside from the use of such materials for personal gratification, the material is frequently used to arouse victims and, in some cases, to persuade very young children that such behavior is permissible. There is also some evidence that the professional pornographic photographer may molest his victim during photo sessions.

Child Molesters and Chickenhawks

Contrary to what is perceived as forced sexual abuse or exploitation, as previously discussed, this section deals with child victims of sexual abuse who are usually consenting partners, or non-complaining victims.

The information in this section is based largely on the experience of the Los Angeles Police Department's Sexually Exploited Child Unit which has been in operation for one and one-half years, and is probably a unique law enforcement operation developed in part to respond to California's special problem as a haven for runaways.

The concept of these children as consenting partners or non-complaining victims does not fit with society's image of the unsuspecting child being lured into a car with a candy bar. The larger proportion of children seen by the Sexually Exploited Child Unit include the runaways, who are reasonably "streetwise", emotionally troubled children who trade themselves for money, or for what they interpret as attention and affection.

The unit defines a "child molester" as male or female (but primarily an older adult male heterosexual) who receives sexual gratification form young girls. A "chickenhawk" is defined as a male (adult homosexual) or female who receives such gratification from young boys. The child molesters and chickenhawks usually have a specific age preference.

Chickenhawks and child molesters are "benevolent keepers" of their child victims. Many suspects are, in fact, wealthy and financially secure men who can afford to provide elaborate gifts, including automobiles and motorcycles, to their victims. Good food, spending

money and drugs are also provided by most suspects. For the majority of their time together, the child's wants and needs are catered to by the suspect in an exaggerated caring relationship, in return for which the child willingly submits to sexual activity. While this perverse form of attention and affection may be especially appealing to an isolated runaway child, the danger is certainly not limited to runaways. It can and does represent a danger to a parent/child relationship where there is a failure by the parent(s) to provide necessary attention and affection.

The use of pornographic material by the chickenhawk and child molester is extensive, as evidenced by the ever-increasing volume of such material seized in investigations of sexual exploitation. Corroborating this evidence are the statements of victims. Pornographic literature serves as a method by which a suspect can turn a normal conversation with a juvenile toward a sexual theme. It is used to stimulate both suspect and victim, and to assist in breaking down inhibitions. The nature of the literature will usually correspond to the suspect's particular sexual inclinations, and the models used are usually of the age the suspect prefers.

In 1972 in California, a pamphlet entitled "Where the Young Ones Are" sold 70,000 copies at $5 each, and listed names and addresses of almost 400 places across the country where "...the young can be found". Other pamphlets which have been seized by law enforcement provide suggestions to child molesters and chickenhawks about what to do, where to go, come-ons, and include cartoons depicting sexual activity to which a child can relate.

This type of exploitation needs much more recognition and action.

MORE ON THE EXTENT OF THE PROBLEM

Although the use of statistical data to describe the magnitude of child abuse and neglect across the nation is, at best, inconsistent, the probability of child abuse and neglect as a leading cause of death appears to be generally accepted. Official state and national statistics identify causes of death mainly in medical terms (per "International Classification of Diseases" listings). For this reason, child abuse and neglect data is difficult to extract. For instance, a child whose death is officially recorded as pneumonia may, in fact, have contracted the illness as a result of being poorly clothed, fed, bedded and medically neglected. Many child abuse experts feel that abuse or neglect may well be the underlying cause of death in many cases listed otherwise in the major medical categories.

On the basis of existing information, however, national estimates indicate that nearly one million American children are suffering abuse and/or neglect at any given time and that approximately one quarter of these will be permanently injured for life as a result. The number of reported cases of child abuse and neglect has been rising steadily in the last several years. It is uncertain, however, whether the increasing trend reflects an actual increase in the number of children being mistreated, increased recognition, or simply an increase in the number of people willing to report, or all three.

The problem of information gathering and statistics is recognized at all levels of government, and efforts are being made to develop systems which will more adequately reflect the scope and degree of child abuse and neglect.

While there appears to be serious under-reporting to the Department of Justice's statewide child abuse index as required by law, the following percentages of those cases that have been reported to the index are revealing. Of the cases reported to the index in calendar year 1977, 44.2% were physical abuse, 21.3% were in the "general neglect" category, and 34.5% were sexual abuse. The "age distribution" factors from those same 1977 cases are also of interest. The figures show that the heaviest incidence of physical abuse takes place between 0-4 years of age, remains heavy, but less so, in the 5-8 year old range and begins to diminish between the ages of 9 to 16. After 16 years of age, physical abuse percentages drop off sharply. In the category of "general neglect", the heaviest incidence again is between the ages of 0-4, and the percentage pattern runs similarly with physical abuse, also diminishing sharply after the age of 16. On the contrary, sexual abuse is heaviest between the ages of 9-12, with the percentage being slightly less in the 5-8 and 13-16 age groups. Sexual abuse is lower in the 0-4 category, and in the 16-year age group.

In reviewing available data from a variety of sources, it is generally recognized that a great deal of abuse and neglect is committed against children under 4 years of age. It cannot be stressed strongly enough that we have to rely on third-party reporting of these cases.

WHO ARE THE CHILD ABUSERS?

Child abuse, contrary to popular belief, occurs in all cultural, ethnic, occupational and socio-economic groups. There is a proportionately higher incidence of abuse reported in minority and low-income families, but it is also true that these families have

more contact with agencies who have legal reporting responsibilities (welfare, public health clinics, etc.). In addition, the stress factors in these families tend to be higher.

The number of child abusers who are psychotic or psychopathic is small. Though potentially few, however, psychotics are obviously among the most dangerous.

Studies indicate a variety of factors are associated with child abuse, many of which apply to and characterize the general population (such as social isolation, transiency, and other factors discussed in this section). According to percentages developed from data accumulated from the cases reported to the Department of Justice's central index, it is revealed that in the category of physical abuse, mothers and fathers are reported abusers in close to equal numbers.

Frequently, abusing parents themselves experienced deficient childhoods. Consequently, these parents use the same destructive techniques on their children as their parents practiced on them. Without intervention, these negative patterns are transmitted for generations.

Abusing parents often reverse roles with their children, which means that these parents expect and demand love and care from their offsprings, but have difficulty in providing the emotional necessities for their children. These parents are either suffering from their own childhood experiences, or are simply lacking in understanding of children's basic needs and capabilities.

Abusing parents and caretakers are often experiencing deep marital or emotional conflicts. Some have been described frequently as being immature, incompetent, anxious, depressed, untrusting, unreliable, hostile and/or volatile. The abuse of alcohol and/or drugs is common. Poor self-image and lack of self-confidence describes the majority of child abusers.

Recent studies have shown that a mother who has little or no contact with her infant immediately after birth may be more likely to abuse or neglect the child. Children born prematurely, sickly, or by caesarean section run a greater risk of mistreatment since the early "bonding" between mother and child is disturbed by prolonged separation due to either the child's or mother's hospitalization. Also, a child born with defects or other disfigurements is often singled out for emotional or physical abuse. A child viewed as different or slow often becomes a scape goat.

Child abuse has also been related to the decline of the "extended" family. An extended family is best described as that in which a

sizable number of immediate relatives reside in the same household or in close proximity, and are readily available in times of need. In the "nuclear" family, more prevalent in today's transient society, we find a family that generally consists of mother, father and child with few relatives close enough to provide immediate support. There are fewer sympathetic ears listening and helping with frustrations, fewer potential babysitters or persons who may assist parents with childrearing. Mobility and the degree of transiency characteristic of the nuclear family also means parents have fewer close friends upon whom to depend. Abusing families have a tendency toward social and emotional isolation.

Child abuse is seldom the result of any single factor. Rather, it is a combination of circumstances as well as personality types which precipitate acts of child abuse. When a parent or caretaker is under emotional or environmental stress such as marital problems or joblessness; when he or she has a predisposition toward maltreatment perhaps as an abused child themselves or one who believes strongly in corporal punishment; when the child happens to trigger his or her contempt or resentment for whatever reason; and when the parent or caretaker has no other outlet for tension, anger or aggression, abuse may occur.

The child abuser is typically a recidivist; that is, the abuser tends to repeat the abuse. The abuser is also typically an escalator in that the amount and severity of the abuse tends to increase. Because of these typical characteristics, early identification, reporting and intervention are essential and vital.

