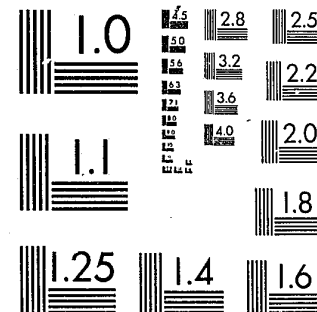


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CHILD SEXUAL ABUSE LEGAL ISSUES AND APPROACHES

A monograph by the
**National Legal Resource Center
for Child Advocacy and Protection**

U.S. Department of Justice
National Institute of Justice

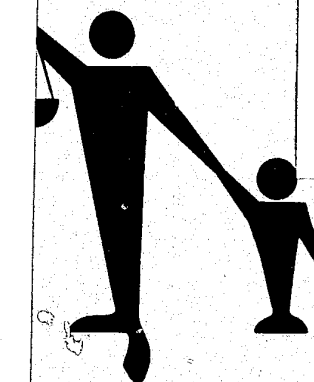
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**American Bar Association
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Washington, D.C.--Sept., 1980

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CHILD SEXUAL ABUSE
LEGAL ISSUES AND APPROACHES

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CONTENTS

| | Page |
|--|-------------------|
| Foreword | i |
| INTRODUCTION | 1 |
| BACKGROUND AND INCIDENCE | 2 |
| EFFECTS ON CHILDREN | 3 |
| COURT ACTION ON BEHALF OF THE CHILD - A CHOICE OF ALTERNATIVES | 4 |
| A. JUVENILE COURT PROCEEDINGS | 6 |
| B. THE CRIMINAL JUSTICE SYSTEM | 7 |
| C. DOMESTIC VIOLENCE STATUTES | 8 |
| SENSITIVE LEGAL INTERVENTION | 10 |
| EVIDENTIARY PROBLEMS | MAY 18 1985 15 |
| COOPERATIVE CASE MANAGEMENT AND FAMILY TREATMENT ALTERNATIVES | ACQUISITION 18 |
| CONCLUSION | 22 |
| FOOTNOTES | 23 |
| APPENDIX A - LEGAL PROCESSES IN SEX ABUSE CASES | 31 |
| APPENDIX B - INTERVIEWING CHILD VICTIMS: GUIDELINES FOR CRIMINAL JUSTICE SYSTEM PERSONNEL | 32 |
| APPENDIX C - SAMPLE INTERDISCIPLINARY TEAM PROTOCOL | 37 |
| APPENDIX D - FLOW CHART, CHILD SEXUAL ABUSE TREATMENT PROGRAM, SAN JOSE, CALIFORNIA | 39 |

Foreword

Recent public and professional attention to the problem of child sexual abuse, especially incest, has brought to the forefront a number of complex and controversial issues concerning appropriate, effective and humane ways of dealing with these cases. It also has exposed both the insensitivity and inadequacy of many existing methods of intervention which were not designed to accommodate either the vulnerability of child victims or the complicated family dynamics that exist when loyalties are torn between a young child and a parent or other family perpetrator. The sometimes devastating results of criminal prosecution for children and other family members have led some mental health professionals to argue that intrafamily child sexual abuse cases, especially those where the perpetrator acknowledges responsibility for his acts and willingly seeks help, should not be dealt with in a criminal justice forum.

Many of these mental health professionals have acknowledged that the application of criminal sanctions may increase the trauma of families in crisis and prevent many of these families (perhaps the majority) from coming forward for help. Some professionals maintain that legal coercion may jeopardize the offender's personal motivation, trust and willingness to seek help voluntarily, which are important in establishing a treatment alliance that will lead to real individual change. A number of medical, legal and mental health professionals do not report cases of child sexual abuse due to their fears that punitive and insensitive attitudes and procedures of our criminal and juvenile justice systems will destroy not only any hope for successful treatment, but the future psychological health of the victim and family as well.