WHAT ARE THE LAWS?

Criminal

Child abusers may be arrested, prosecuted, fined, imprisoned or instructed to take part in treatment programs. The California Penal Codes pertaining to crimes against children include the following:

PHYSICAL ASSAULT AND CRUEL CORPORAL PUNISHMENT

Section 273d:

Any person who willfully inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition is guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state prison or in the county jail for not more than one year.

PHYSICAL AND EMOTIONAL ASSAULT, EMOTIONAL DEPRIVATION AND PHYSICAL NEGLECT

Section 270:

If a parent of a minor child willfully omits, without lawful excuse, to furnish necessary clothing, food, shelter or medical assistance, or other remedial care for his or her child, he or she is guilty of a misdemeanor punishable by a fine not exceeding one thousand dollars ($1,000), or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment.

Section 273a:

(1) Any person, who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care of custody of any child, willfully causes or permits the person or health of such child to be placed in such situation that its person or health is endangered, is punishable by imprisonment in the county jail not exceeding one year, or in state prison.

(2) Any person, who, under circumstances or conditions other than those likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of such child to be injured, or willfully causes or permits such child to be placed in such situation that its person or health may be endangered, is guilty of a misdemeanor.

Section 273g:

Any person who in the presence of any child indulges in any degrading, lewd, immoral or vicious habits or practices in the presence of any child in his care, custody or control, is guilty of a misdemeanor.

SEXUAL EXPLOITATION

Incest:

Incest is defined in California Penal Code section 285. As so defined, incest is intercourse between the following persons: (1) parents and children, (2) ancestors and decedents of every degree, (3) brothers and sisters of the half as well as the whole blood, uncles and nieces or aunt and nephews.

Crime against a child:

As defined in California Penal Code section 288, a crime against a child includes any lewd or lascivious act including any of the acts constituting other crimes provided for in part one* of this code upon or with the body, or any part or member thereof, of a child under the age of 14 years, with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of such persons or of such child.

Child molestation:

Child molestation is defined in California Penal Code section 647a, and is so defined as the act of annoying (sexually) or molesting a child under the age of 18.

Child Pornography:

Existing law prohibits the importation, sale, or distribution in this state, or the possession, preparation, publication, or printing with the intent to distribute or to exhibit to others, or the offer to distribute, or the distribution or exhibition to other, of obscene matter. Existing law also makes various restrictions on the performance of sexual acts and prohibits employment of minors under 16 years of age in "obscene," "indecent," or "immoral" activities.

The new law (which was mentioned in the section "Exploitation/Child Pornography") prohibits as a felony various conduct involving any person under the age of 16 years for engaging in specified actual or simulated sexual conduct, as defined, for commercial purposes. It also

*Part one includes crimes against person and against public decency and good morals.

makes it a felony for any parent or guardian to permit such a minor under his or her control to engage in such activity.

- The law also requires persons engaged in various activities related to the sale or distribution of films, photographs, slides, or magazines depicting minors engaged in sexual conduct to keep, for 3 years, confidential records of the names and addresses of persons from whom such material is obtained. Retailers are required to keep, for 3 years, records of persons from whom such material is acquired. The records are available to law enforcement officers on request. Failure to keep such records could result in civil penalties of up to $5,000 for each violation. (See sections 1309.5 and 1309.6 of the Labor Code, and section 311.4 of the Penal Code for the complete text.)

In addition to the above sections, other California Penal Code sections which cover crimes against all persons such as murder, manslaughter, rape, assault with a deadly weapon, simple assault, battery, disfigurement, incest, sodomy, oral copulation, poisoning, etc., may also be applied to cover crimes committed against children.

Although the foregoing codes were designed specially for the protection of children, all codes delineated in the Penal Code apply equally to children and adults.

Fewer than one half of the cases of child abuse and neglect reported to law enforcement result in an actual arrest of a suspect. Of those arrested and prosecuted, approximately 10% are convicted. A scarcity of evidence and witnesses, and difficulty in obtaining medical testimony, make it very difficult to successfully prosecute child abuse cases in court.

Depending on the county or jurisdiction, the judge, prosecutor and defense attorney may agree to defer prosecution if the suspect is receptive to psychological therapy, family counseling or other rehabilitative help; or they may prosecute and then agree to probation supervision. Prison sentences are usually given only in murder or severe abuse cases, or in instances when the person has had previous arrests or convictions for child abuse, or other serious crimes.

Civil Protections

California Welfare and Institutions Code Section 300: Dependency Proceedings

The provisions of the WIC Section 300 states:

> "Any person under the age of 18 years who comes within any of the following descriptions is within the jurisdiction of the juvenile court which may adjudge such person to be a dependent child of the court.
>
> (a) Who is in need of proper and effective parental care of control and has no parent or guardian, or has no parent or guardian willing to exercise or capable of exercising such care of control, or has no parent or guardian actually exercising such care or control.
>
> (b) Who is destitute, or who is not provided with the necessities of life, or who is not provided with a home or suitable place of abode.
>
> (c) Who is physically dangerous to the public because of mental or physical deficiency, disorder, or abnormality.
>
> (d) Whose home is a unfit place for him by reason of neglect, cruelty, depravity or physical abuse of either of his parents, or of his guardian or other person in whose custody or care he is."

Under these provisions, in order to protect a child under 18 from further abuse or neglect, a police officer may, without a warrant, take a child into temporary protective custody (Welfare and Institutions Code Section 305).

The officer may transport the child to either a hospital or special holding facility with or without parental consent if abuse is suspected. Within 48 hours of taking a child into such protective custody, a petition must be filed with the juvenile court to declare the child a dependent child of the court. The petition is usually filed by the county welfare department or department of social services, although in some counties the probation department still retains this function. A copy of the petition is sent to the

parents, guardian or other person having care or custody of the child. (A dependency petition may also be filed without taking the child into protective custody first.

A jurisdictional hearing in the juvenile court is then held within a 15 to 30-day period, and the judge decides at that point if the child comes within the description of a dependent child of the court as set forth in Section 300 of the Welfare and Institutions Code. If the court finds that the minor is such a person, a disposition hearing is scheduled usually within 15 days of the jurisdictional hearing, and the court may then make "... any and all reasonable orders for the care, supervision, custody, maintenance and support of such minor including medical treatment, subject to further order of the court." (Section 362 of the California Welfare and Institutions Code).

If a child is declared to be a dependent of the juvenile court, the court may order the child to remain at home under the supervision of the welfare or social services department (or probation department depending on the county), or the court may take custody from the parents and order the child to be placed. The taking of custody is a temporary action generally. Children found to be dependents of the court but who are not reunited with their parents are usually placed with relatives, in foster care, or in other child care facilities. Periodic hearings are held by the juvenile court to determine when and if parents may regain custody of their child. A formal hearing must be held at least once a year for each child.

It should be noted that the law makes possible mandated treatment for troubled families by allowing the court to require parents or guardians to receive counseling or other assistance. This occurs when a minor is adjudged a dependent of the court, and the court has orders that the parent or guardian retain custody subject to supervision. There are two different situations under which treatment can be ordered: (1) in one instance, the court has the option; and (2) in another, it is mandated. The following section of the Welfare and Institutions Code applies, and explains these conditions:

> <u>Section 362d</u>:
>
> When a minor is adjudged a dependent child of the court, on the ground that he is a person described by Section 300 and the court orders that a parent or guardian shall retain custody of such minor subject to the supervision of the probation officer, the parent or guardian <u>may</u> be required, and <u>may</u> be ordered, to participate in a counseling program to be provided by an appropriate agency designated by the court. When a minor is adjudged a dependent child of the

> court on the ground that he is a person described by subdivision (d) of Section 300 and the court orders that a parent or guardian shall retain custody of such minor subject to the supervision of the probation officer, the parent or guardian <u>shall</u> be required to participate in a counseling program to be provided by an appropriate agency designated by the court.

Children are entitled to a permanent home. The law provides (in Civil Code section 232) that if parents or guardians are unable (for specified categories of reasons such as abandonment, chronic alcoholism, or drug abuse) to resume custody and care of the minor within an appropriate period of time, their parental rights can be terminated and the minor placed for adoption.

So, although there are no criminal penalties attached to the juvenile court for the adults, there is the necessary leverage for treatment. The possibility that the child may be taken away, or perhaps that criminal charges for abuse may be filed in the adult court, tends to influence parents to cooperate at the juvenile court level.

Reporting Child Abuse

While <u>everyone</u> should report suspected child abuse and neglect, it is a crime for certain professionals and lay personnel who have a special working relationship or contact with children <u>not</u> to report suspected abuse to the proper authorities. Failure to report <u>by telephone and in writing within 36 hours</u> the observation of a

> "...minor who has physical injury or injuries which appear to have been inflicted upon him by other than accidental means by any person, that the minor has been sexually molested or that any injury prohibited by the terms of Section 273a has been inflicted upon the minor...to both the local police authority having jurisdiction and to the juvenile probation department; or, in the alternative, either to the county welfare department or to the county health department..." (California Penal Code 11161.5)

is a misdemeanor punishable by 6 months in jail or a $500 fine, or both. (For those mandated to report who do not do so, there may also be civil liabilities. See page 34 for a discussion the Landeros v. Flood case.) Basically, this means that the law requires mandated reporters to report all suspected incidents of child abuse immediately to:

1. the local police authority <u>and</u> juvenile probation department; or, in the alternative,

2. the county welfare department <u>or</u> county health department.

<u>Special note</u>:

Mandated reporters should be aware that mere reporting does not always mean that a civil or criminal proceeding will be initiated; however, reports are required to be investigated.

Those agencies to whom reports are made are obligated, by processes delineated in the reporting law, to ensure that their reports of suspected abuse or neglect (and reports received from <u>other</u> persons required to report) reach the Department of Justice's statewide central index.

Not all counties are alike in their make-up size, etc. Therefore, it should be noted that there will be some differences in how each county implements the reporting and handling of child abuse and neglect cases.

It is important to note, too, that reporting under the law is an individual statutory responsibility, and that no one should in any way interfere with an individual's legal obligation to report. Additionally, no mandated individual should feel relieved of responsibility by depending on another to report the suspected incident.

Those professionals required by Penal Code 11161.5 to report are:

<u>Professional Medical Personnel</u>:

Physicans and surgeons, dentists, residents, registered nurses, interns, podiatrists, chiropractors, psychologists

<u>Other professional or lay personnel</u>:

Social workers, religious practitioners, school superintendents, school principals, teachers, licensed day care workers, supervisors of child welfare and attendance, certificated pupil personnel employees (schools), administrators of summer camps or child care centers, marriage and family or child counselors, peace officers, probation officers

<u>These mandated reporters are not liable for either civil damages or criminal prosecution as a result of making a report unless it</u>

<u>can be proven that a false report was made, and that the person knew or should have known that the report was false</u> (California Penal Code 11161.5).

When making suspected child abuse reports, the following information is to be provided:

(1) name of the minor;

(2) whereabouts of the minor;

(3) character and extent of injuries and/or molestation;

(4) age of child; and

(5) address of child and of parents, if different.

Additionally, as authorized by law, the Attorney General has adopted a special and uniform form entitled "Medical Report - Suspected Child Abuse", which all professional medical personnel are required by law to complete. A sample of this form for medical personnel is to be found in the back of this pamphlet (Appendix I - California Penal Code Section 11161.7).

This reporting form was designed to elicit a sufficient amount of data concerning the suspected child abuse, but at the same time not to be duly burdensome to the reporting medical personnel and thereby discourage its use. It was also designed to be educational as well as instructive for professional medical personnel who come in contact with possible child abuse. Copies will be made available throught welfare departments and law enforcement agencies, and printed by state government.

Further, a new form entitled "Medical Report - Suspected Sexual Assault" is required by Section 1493 of the Welfare and Institutions Code to be completed by each physican and surgeon in county hospitals and general acute care hospitals, if consent is given by the victim. A sample of this form is to be found in the back of this pamphlet (Appendix II).* This form will be available through county hospitals and general acute care hospitals, and printed by state government.

Essentially, the reporting law is designed to ensure that local law enforcement will receive all reports, whether initially reported to them or to the alternative agencies previously delineated. It is

*Section 1493 of the Welfare and Institutions Code is cross-referenced with a soon-to-be-adopted Department of Health regulation (Title XXII, Division 2 "Victim of Sexual Assault") which also subscribes to the use of this same form.

for that reason that Penal Code 11161.5 states that the directors of the welfare and health departments shall file the reports they receive with the local police authority and the juvenile probation department. (For the complete text of California Penal Code Sections 11110 and 11161.5, see Appendix III.)

What Happens to the Reports?

The report is investigated by either the local police authority or children's protective services. In some counties, where juvenile probation departments handle dependency cases, they would also receive and investigate reports.) During the investigation, a decision will be made by the agency with the appropriate authority to either take the child into protective custody, file criminal charges against the parent(s) or responsible party, or to refer the case to probation, welfare or another agency. The disposition is often made after consultation with representatives from other disciplines.

Copies of all written reports received by the local police authority (health and welfare department, in turn, are required by law to file their received reports with the local police) are forwarded to the Child Abuse Unit in the Bureau of Identification, State Department of Justice, P. O. Box 13417, Sacramento, CA 95813 (California Penal Code 11110). The unit enters the report into the statewide central index, and analyzes and compares all reports to determine whether there is evidence of prior abuse, neglect or molestation. The reporting law enforcement agency, local juvenile probation or welfare departments are notified immediately if the Child Abuse Unit records reveal any previous reports if suspected or actual infliction of physical injury, sexual molestation, or inflicted physical pain or mental suffering in the same family, or concerning the same people.

For purposes of early identification and prevention, because child abusers tend to be recidivists and escalators, and because child abusers are transient and tend to take their abused children for medical attention to different geographic locations and jurisdictions, the vital role of the index in providing investigatory agencies with information on prior incidents is clear.

THOSE INVOLVED WITH CHILD ABUSE AND NEGLECT

Law Enforcement

The importance of law enforcement's role in child abuse cases centers first around the fact that child abuse is a crime, and that the primary consideration is for the protection of the child. Moreover, under California law, law enforcement plays the central role in initial investigation and handling.

There are many practical and compelling factors which necessitate police involvement. Police are the 24-hour field service community agency with investigatory and arrest authority--the only around-the-clock branch of government which can provide immediate response. By nature of their role in the community and their powers, the police are the principal responders to family crisis situations. Law enforcement has a perceived authority and status which induces cooperation. Among all the involved disciplines, law enforcement personnel are best trained to ensure constitutional rights and due process procedures during the course of investigation. Law enforcement officers on the scene collect all evidence, and such thorough collection and preservation of evidence is important whether or not criminal prosecution is pursued.

The investigating officer will decide whether to take the child into protective custody (Welfare and Institutions Code 305), to arrest the parents, to seek the filing of criminal charges, or to refer the case to probation, welfare (child protective services) or another appropriate agency. The disposition is often made after consultation with representatives of other disciplines. In some California law enforcement agencies, the child abuse units include fulltime social service workers who respond to calls with the officers as a team.

Law enforcement takes a number of factors into consideration in the determination of actual child abuse cases:

> Is this an isolated incident or is there a history of abuse/neglect or family disturbances? (Check with the Department of Justice Child Abuse Unit?
>
> How was the incident reported? Who reported, if known?
>
> What is the emotional and mental attitude of the parents?
>
> What is the general condition of the home?

Is the nature and severity of injuries indicative of abuse or neglect?

What is the general behavior of parents? Are the explanations of the child's injuries poor? Do they place the blame vehemently upon other? Are they apathetic or insensitive to the child's condition?

Once the officer is inside the home, he should isolate the child and question him as to the origin of the injuries. He should also examine the child thoroughly for apparent injuries such as broken limbs and cuts and bruises. He should disrobe the child completely to do this, as there may be burns on the buttocks or bottom of the feet, or other injuries hidden by clothes. Very often it is impossible for an officer or other layperson to detect an injury as, for example, when the injury is not visible in the case of internal hemorrhaging. Head injuries are particularly dangerous, and often not detectable except by x-ray; therefore, if an officer has any reason to suspect a head injury, it would be a wise precaution to take the child to a medical facility for an examination. Additionally, a complete examination should be made of all children in a family where child abuse is suspected.

If preliminary investigation indicates abuse, the officer should, if possible, take the child to a facility that has doctors trained in detecting child abuse injuries. The family doctor, or even the doctor at a local clinic, may be hesitant to diagnose a case as child abuse or may not be cognizant of abuse symptoms.