Other professionals argue just as adamantly that children and society need and deserve the concrete symbol of the criminal justice system to sanction the total unacceptability of such behavior. It is also asserted that where treatment is sought or indicated, the authority of the court is needed to overcome the denial and avoidance which so often accompany these cases. Law enforcement personnel, while often sympathetic to the effects of a criminal trial on already distraught family members, point out that intrafamily sexual abuse, like rape, homicide and physical assault, is still a serious crime in every jurisdiction. Most maintain that although such cases should be sensitively handled, they should not be viewed differently simply because the victim and perpetrator are members of the same family. Many argue that ceasing to demand the same legal accountability in such cases would be, in effect, to sanction the behavior as somehow more acceptable if perpetrated against one's own child.

Similarly, many treatment providers have experienced the frustration of having their clients drop out of voluntary treatment. Legal sanctions may serve to prevent offenders from escaping the therapeutic process when it becomes painful to confront those parts of themselves they most despise. As a result, more and more programs which specialize in the treatment of child sexual abuse have embraced program models which utilize the authority and clout of the criminal justice system to legally mandate long-term treatment for sex offenders and their families.

How this problem is viewed--as a crime, an illness, or a behavioral symptom of family dysfunction--will strongly influence the way it is handled by our criminal justice, mental health and social service systems. At the present time, there is no national standard of practice. Cases are currently being prosecuted, treated, or dropped as much in accordance with jurisdictional differences in laws, personal attitudes, and available resources as they are in relation to the weight of evidence, credibility of witnesses, treatability of perpetrators, or severity of cases. Strong feelings and opinions are held by professionals in various disciplines on all sides of this problem.

This technical assistance monograph from the National Legal Resource Center for Child Advocacy and Protection is an important first step in examining these complex issues and provides a valuable addition to the literature. The Center, sponsored by the Young Lawyer's Division of the ABA, is in a unique position in the field of child protection to offer a national perspective on the legal aspects of child sexual abuse that too often are viewed from within the limitations of a single system, discipline, or jurisdiction. The Center's project on child sexual abuse serves as a special resource to judges, lawyers and non-lawyers alike, and it is hoped that all concerned professionals who have an opportunity to review these materials will feel free to offer their candid feedback and suggestions. It is only through interdisciplinary collaboration that we will be able to better serve the victims of child sexual abuse and their families.

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INTRODUCTION

The legal profession has unfortunately lagged behind other groups in the development of practical literature on the subject of child sexual abuse. Most of the existing materials on this topic have appeared only in social work or psychiatric journals, or have been primarily available to those working in child protective agencies. Yet, sexual abuse of children is as much a legal problem as it is a social and medical one.

Child sexual abuse is a crime in every state. It is also a potential basis for the exercise of juvenile court child protective jurisdiction involving the child's entire family. In the coming years, more lawyers are going to be involved in such court proceedings. Such cases are not only traumatic for the child and family, but also involve complex legal issues, demanding a high level of skill from prosecutors, parents' counsel, child advocates and agency attorneys.

This article is intended to give practicing attorneys an introduction to the problem of child sexual abuse, the effects on its victims, and the characteristics of the offenders. Its purpose is also to help prepare lawyers to intervene sensitively and skillfully in such cases, through the creative use of the judicial system, as well as to interface effectively with social service agencies and community treatment programs.

The National Legal Resource Center for Child Advocacy and Protection, a program of the Young Lawyers Division of the American Bar Association, has recently begun a special sexual abuse project which is preparing a state-by-state analysis of criminal incest, sex offense, and child protective statutes. Other pertinent legal issues to be examined include corroboration, competency, and marital privilege exceptions. We are, in addition, canvassing prosecutorial procedures and policies in selected jurisdictions. These efforts are being undertaken to identify innovative approaches, problem areas, and trends in the law and in the legal system's handling of intra-family child sexual abuse cases.

The term "sexual abuse of children" encompasses a wide range of acts committed against minors. It may be defined in a state criminal code by incest or sex crimes statutes. A separate definition may appear in state child abuse reporting laws or juvenile court acts. It may encompass sexual acts perpetrated by family members or persons in a position of authority over the child, as well as acts by

acquaintances and strangers. For the purposes of this analysis, however, we are defining sexual abuse to include any contacts or interactions between a child and other family member in a position of power or control over the child, where the child is being used for the sexual stimulation of the perpetrator or another person.