While in the home, the officer should be alert for possible evidence, such as a broom handle or belt, that may be needed later if criminal prosecution is sought. Statements of all residents of the home should be taken separately, and as soon as possible.

It may be difficult for an officer to find a basis for his suspicions during the investigation because parents usually protect each other when asked questions about abuse. Frequently, however, the parents' story as to how a child received his injuries will conflict with the nature of the injuries. The officer should note the parents' version and relay it to the examining physician, who may conclude that the injuries could not have happened in that manner.

The officer should take photographs of the child's injuries at the scene, and pictures of the scene itself. Pictures are worth a thousand words. If possible, a crime scene drawing should also be made of the body (scars, lacerations, bruises, burns, etc.). In some cases of great brutality, photos have been introduced as evidence in the past, and then excluded as inflammatory; however, this appears to be occurring less frequently.

In the drawing, the number of injuries and extent should be documented. In cases of neglect, investigators should be careful to photograph "presence" (meaning filth) as well as "absence" (empty refrigerator, no toilet, etc.).

The officer should bear in mind that his initial investigation and report are of great importance for the immediate and future protection of the child. He should not only be thinking in terms of prosecution, but primarily of the child's protection. Police officers investigating child abuse cases must possess an open-minded compassionate attitude and must attempt to remain as neutral as possible. It is important that an officer refrain from punitive or accusatory remarks. Although the welfare of the child is the primary concern, it is also important to recognize the rights and dignity of the parents as well, and a neutral attitude may elicit cooperation.

It is important to note that "peace officers," as they are designated in the reporting law, are not exempted from reporting suspected cases of child abuse and neglect.

As in all other areas of criminal law, all searches, seizures and arrests made in the course of child abuse investigations must comply with the requirements of the Fourth Amendment. Over the past ten years, however, California courts have been somewhat more willing to find searches reasonable due to the heinous and dangerous nature of the crime of child abuse in all its forms. This attitude has been clearly expressed in case law. The seriousness of the crime and helplessness of the potential child victim have lead the courts to be more inclined to find an emergency circumstance requiring a warrantless entry than in some other offenses. Where an officer has reasonable cause to believe a child is in real and immediate danger, he should not hesitate to act on behalf of the child. If abuse is suspected, the officer should not hesitiate in taking the child for medical treatment or examination. For detailed legal information regarding search and seizure and the right of entry in child abuse investigations, the county district attorney should be consulted. Additionally, the Legal Project Unit of the Attorney General's office has produced a child abuse syllabus (Program No. 77-4, "Legal Information for Law Enforcement") which details case law and guidelines.

The special and difficult nature of child abuse cases gives rise to the need for more specially trained officers, and such training is increasingly taking place in California.

Legal Community

In addition to the adult court which handles the criminal cases of adult offenders, and the juvenile court which makes determinations about children as previously discussed, the "Legal Community" is basically composed of three additional agencies: the county district attorney, the county counsel, and the city attorney.

The district attorney, or in appropriate cases the city attorney, prosecutes cases of child abuse and neglect in the criminal adult court. Whenever appropriate, the district attorney will appear in the juvenile court on behalf of the agency that filed the petition for the child in the dependency proceeding (Welfare and Institutions Code 300 cases). The basic difference between the district attorney and the city attorney is that the former handles felony cases while the latter handles misdemeanor filings.

In Los Angeles county, the county counsel has a special juvenile division which represents the Los Angeles County Department of Public Social Services under Welfare and Institutions Code 300, in appeals, in rehearings, and in adoption referral hearings. Various county district attorneys' offices have established special sections or units for handling cases of child abuse.

Probation

When ordered to do do by the court, the probation department investigates adult offenders convicted of child abuse or neglect. A court report, outlining the offender's social history, prior record, offense and attitude is submitted. The report also evaluates suitability for probation and, in appropriate cases, recommends probation with specific conditions aimed at control and treatment. Psychiatric or psychological treatment, family treatment and/or enrollment in self-help programs are typically recommended in these cases, along with other standard conditions.

If probation is granted the supervision officer enforces the conditions ordered by the court, monitors the offender's progress in treatment and initiates appropriate corrective action if any of the conditions are violated.

In order to assure the child's safety and welfare the supervision officer also works cooperatively with the Protective Services Worker assigned to the case. Their assessment of the child's needs and the offender's response to treatment is of significant influence in determining when, and if, the child will be returned to the home.

As previously mentioned, probation is only recommended in appropriate cases. In some instances a state prison recommendation is necessary to ensure community protection. In sex abuse cases, based upon psychiatric findings, the probation officer may recommend commitment to a state hospital.

Medical Community

Doctors, nurses, dentists and all other types of professional medical personnel play a cruical role in child abuse detection. Medical techniques for diagnosis are continually being developed and improved, especially in the field of radiology. X-rays showing numerous fractures of varying ages indicate a strong suspicion of abuse, and the "Battered Child Syndrome". In addition to the descriptions contained in earlier sections of this pamphlet, other indexes of "suspicion" employed by hospitals and medical personnel in the detection of child abuse include:

1. history of repeated injuries, delays in seeking care;
2. discrepancies in explanations of injuries, or between history and nature of injuries;
3. injuries found in physical examination and x-rays not reported by parents;
4. general nutrition and health poor;
5. child extremely passive, compliant or fearful;
6. evidence of sexual activity or abuse;
7. bruises or broken bones in a infant under 12 months old;
8. x-rays showing chip or metaphyseal fracture in joints (a result of twisted limbs);
9. head injuries;
10. abdominal injuries, internal injuries; and/or
11. behavior of parents: over or under react, cannot remember how it happened, insensitive to child's pain or condition, refuse consent for further examiniation of child, blame others, appear detached or apathetic.

Medical personnel should also be alert to "hospital shoppers". These are people who, for no apparent reason, have brought an injured child to a hospital outside their community when their own community has fully equipped facilities. Medical records sometimes reveal a history of hospital or doctor "shopping" which, by itself, may not be indicative of suspected abuse, but would be a factor for consideration.

In some instances, medical practitioners are apprehensive of court appearances so they may not report suspected abuse to law enforcement. Testifying in court requires time, and has the negative, but necessary, aspects endemic to our adversary trial system. If testimony is necessary from a doctor, a pre-trial conference with the district attorney or county counsel will alleviate these concerns. It is important to note that court appearances by professional medical personnel may be avoided if the mandated reporting forms are filled out legibly and completely. Additionally, the form is a business record exception to the hearsay rule and can be admitted in evidence without necessarily requiring the doctor's appearance. Such medical evidence may be so compelling that the case may not need to come to trial.

Another concern of the medical community revolves around the somewhat prevalent thinking that child abuse is a problem to be treated non-criminally. It should be emphasized that the law requires doctors, nurses (and other mandated reporters previously listed) to report to police/probation or to the local welfare or social services department or, in the alternative, to the county health department. Reporting must be done, but to whom is a matter of choice under the law. Not only is failure to report a criminal offense, but it is also a grave failure of professional responsibility to both the child and parent.

Some medical doctors, for various reasons both personal and professional, are reluctant to report. However, it is important to re-emphasize that they (as well as other mandated categories of reporters) do not have an option under the law. It should also be noted again that the law gives the mandated reporters protection from liability for either civil damages or criminal prosecution as a result of reporting, unless it can be proven that they made a false report that they knew or should have known was false.

Moreover, it is important for medical professionals and other mandated reporters to know that under recent case law in California, they may be subject to civil suit for damages as a result of failure to report. This possibility was raised in the case of Landeros v. Flood (17 Cal. 3d 399, 1976). The infant Gina, was

brought into a hospital with injuries, treated and released back to her mother. Subsequently, she was treated for new and more serious injuries by a second doctor who reported the injuries as suspected child abuse. The child was made a ward of the court and a guardian ad litem was appointed, who instituted a suit on behalf of the child against the first doctor for failure to report as required by law. The California Supreme Court reversed a lower court decision which dismissed the complaint, and held that the complaint stated a cause of action based on a failure to report as required by statute. In this case, a failure to perform the said statutory duty raises a presumption that the defendant doctor failed to exercise due care. The Supreme Court sent the case back to the lower court for trial. Since the plaintiffs in this case are suing the doctor for $2 million, plus costs, a decision for the plaintiffs, should that occur, would obviously be potentially serious for the doctor involved. Whatever the eventual outcome of this case, it is clear that medical practitioners and other persons who have a statutory duty to report may be held civilly and criminally liable when they fail to report suspected cases as required by law.