BACKGROUND AND INCIDENCE

In 1912, Kraft-Ebing introduced the term "pedophilia erotica." This label describes behavior which manifests itself in abnormal erotic sexual abuse of pre-adolescent children. Recently, however, some authorities indicate that sexual abuse by a family member is more likely to be symptomatic of family dysfunction rather than a primary sexual orientation toward children.¹ The literature indicates certain characteristics which child sex offenders often share in common. These include isolation or alienation from others, dysfunctional interpersonal relationships, poor self-concepts, and lack of impulse control. Most adults who commit sexual offenses against children suffer from a personality disorder, but are not considered mentally ill or psychotic. Moreover, contrary to one myth regarding perpetrators of child sex crimes, the offender comes from a range of socio-economic and educational backgrounds.

Incest has, of course, been a "taboo" in most cultures throughout recorded history, evoking severe social and legal sanctions. Yet, contrary to traditional belief, it is not as rare a phenomenon as was once thought. It has been rightfully called "the crime no one believes," since most of us are uncomfortable even hearing about it, let alone talking about it.

Only the growing awareness of the general problem of child abuse over the past fifteen years has forced us to begin to concretely react to sexual abuse. The level of knowledge and understanding of how to effectively intervene in sexual abuse cases parallels our position in the early 1960's in dealing with battered children.

The true incidence of child sexual abuse is difficult to measure, since it is the most underreported form of child abuse. Until recently, it was not even specifically covered by many state mandatory child abuse reporting laws, although most states now include "sexual" abuse in their reporting statutes.² When reported, it has generally been to law enforcement agencies which do not necessarily relay this information to the agency keeping child abuse reporting

statistics. In 1955, one study estimated the incest rate to be 1.9 cases per million people.³ One year later, a study made a projected estimate that as much as one-third of the population experienced some form of childhood sexual abuse.⁴ A recent estimate has placed the incidence of sexual abuse at 800 to 1,000 cases per million population or a rate of over 200,000 children per year.⁵

In 1978, 15.4% of all children for whom reports of abuse were substantiated were found to be sexually abused.⁶ As attention focuses on this problem, this figure can be expected to rise. We will, however, only continue to see the "tip of the iceberg" until we learn how to respond effectively and humanely to this problem. As one child who did report her sexual abuse, only to be sent home where the abuse exacerbated, put it: "You didn't believe me or help me the first time I told you about it. So I figured it wouldn't do any good to bring it up again."

The victims of sexual abuse are both girls and boys, although there is a much higher rate of girls who are reported as sexually abused than boys. However, treatment programs are beginning to see an increase in boy-victims.⁷ Although the average age of the child is between 11 and 14, treatment programs are seeing children as young as 2 or 3, some of whom are detected because they have contracted gonorrhea. In a large percentage of incest cases, the offense is repeated over a period of time ranging from weeks to several years. There is rarely an application of force or threat of bodily harm, and more often the child is psychologically enticed by loyalty to, affection with, and dependence upon the adult caretaker.

EFFECTS ON CHILDREN

When faced with a case involving incest, if we fail to use our legal systems creatively and compassionately, we will allow many children to continue to be seriously scarred by this insidious form of maltreatment. We live in a society where many people only think of "incest" as a subject for jokes and quips in which we make light of a subject too painful or revolting for most of us to deal with. But let there be no mistake about it: Incest (or any form of sexual victimization) is as devastating to a child's normal, healthy development as any other type of child maltreatment! If we do not intervene speedily and correctly, the child-victim may suffer any or all of the following consequences:

- Extreme feelings of guilt and self-hate (causing the child to see him/herself as an object, not a person)

- Incredible anguish, shame, and humiliation
- Intense fear, anxiety, and confusion (leading to later use of alcohol and drugs to relieve the stress)
- Regressive behavior or a variety of personality and physical disorders
- Long term, dormant after-effects which make the victim a "psychological time bomb" (often leading to depression and self-destructive or even suicidal behavior)
- Mistrust of adults and their ability to provide protection and proper nurturance
- Increased susceptibility to sexual exploitation by others (sometimes leading to promiscuity or prostitution)
- Fear of all sexual contact (possibly leading to frigidity and an inability to ever have a normal, healthy relationship)
- Aggressive, anti-social, runaway, delinquent or criminal behavior
- Alienation from peers and normal childhood experiences

COURT ACTION ON BEHALF OF THE CHILD - A CHOICE OF ALTERNATIVES

The sexually victimized child can suffer severe trauma as a result of his or her experiences in the judicial system. The experience or even anticipation of testifying can be agonizing. Sometimes the child is also coerced by family members not to testify or to recant earlier statements. In one known case, a child was examined and cross-examined for over fourteen hours, thereafter requiring psychiatric hospitalization. It should not surprise

attorneys involved in such cases to learn that a former child client of one of the authors attempted suicide shortly after receiving a subpoena to appear in criminal court.