A promising development in the medical approach to handling child abuse is to be found in the beginning development of a team approach in the hospital environment. In Los Angeles county, there are several hospitals developing and refining such a team approach. An important example is the team at the Los Angeles County/USC Medical Center, called the Suspected Child Abuse and Neglect team (SCAN). The team is composed of a medical doctor, nurse and medical social worker. These regular team members may call on other hospitals specialists when needed, and maintain regular liaison with local law enforcement agencies and their special child abuse units. As a result of this on-going emphasis of the team, significant changes have occured in the identification and reporting of child abuse cases in that hospital. In 1974 at the Los Angeles County/USC Medical Center, 49 cases were identified, yet after the establishment of the SCAN team in 1975, 149 cases were identified--a 200%-plus increase. While this may be due, in small part, to an overall increase in the incidence of child abuse, the hospital feels it is primarily a result of the cooperative team effort, and collective expertise.

Social Welfare

The importance of a county welfare (social service) department's role lies in its long-term involvement following the short-term role of law enforcement and/or medical personnel. Social workers provide on-going services to children and families in difficulty.

In many counties in California, the boards of supervisors have delegated to the county welfare departments all or part of the duties of probation officers that concern children describes as dependent under section 300 of the Welfare and Institutions Code (Welfare and Institutions Code 272). They investigate requests for juvenile court action, file petitions with the court, prepare social histories for the court, and make recommendations to the court regarding a plan for the immediate and future protection of the child.

When a child is declared a dependent of the court, social welfare agencies supervise the child for the court either at home or in placement, offer social services to the family or the child, including referral to needed or court-ordered treatment services, and make periodic progress reports to the court. When needed, social service agencies can provide emergency placement on a 24-hour basis.

The county welfare department is another of the alternatives agencies to which mandated reporters may submit reports of suspected child abuse. It should be noted that social welfare personnel themselves are not exempted from reporting provisions contained in section 11161.6 of the Penal Code. (See 16506 of the Welfare and Institutions Code.)*

Within each county welfare department, there is a specialized child protective services program designed specifically for the protection of childrens' welfare. This mandated by section 16500 of the Welfare and Institutions Code which says that "The state, through the State Department of Health and county welfare department, shall establish and support a public system of statewide child protective services..." Section 16502.5 of the Welfare and Institutions Code describes what such programs should contain, including services to be provided for substitute care or supportive services to the home.

Additonally, section 18250 of the Welfare and Institutions Code gives the board of supervisors the authority to establish programs for protective services:

> "The board of supervisors of any county may establish such programs as are deemed necessary to provide protectives services for children, so as to insure that the rights of physical, mental, or moral welfare of children are not violated or threatened by their present circumstances or environment."

*Welfare and Institutions Code 16506 reads, in pertenent part: "Nor shall this part in any way relieve persons administering and working in child protective services programs from the obligation resting on all citizens to report crimes to duly authorized law enforcement agencies."

The primary goal of child protective services is the protection of the child. Whenever possible, child protective services workers try to keep the family together and treat the unit as a whole. Removal of the child from the parents' custody is recommended only when the child cannot be protected. Workers generally begin helping families by seeking the answers to the following sample questions:

1. Who lives with the child?
2. What the sex and age of parents, siblings, relatives, and absent parents?
3. Who are the caretakers? Age, sex, relationship?
4. What is the family income? Is the income sufficient? How is it spent?
5. What is the nature of the parental relationship?
6. How does the reportedly abused or neglected child interact with the parents?
7. What is the length of time the family has been in the area and the frequency of moves?
8. What is the condition of the home?
9. Who are other relatives or friends in the area?
10. What is the family's knowledge of community resources? Do they utilize these resources?
11. Are child care services being used, such as babysitters?
12. Is there agreement between parents on child-rearing techniques?
13. Is there use of corporal punishment as discipline?
14. Are there any outstanding family tensions? How are they expressed?
15. What is the relationship between child and parents? (role reversal, supportive, hostile)
16. How do family members communicate?

Schools

School teachers, nurses, counselors, principals, and supervisors of child welfare attendance also play an important role in the detection of child abuse and neglect. (Every school is required by law to have a supervisor of child welfare attendance.) Symptomatic signs of abuse and/or neglect such as injuries, listlessness, poor nutrition, disruptive behavior, absenteeism or depression are often first seen by school personnel. Immediate investigation of suspected abuse may save a child from repeated injuries. Therefore, school personnel should not hesitate to report suspicious injuries or behavior. Abusing families usually isolate themselves from the outside world. School personnel should have a plan of action for dealing with this situation. Reporting is required by law of certain school personnel as previously outlined.

Schools can play a substantial role in the prevention of abuse and neglect by offering to students classes on marriage, parenting and child development. Parenthood education is vitally needed, and development of such curriculum is underway, especially for children growing up in defective homes. We know that today's mistreated youth may be tomorrow's abusers unless intervention takes place. Classes in parenting through the schools may help break the pattern of successive generations of child abuse.

There has been a practice of many schools promulgating processes and special procedures of reporting child abuse. (An example is a team approach in deciding whether a child has been abused, with one person designated to make the report.) School personnel who are mandated to report (per California Penal Code 11161.5) should be aware, however, that regardless of such processes and good intentions, reporting under the law is an individual responsibility. In those schools where the civil liability for not reporting has been pointed out (e.g., Landeros v. Flood) the reporting of incidents has gone up. As mentioned in the reporting section of this pamphlet, no one should interfere with this responsibility, nor should a mandated reporter give up or depend on someone else to meet his/her statutory responsibility.

Schools can also play a very important role in follow-up since they will probably continue to see the child.

TREATMENT OF CHILD ABUSERS & THE ABUSED

While law enforcement is usually involved in the initial response and investigation of child abuse, and whether or not criminal action is instituted, it should be remembered that it may not always be appropriate to respond to this type of criminal activity with traditional crime and punishment approaches to solution. Fines or prison sentences alone are unlikely to rehabilitate the child abuser. Treatment techniques for the entire family are being developed and implemented throughout the nation, and in California through a number of programs utilizing interdisciplinary techniques.

Treatment can have positive long-run effects when parents can be assisted in feeling better about themselves--when their basic emotional needs for love, self-respect and competence are satisfied, they are less likely to mistreat their children.

Treatment can be the catalyst by which abusers can learn to develop their own feeling of self-worth, and to begin to make up for the devastating belittling and physical abuse many of them experienced in their own childhoods.

Treatment for abusive parents is primarily a process of reparenting. Parents need someone who can be there in times of crisis and who can help them with their practical needs by leading them to resources or by providing more direct help. They need assistance in learning how to manage their own lives, and help in understanding childrens' needs.

While it is obviously vital for abusers to have treatment resources available to them, whether they volunteer or are court-ordered as previously discussed, there is a clear and compelling need for similar treatment for the abused child. Most existing treatment programs concentrate psychological help primarily on the abuser, with concurrent efforts to bring the family back together again.

Many experts have expressed the concern that not enough individual psychological and counseling attention is paid to the child. This can be extremely important in the area of incest, for example. Although the parent may be receiving successful treatment, there is still a child at home or in placement who for a variety of reasons is riddled with guilt, who may be feeling an acute lack of self-worth, who may be doubting his or her own sexuality--and who very much needs individual counseling. Studies have shown, too, that the female victim of incest may have a higher potential for suicide and that many prostitutes were themselves victims of sexual abuse as children. The need for treatment of the child victim may be illustrated by a few cases we are all aware of because of their

notoriety. These include Charles Manson, Arthur Bremmer, and Edwin Kemper, all of whom were discovered through psychiatric examination to have been either abused or neglected children. These potentials need to be dealt with, aside from treating the parent.

For the child victim who is perhaps old enough to understand, the answer to the spoken or unspoken question "why?" is vital to know--beyond simply having a parent back in the home again who is deemed to be no longer abusive. Special attention needs to be paid, too, to the abused child who is not old enough yet to speak, or who is not generally felt to be old enough to understand. The potential impact of what we may think is a forgotten event may be stored in the subconscious and manifested later.

Parent self-help groups, such as Parents Anonymous, have undertaken programs in child abuse treatment. Long and short-term approaches are undertaken to help establish, strengthen and maintain a healthy emotional and physical co-existence between parents and their children. In the short-term, it is important to intervene in the immediate situation, but the key is in the long-term approach. Although physical abuse is perhaps easier to stop, emotional abuse is more a long-term problem. Treatment programs also emphasize "play therapy", for both parent and child, as an important tool.

Twenty-four hour crisis lines, designed and developed to provide referrals and concerned listeners, have been established in many areas of the state. The use of para-professionals and parent aides to staff the hot lines, make home visits, and to provide counseling and other direct services has proven effective in many instances.

To complement crisis and other counseling services, many communities offer to families a variety of additional support including:

1. homemaking services (worker comes to home and helps);
2. emergency funds;
3. emergency shelter care;
4. child care services (day care);
5. crisis nurseries (24 hour, parents drop off kids);
6. food; and/or
7. visits by public health nurses (assistance to new mothers, for example)

If parents, caretakers, fosterparents, babysitters or others feel the need for such assistance in dealing with the children for whom they are responsible, they should contact the following:

1. The child abuse hot line, council or center in the area, of established.
2. Parents Anonymous: Toll free 1-800-352-0386.
3. The Child Protective Services unit of the local welfare or social services department.
4. The local county health or mental health department.
5. For parenting classes, check with the local community college or adult high school.

Local community child abuse interagency councils, or multidisciplinary committees, represent another approach toward child abuse problems. These committees, which now exist in many California counties and are comprised of all involved agencies, meet regularly to develop coordinated information, action and emcouragement of additional resources. As has been shown throughout this pamphlet, many agencies have a role in child abuse and neglect. By forming councils, these agencies may develop better communication and methods, and avoid duplication of services whenever possible--a necessity in order to maintain services in times of fiscal austerity.

THE ROLE OF THE COMMUNITY

Community members, all citizens, have an important role in protecting children from abuse and neglect. If maltreatment of a child is suspected, it is important that a qualified, experienced person investigate and make a determination as soon as possible. The places to call in your community include the following reporting agencies:

1. The local police or county sheriff's department.
2. The local county welfare department (other names for this may be--Human Resources Agency, Department of Public Social Services, Department of Health and Human Services, Department of Public Assistance, etc., depending on your community).
3. The local county juvenile probation department.

4. The child abuse and neglect hotline, council or center in your area, if established.

If a member of the community feels reluctant to identify himself or herself personally, it should be noted that reports may be made to the above agencies anonymously. For purposes of investigation and followup, however, it is preferred that the name and address of the reporter be volunteered, but it is not required. The important thing is the immediate protection of the child.

In addition to reporting suspected cases to the proper authorities, it is important for individuals in the community to involve themselves in the prevention and treatment of child abuse through various types of community action. Individuals may educate themselves and their organizations on the extent and problems of child abuse. They may involve themselves and their organizations in efforts to enrich or to provide increased resources available in their areas. Organizations can both undertake to provide material support for, and to educate and/or lobby for, increases resources in their communities.

Finally, as individuals we can all attempt to be sensitive to the needs of apparently isolated or troubled families with whom we are in contact, and offer wherever and whenever possible our personal support as volunteers by such means as occasional visits, undertaking babysitting to give the parents a break, or through a variety of other supportive measures that may be appropriate.

In the end, there are really three victims of child abuse--the child, the perpetrator(s) and the community. We, as observers, are the invaluable "third party" so necessary for the protection of children of any age--and specifically for the protection of those human beings too young to protect themselves.

APPENDIX I

MEDICAL REPORT – SUSPECTED CHILD ABUSE

HOSPITAL

INSTRUCTIONS: ALL PROFESSIONAL MEDICAL PERSONNEL ARE REQUIRED BY LAW TO COMPLETE THIS FORM WHERE CHILD ABUSE, AS DEFINED BY SECTION 11161.5 OF THE PENAL CODE, IS SUSPECTED AND SUBMIT IT TO EITHER THE LOCAL POLICE OR SHERIFF AND TO THE PROBATION DEPARTMENT, OR IN THE ALTERNATIVE TO EITHER THE WELFARE DEPARTMENT OR TO THE COUNTY HEALTH DEPARTMENT WITHIN 36 HOURS. PROFESSIONAL MEDICAL PERSONNEL MEANS ANY PHYSICIAN AND SURGEON, DENTIST, RESIDENT, INTERN, PODIATRIST, CHIROPRACTOR, PSYCHOLOGIST, RELIGIOUS PRACTITIONER FOR DIAGNOSIS, EXAMINATION OR TREATMENT; OR A REGISTERED NURSE IN THE EMPLOY OF A PUBLIC HEALTH AGENCY. EACH PART OF THE FORM MUST BE COMPLETED UNLESS INAPPLICABLE. IN FILLING OUT THIS FORM NO CIVIL LIABILITY ATTACHES AND NO CONFIDENTIALITY IS BREACHED.

I. GENERAL INFORMATION Print or type

PATIENT'S NAME | HOSPITAL ID NO.

ADDRESS | CITY | COUNTY | STATE | PHONE

AGE | BIRTHDATE | RACE | SEX | DATE & TIME OF ARRIVAL | MODE OF TRANSPORTATION | DATE & TIME OF DISCHARGE

ACCOMPANIED TO HOSPITAL BY: NAME | ADDRESS | CITY | STATE | RELATIONSHIP

PHONE REPORT MADE TO | ID NO. | DEPARTMENT | PHONE | RESPONDING OFFICER/AGENCY

NAME OF: ☐ FATHER ☐ STEPFATHER | ADDRESS | CITY | COUNTY | HOME PHONE | BUS. PHONE | AGE/DOB

NAME OF: ☐ MOTHER ☐ STEPMOTHER | ADDRESS | CITY | COUNTY | HOME PHONE | BUS. PHONE | AGE/DOB

SIBLINGS: LAST NAME, FIRST | DOB | LAST NAME, FIRST | DOB | LAST NAME, FIRST | DOB

II. MEDICAL EXAMINATION

A. History 1. EXPLANATION OF INJURIES BY PARENT OR PERSON ACCOMPANYING CHILD (LOCATION, DATE, TIME & CIRCUMSTANCES)

2. PATIENT'S STATEMENT EXPLAINING INJURY (PARAPHRASE)

3. PATIENT'S EMOTIONAL REACTION TO EXAMINATION (SUBMISSIVE, COMPLIANT, ETC.)

4. PREVIOUS HISTORY OF CHILD ABUSE (IF KNOWN)

B. Sexual Assault Perform exam only if necessary.

1. ACTS COMMITTED: NOTE – COITUS, FELLATIO, CUNNILINGUS, SODOMY

2. DURING ASSAULT
☐ VAGINAL PENETRATION (HOW) | EJACULATION: ☐ VAGINAL ☐ ORAL ☐ ANAL ☐ OTHER:
☐ ANAL PENETRATION (HOW) | ☐ CONDOM USED ☐ VOMITED ☐ LOSS OF CONSCIOUSNESS ☐ OTHER:

3. AFTER ASSAULT:
☐ WIPED/WASHED ☐ BATHED ☐ DOUCHED ☐ VOMITED ☐ CHANGED CLOTHES ☐ BRUSHED TEETH ☐ DEFECATED ☐ OTHER:

C. Physical Examination DATE & TIME OF EXAM | DATE & TIME OF ASSAULT | BP | PULSE | RESP. | TEMP

HEIGHT | WEIGHT | HEAD CIRCUM | LAST TETANUS | KNOWN ALLERGIES | CURRENT MEDICATION

DIAGNOSTIC DATA

Check if indicated and incorporate results in written examination at left

☐ X-Rays (skull, chest, longbone, full skeletal)
☐ Bleeding, coagulation, tourniquet, tests
☐ Funduscopic
☐ Other

DATE	HOSPITAL ID NO.	HOSPITAL

PHYSICAL EXAMINATION (CONTINUED) LOCATE AND DESCRIBE IN DETAIL ANY INJURIES OR FINDINGS; TRAUMA, BRUISES, ERYTHEMA, EXCORIATIONS, LACERATIONS, WOUNDS. TRACE OUT LINE USED & INDICATE LOCATION OF WOUNDS/LACERATIONS USING 'X' FOR SUPERFICIAL, 'O' FOR DEEP; SHADE FOR BRUISES OR BURNS. BESIDE EACH INJURY INDICATED NOTE COLOR, SIZE, PATTERN, TEXTURE, AND SENSATION. WRITE OVER UNUSED OUTLINES. DESCRIBE IN DETAIL SHAPE OF ARM OR OTHER BRUISES WHICH MAY INDICATE FORCE.