For the above reasons, any decision to pursue court action in a sexual abuse case should be a collective one, with multi-disciplinary input from child welfare workers, hospital staff, and sexual abuse treatment professionals. The following are among the factors to be considered in deciding whether or what type of court action should be pursued:

- 1) Going to court should be necessary to protect the welfare of the child (it should be the least detrimental available alternative);
- 2) There should be agreement that the child will come out of the court process better off; and
- 3) The facts of the case should compel judicial intervention.

Prosecutors should recognize that a number of professionals with social work or psychology backgrounds may prefer to avoid having the child go through the courts, since that may result in their loss of input involving the direction and outcome of the case. Many are also likely to share a concern that the court process will further traumatize the child and needlessly split-up the family.

However, a number of experts in the sexual abuse treatment field believe that court action may be necessary so that the child may hear someone outside the family in a position of authority say to him or her:

What happened was not your fault.
We believe you, admire your courage
in speaking up, and want to help
you and your family.

Some experts also believe court action is critical to assure that the perpetrator stops the abuse, recognizes personal responsibility for his action, knows that the community does not condone such behavior, and is forced to face the consequences of his misconduct.⁸

Once judicial intervention has been determined appropriate, attorneys need to be aware of the strengths and

weaknesses of the alternative judicial forums. Unfortunately, many prosecutors are unfamiliar with the juvenile court child protective process, and likewise many child welfare professionals lack an understanding of the criminal justice system. This can be a critical flaw when simultaneous court actions are undertaken, a not unusual practice which has been recommended in cases involving uncooperative abusers (See Appendix A for flow chart of proceedings).

A. Juvenile Court Child Protective Proceedings

Often in child sexual abuse cases, the juvenile or family court becomes involved at an early stage after the acts are reported. When a child is removed from the home by the police or social workers, the law requires that a juvenile court petition be filed. It is this court alone which has the power to order the removal of the child from the home. It can act swiftly to protect a child in this manner.

The child protective proceeding is brought because of parental abuse or neglect. It is also referred to by other names, such as a "dependency" or "care and protection" case. It is the only judicial action in which judges can order agencies to provide needed treatment for the child/victim. The juvenile court is actually the court most likely to have access to support services necessary to implement effective supervision and treatment, as well as to provide necessary long-term monitoring of the child's status and follow-up on the success of any treatment plans. As a child-centered court, its fundamental thrust is to protect children while helping the family.

The juvenile court is usually required by law to appoint an attorney or guardian ad litem for the child in such proceedings, and its procedures are often more flexible and humane as far as the child is concerned. Here, a judge may be more willing to question a child in chambers and out of the parents' presence. The judge's ultimate concern in such cases should be the "best interests of the child," rather than punishment of the abusive parent. Indeed, this forum may be less traumatic to the child than criminal court. This is because there is a less rigorous burden of proof (often only "preponderance of the evidence"), and thus less chance the child will have to testify. Further, jury trials rarely occur in this forum.

Parents may be less likely to contest a charge of abuse in juvenile court, where there is no threat of a criminal conviction or incarceration. The family thus may be encouraged to seek treatment and to work out their problems.

Parental cooperation can sometimes be obtained by the granting of "use immunity" which assures that their testimony can not be used against them in any criminal proceeding. Since most offenders strongly deny their culpability when confronted with a sexual abuse accusation, this type of proceeding may be more likely to produce candor.

There are several weaknesses in the use of this forum. The juvenile court does not have direct control over the parents or the abuser. Often the innocent child must be removed from the home because the judge has no authority to order the abuser out! This leads many children to feel that they must have done something wrong. In some courts, not only is the child removed from the home in most cases, but so are all his or her siblings. Where the abuser is not a parent or legal guardian, he or she is not even a formal party to such proceedings. Moreover, a mother who is horrified by the discovery of incest, and willing to cooperate with child protective workers, may find herself facing an accusation of "unfit parent" or of "depravity", which undermines attempts to build on the strengths of families in such crises. This is contrary to the recommendations of experts that family members be approached in a non-judgmental manner. Further, some perpetrators don't take this type of proceeding as seriously as a criminal charge. Finally, child protective proceedings too often "drag on" for prolonged periods, to the detriment of both the child and the parents.

B. The Criminal Justice System

Perpetrators of child sexual abuse may be criminally prosecuted under a variety of statutes. Some are traditional incest, statutory rape, indecent assault, and sodomy laws. Several states have passed newer laws setting forth degrees of criminal sexual "contact" or "conduct" that may cover a wide range of offensive behavior. Some have special penalties for abuse of a minor by a person in a "position of authority."

One threshold question facing prosecutors is whether the defendant should be charged under the incest laws or sexual abuse statutes. In many states, the incest penalties are lower than are the penalties for sexual abuse. In the District of Columbia, for example, incest is punishable by imprisonment for up to 12 years, while the statutory rape penalty is life imprisonment.⁹ Intra-family child sexual abuse cases are always prosecuted in the District under the statutory rape provision because the penalty is higher.¹⁰ In at least one state, Maine, sexual abuse of a minor child

by a family member is not incest at all, because both parties must be above the age of consent to commit incest.¹¹ In about half the states, the crime of incest is limited to family relationships by blood.¹² Under these laws, a step-parent cannot be prosecuted for incest. At least one state, New Jersey, has repealed its incest law, and sexual abuse of a minor is included in the criminal sexual offense provisions.¹³

Obviously, the criminal system is regularly utilized in cases involving sexual assault, particularly where the offender's behavior is repeated, sociopathic, or accompanied by physical force or other types of compulsion. The judge in a criminal proceeding can remove the offender from the home as a condition of pre-trial release or probation, or through a sentence of imprisonment. The mere threat of incarceration may be effective as a rehabilitative tool, assuring that the defendant participates in a treatment program.

Criminal prosecution is, of course, more visible to the community than juvenile court proceedings, which are required by law to be held in closed session. Some experts believe that prosecution is a necessary "expiatory factor" in the successful rehabilitation of the perpetrator. The criminal justice system also is said to provide the leverage necessary to insure treatment and to monitor the offender's progress.¹⁴

In many criminal sexual abuse cases, however, defendants are not channelled into treatment programs. Some proceedings lead to the father's incarceration, splitting up the family and, more importantly, leading to the child's suffering intense guilt and blame for the resultant loss through imprisonment of someone so close to the child and mother. In addition, the high standard of proof in criminal cases, when it leads to an acquittal after an emotional trial, can have psychologically devastating consequences to the child, including the possibility of fierce reprisals, guilt feelings, and a sense of hopelessness that nothing can be done.

C. Domestic Violence Statutes

During the past decade, a new remedy has emerged through which children (particularly with supportive mothers) can obtain a civil protective order to prevent further sexual abuse committed by a perpetrator within the family. Although these laws were principally designed to provide a remedy for battered women, many have language allowing any "family member," or someone acting on a child's

behalf, to petition a court for a protective order because of an abusive act committed by any member of the household (not just a parent or relative). There are presently 34 states with such statutes. In eight states, the law specifically provides a remedy for sexually abused children, while other state laws might be interpreted to provide such a remedy.¹⁵

Under these laws, orders can be sought to have the sexually abusive household member (parent, mother's boyfriend, etc.) vacate the family home. This places the "get out of the house" sanction, where its use is appropriate, on the abuser and not the child. Under traditional child protective laws, juvenile court judges lack the authority to remove an adult perpetrator from the home. These new legal remedies therefore provide a quick means of protecting a child and her cooperative mother from all forms of violence (including the sometimes co-existent battering of the mother). A mother may want the abuser out of the house but not criminally convicted and sentenced. She may also be more willing to cooperate with the authorities in these cases, since she does not risk the loss of her child.