D. PELVIC — A PELVIC EXAMINATION SHOULD NOT BE PERFORMED UNLESS THE PARENT, GUARDIAN OR MINOR CONSENT OR UNLESS NECESSARY AS PART OF TREATMENT. SEE DEPARTMENT OF HEALTH REGULATIONS TITLE 22, DIVISION 2, VICTIMS OF SEXUAL ASSAULT. SAME INSTRUCTIONS AS GENERAL PHYSICAL; IN ADDITION, NOTE PUBIC HAIR COMBINGS WHERE INDICATED, DRIED SECRETIONS & RECENT INJURIES TO HYMEN, TRACE & OUTLINE AS ABOVE.

V. SPECIMENS

STAINS/FOREIGN MATERIALS (WHEN INDICATED)

LOOSE HAIR ____ FINGERNAIL SCRAPINGS ____
BLOOD ____ DIRT OR GRAVEL ____
THREADS ____ VEGETATION ____
GRASS ____ CLOTHING ____
DRIED SECRETIONS ____

	SLIDES	SWABS
VAGINAL		
RECTAL		
ORAL		
ASPIRATES/ WASHINGS		
BITE MARKS		
OTHER:		

PATIENT'S SAMPLES. TIME OF COLLECTION AT MD DISCRETION

BLOOD ____
HAIR FROM HEAD ____
SALIVA ____
HAIR FROM PUBIC AREA ____

III. DIAGNOSTIC IMPRESSION OF TRAUMA AND INJURIES

IV. TREATMENT/DISPOSITION OF PATIENT

A. ☐ GC CULTURE ☐ VDRL ☐ PREGNANCY TEST ☐ POST COITAL ESTROGEN ☐ VD PROPHYLAXIS ☐ OTHER:

☐ MOTILE SPERM: ☐ PRESENCE ☐ ABSENCE ☐ NOT TAKEN FAMILY ASSESSMENT BY: NOT ORDERED ☐

B. ORDERS:

C. DISPOSITION: ☐ ADMIT TRANSFERRED TO:

☐ RELEASED ACCOMPANIED BY: NAME ADDRESS RELATIONSHIP

D. FOLLOW-UP WITHIN:

☐ MEDICAL ____ HRS ____ DAYS
☐ SOCIAL SERVICES ____ HRS ____ DAYS
☐ PRIVATE MD ____ HRS ____ DAYS
☐ OTHER ____ HRS ____ DAYS

I HAVE RECEIVED THE INDICATED ITEMS AS EVIDENCE AND A COPY OF THIS REPORT.

OFFICER: ID NO.: DATE:

NURSE	SIGNATURE OF EXAMINING PHYSICIAN

MEDICAL REPORT-SUSPECTED SEXUAL ASSAULT

PRINT OR TYPE FORM 923 HOSPITAL (APPENDIX II)

INSTRUCTIONS: Each physician and surgeon in a county hospital or in any other general acute care hospital who conducts a medical examination for evidence of sexual assault is required by law to complete this form where the patient has consented to be so examined. Each part of the form must be completed unless inapplicable. If the patient consents only to treatment complete only I A&B and IV B&C to the extent they are relevant to treatment and mail to police or sheriff after reporting the same information by phone to law enforcement. In filling out this form no civil or criminal liability attaches. Additionally, no confidentiality is breached in releasing this form to local law enforcement. Prior to commencement of the examination local law enforcement shall be notified by telephone.

I. GENERAL INFORMATION

A. PATIENT'S NAME — HOSPITAL ID NO.

B. ADDRESS — CITY — COUNTY — STATE — PHONE

C. AGE — BIRTHDATE — RACE (USE CODED SUB-GROUPS) — SEX — DATE AND TIME OF ARRIVAL — MODE OF TRANSPORTATION

D. ACCOMPANIED BY: NAME — ADDRESS — CITY — COUNTY — STATE — PHONE — RELATIONSHIP

E. OFFICER NO. 1 — ID NO. — DEPARTMENT — PHONE

OFFICER NO. — ID NO. — DEPARTMENT — PHONE

II. PATIENT'S or PARENT'S or GUARDIAN'S CONSENT (Sign where indicated)

I UNDERSTAND THAT HOSPITALS AND PHYSICIANS ARE REQUIRED BY PENAL CODE SECTION 11160-11161.5 TO REPORT TO LAW ENFORCEMENT AUTHORITIES THE NAME AND WHEREABOUTS OF ANY PERSONS WHO ARE VICTIMS OF SEXUAL ASSAULT OR WHO HAVE SUFFERED INJURIES INFLICTED BY A DEADLY WEAPON OR IN VIOLATION OF A PENAL LAW AND THE TYPE AND EXTENT OF THOSE INJURIES. KNOWING THIS, I CONSENT TO INDICATED TREATMENT.

PATIENT OR PARENT OR GUARDIAN

I FURTHER UNDERSTAND THAT A SEPARATE MEDICAL EXAMINATION FOR EVIDENCE OF SEXUAL ASSAULT AT PUBLIC EXPENSE CAN, WITH MY CONSENT, BE CONDUCTED BY THE TREATING PHYSICIAN TO DISCOVER AND PRESERVE EVIDENCE OF THE ASSAULT. IF SO CONDUCTED, THE REPORT OF THE EXAMINATION AND ANY EVIDENCE OBTAINED WILL BE RELEASED TO LAW ENFORCEMENT. KNOWING THIS, I CONSENT TO A MEDICAL EXAMINATION FOR EVIDENCE OF SEXUAL ASSAULT.

PATIENT OR PARENT OR GUARDIAN

III. FINANCIAL RESPONSIBILITY OF LOCAL GOVERNMENT (Government Code Section 13961.5)

I HEREBY REQUEST A MEDICAL EXAMINATION & COLLECTION OF EVIDENCE FOR SUSPECTED SEXUAL ASSAULT OF THE ABOVE PATIENT AT PUBLIC EXPENSE.

OFFICER — ID NO. — DATE

IV. MEDICAL EXAMINATION

A. HISTORY — ANSWER LINES 4-6 YES OR NO, OR EXPLAIN FOR EACH CATEGORY.

1. DATE AND TIME OF EXAM — DATE AND TIME OF ASSAULT
2. PHYSICAL SURROUNDINGS (BED, FIELD, CAR, ETC.) — IF PHYSICALLY RESTRAINED, HOW
3. PATIENT'S DESCRIPTION OF ASSAULT AND ASSOCIATED PAIN (PARAPHRASE)

NAME(S) AND NUMBER OF ASSAILANT(S)

WEAPON USED (GUN, KNIFE, ETC.) — IF FOREIGN OBJECT USED, WHAT AND WHERE

4. ACTS COMMITTED — COITUS — FELLATIO — CUNNILINGUS — SODOMY
5. DURING ASSAULT ☐ VAGINAL PENETRATION (HOW) — EJACULATION: ☐ VAGINAL ☐ ORAL ☐ ANAL ☐ OTHER:

☐ ANAL PENETRATION (HOW) ☐ CONDOM USED ☐ VOMITED ☐ LOSS OF CONSCIOUSNESS ☐ OTHER:

6. AFTER ASSAULT ☐ WIPED/ WASHED ☐ BATHED ☐ DOUCHED ☐ VOMITED ☐ CHANGED CLOTHES ☐ BRUSHED TEETH ☐ DEFECATED

☐ OTHER:

7. MENSTRUAL HISTORY:
8. BP — PULSE — TEMP. — RESP. — KNOWN ALLERGIES

CURRENT MEDICATION — LAST TETANUS

B. GENERAL PHYSICAL — 1. PATIENT'S GENERAL PHYSICAL APPEARANCE — HEIGHT — WEIGHT

PATIENT'S NAME | HOSPITAL ID NO. | HOSPITAL

B. GENERAL PHYSICAL (Cont.) 2. LOCATE & DESCRIBE IN DETAIL ANY INJURIES OR FINDINGS (SPECULUM & BIMANUAL EXAM): TRAUMA, BRUISES, ERYTHEMA, EXCORIATIONS, LACERATIONS, WOUNDS, STAINS/FOREIGN MATERIALS ON BODY-MUCOID OR LIQUID MATERIAL, LOOSE HAIR, BLOOD, GRASS, DIRT, ETC.

TRACE OUTLINE USED & INDICATE LOCATION OF WOUNDS/LACERATIONS, USING 'X' FOR SUPERFICIAL, 'O' FOR DEEP; SHADE FOR BRUISES. WRITE OVER UNUSED OUTLINES. DESCRIBE IN DETAIL SHAPE OF BRUISES (ON ARMS OR OTHER EXTREMITIES) WHICH MAY INDICATE FORCE.

C. PELVIC IF A CHILD, PERFORM ONLY IF NECESSARY. (SAME INSTRUCTIONS AS GENERAL PHYSICAL; IN ADDITION, NOTE PUBIC HAIR COMBINGS, DRIED SECRETIONS AND RECENT INJURIES TO HYMEN WHERE INDICATED.) TRACE AND MARK OUTLINE AS ABOVE.

V. DIAGNOSTIC IMPRESSION OF TRAUMA AND INJURIES

VI. TREATMENT/DISPOSITION OF PATIENT

A. ☐ GC CULTURE ☐ VDRL ☐ PREGNANCY TEST ☐ POST COITAL ESTROGEN ☐ VD PROPHYLAXIS ☐ OTHER:

B. ORDERS:

MOTILE SPERM: ☐ PRESENCE ☐ ABSENCE ☐ NOT TAKEN

C. DISPOSITION: ☐ ADMIT TRANSFERRED TO

D. FOLLOW-UP WITHIN: ☐ MEDICAL ___ HOURS ___ DAYS ☐ SOCIAL SERVICES ___ HOURS ___ DAYS ☐ PRIVATE MD ___ HOURS ___ DAYS ☐ OTHER ___ HOURS ___ DAYS

☐ RELEASED ACCOMPANIED BY: NAME ADDRESS RELATIONSHIP

I HAVE RECEIVED THE INDICATED ITEMS AS EVIDENCE AND A COPY OF THIS REPORT.

OFFICER: ID NO.: DATE:

NURSE | SIGNATURE OF EXAMINING PHYSICIAN

VII. SPECIMENS

STAINS/FOREIGN MATERIALS (WHEN INDICATED)

LOOSE HAIR	___	FINGERNAIL SCRAPINGS	___
BLOOD	___	DIRT OR GRAVEL	___
THREADS	___	VEGETATION	___
GRASS	___	CLOTHING	___

DRIED SECRETIONS ___

	SLIDES	SWABS
VAGINAL	___	___
RECTAL	___	___
ORAL	___	___
ASPIRATES/WASHINGS	___	___
BITE MARKS	___	___
OTHER:	___	___

PATIENT'S SAMPLES. TIME OF COLLECTION AT MD DISCRETION.

BLOOD ___
HAIR FROM HEAD ___
SALIVA ___
HAIR FROM PUBIC AREA ___

61926-552 6-78 100M OSP

APPENDIX III - CALIFORNIA PENAL CODES 11110 and 11161.5

§ 11110. Record of reports of suspected infliction of physical injury upon minor and arrests for convictions of violation of section 273a

The * * * Department of Justice shall maintain records of all reports of suspected infliction of physical injury upon a minor by other than accidental means and reports of arrests for, and convictions of, violation of Section 273a. On receipt from a city police department, sheriff or district attorney of a copy of a report of suspected infliction of physical injury upon a minor by other than accidental means received from a physician and surgeon, dentist, resident, intern, chiropractor, religious practitioner, registered nurse employed by a public health agency, school, or school district, director of a county welfare department, or any superintendent of schools of any public or private school system or any principal of any public or private school, the * * * department shall transmit to the city police department, sheriff or district attorney, information detailing all previous reports of suspected infliction of physical injury upon the same minor or another minor in the same family by other than accidental means and reports of arrests for, and convictions of violation of Section 273a, concerning the same minor or another minor in the same family.

The * * * department may adopt rules governing recordkeeping and reporting under Section 11161.5.

(Amended by Stats.1972, c. 1377, p. 2838, § 83.)

§ 11161.5 Injuries by other than accidental means, sexual molestation or § 273a injuries to minor; report by physician, teacher, social worker, etc.

(a) In any case in which a minor is brought to a physician and surgeon, dentist, resident, intern, podiatrist, chiropractor, marriage, family or child counselor, psychologist, or religious practitioner for diagnosis, examination or treatment, or is under his charge or care, or in any case in which a minor is observed by any registered nurse when in the employ of a public health agency, school, or school district and when no physician and surgeon, resident, or intern is present, by any superintendent, any supervisor of child welfare and attendance, or any certificated pupil personnel employee of any public or private school system or any principal of any public or private school, by any teacher of any public or private school, by any licensed day care worker, by an administrator of a public or private summer day camp or child care center, or by any social worker, by any peace officer, or by any probation officer, and it appears to the physician and surgeon, dentist, resident, intern, podiatrist, chiropractor, marriage, family or child counselor, psychologist, religious practitioner, registered nurse, school superintendent, supervisor of child welfare and attendance, certificated pupil personnel employee, school principal, teacher, licensed day care worker, * * * administrator of a public or private summer day camp or child care center, social worker, peace officer, or probation officer, from observation of the minor that the minor has physical injury or injuries which appear to have been inflicted upon him by other than accidental means by any person, that the minor has been sexually molested, or that any injury prohibited by the terms of Section 273a has been inflicted upon the minor, he shall report such fact by telephone and in writing, within 36 hours, to both the local police authority having jurisdiction and to the juvenile probation department; or, in the alternative, either to the county welfare department, or to the county health department. The report shall state, if known, the name of the minor, his whereabouts and the character and extent of the injuries or molestation.

Whenever it is brought to the attention of a director of a county welfare department or health department that a minor has physical injury or injuries which appear to have been inflicted upon him by other than accidental means by any person, that a minor has been sexually molested, or that any injury prohibited by the

terms of Section 273a has been inflicted upon a minor, he shall file a report without delay with the local police authority having jurisdiction, and * * * with the juvenile probation department as provided in this section.

No person shall incur any civil or criminal liability as a result of making any report authorized by this section unless it can be proven that a false report was made and the person knew or should have known that the report was false.

Copies of all written reports received by the local police authority shall be forwarded to the Department of Justice. If the records of the Department of Justice maintained pursuant to Section 11110 reveal any reports of suspected infliction of physical injury upon, sexual molestation of, or infliction of any injury prohibited by the terms of Section 273a upon, the same minor or any other minor in the same family by other than accidental means, or if the records reveal any arrest or conviction in other localities for a violation of Section 273a inflicted upon the same minor or any other minor in the same family, or if the records reveal any other pertinent information with respect to the same minor or any other minor in the same family, the local reporting agency and the local juvenile probation department shall be immediately notified of the fact.

Reports and other pertinent information received from the department shall be made available to: any licensed physician and surgeon, dentist, resident, intern, podiatrist, chiropractor, marriage, family or child counselor, psychologist, or religious practitioner with regard to his patient or client; any director of a county welfare department, school superintendent, supervisor of child welfare and attendance, certificated pupil personnel employee, or school principal having a direct interest in the welfare of the minor; and any probation department, juvenile probation department, or agency offering child protective services.

(b) If the minor is a person specified in Section 600 of the Welfare and Institutions Code and the duty of the probation officer has been transferred to the county welfare department pursuant to Section 576.5 of the Welfare and Institutions Code and the report is made to the local police authority having jurisdiction, then the report required by subdivision (a) of this section shall be made to the county welfare department.

(Amended by Stats.1971, c. 635, p. 1251, § 1; Stats.1971, c. 1729, p. 3680, § 7; Stats.1972, c. 1377, p. 2843, § 89; Stats.1972, c. 421, p. 746, § 1; Stats.1973, c. 1151, p. 2380, § 1; Stats.1974, c. 348, p. 679, § 1; Stats.1975, c. 226, p. 608, § 1; Stats.1976, c. 242, p. —, § 1; Stats.1977, c. 958, p. —, § 1.)

APPENDIX IV -- ACKNOWLEDGEMENTS

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