Some of the domestic violence statutes also have special provisions relating to dispositions in criminal proceedings involving intra-familial abuse. For example, Massachusetts' statute explicitly states that whenever a criminal complaint is issued for intra-familial abuse, including sexual abuse, a court may impose as a condition of the defendant's pre-trial release "such terms as will insure the safety of the person...and will prevent its recurrence. Such terms shall include reasonable restrictions on the travel, association or place of abode of the defendant as will prevent such person from contact with the person abused." Similar terms may be imposed as a condition of probation. In addition, the statute specifically allows referral of the defendant for treatment a condition of disposition or probation.¹⁶

In most jurisdictions, courts possess discretion in criminal cases to order a variety of conditions to pre-trial release or probation. However, specific statutory authorizing encourages courts to impose terms such as ordering the defendant to vacate the home. Again, this type of approach in a criminal proceeding would make it unnecessary for the juvenile court to remove the child from the home where the mother is able to care for and protect the child.

SENSITIVE LEGAL INTERVENTION

Many mental health and child welfare experts believe that traditional legal intervention, particularly criminal prosecution, in child sexual abuse cases can cause more emotional damage to the child than the abuse itself. The problem is well stated by Vincent DeFrancis, an early proponent of child victim/witness protections in sexual abuse cases. In 1969, DeFrancis, former Director of the Children's Division of the American Humane Association, indicated,

Because sex crimes are so personal and because they relate to areas which in our culture are laden with taboos and strong emotional impact, child victims are exposed to serious emotional stresses and tensions . . .

The situation is compounded by the very real and urgent objective of criminal law - the immediate prosecution of the adult offender. Law enforcement personnel - police and prosecutor - are under pressure, and sometimes under fire, of public concern and public opinion to make an air-tight case against "degenerates" who prey on children. The natural consequence is that what happens to children in the process seems of lesser importance, or is lost sight of, in the desire and rush to meet the clamor of public demands for retribution. Little thought is given by the community to the problems of the child victim and his parents whose needs and rights are often trampled in the pursuit of sanctions against the offender.¹⁷

The most often cited negative aspect of legal intervention is the subjection of the child to repeated questioning from preliminary investigation to the time of trial. One law enforcement official estimated that a child sexual abuse victim may be required to repeat her story as many as 14-16 times before going to court.¹⁸ DeFrancis stated that,

The initial shock of the crime is heightened and tensions are increased and compounded under questioning by police in their search for evidence. A

sensitive child may be subjected to an excruciating experience during efforts to elicit the sordid facts of the crime. Emphasis on the minutest details of the offense serve to magnify the act out of proportion and add to the child's sense of guilt and shame.¹⁹

The child often must repeat the details of the incident to several different police officers. First, to the uniformed patrolman who receives the complaint, followed by a special sex division detective and a youth division officer. The child may also have to recount the experience to doctors, social workers, and counselors. Where the case is referred for juvenile court action, the juvenile court prosecutor, the child's guardian ad litem, and possibly the parents' attorney must question the child. If the case is referred for criminal prosecution, the prosecutor will question the child. If several prosecutors handle the case throughout the proceedings, aspects of the story must be repeated. If the case goes to trial, the child will undergo direct and cross-examination in open court. In some felony cases, the child may also testify at either or both a preliminary hearing and a grand jury hearing.

There may be other aspects of the adversary judicial process which have a negative impact upon the child's emotional well-being. These include identification of the defendant in a line-up or in open court and facing the defendant, the jury, and the public throughout a trial. Finally, the methods by which law enforcement personnel and prosecutors interview a child victim are too often insensitive and not adaptive to the child's level of understanding. For example, children often are subjected to legal and clinical jargon incomprehensible even to the average adult.

It is important to point out that the development of special procedures designed to make the legal system more responsive and sensitive to the child victim is also likely to result in more frequent and successful prosecutions. This has proven to be the case in Seattle, Washington, where a special program called the Sexual Assault Center (SAC) has been primarily responsible for successfully implementing a variety of new and practical approaches for more sensitive handling of child sexual abuse cases by the criminal justice system. The SAC's data reveal that convictions are obtained in almost 90% of their cases. Prosecutors have indicated that more cases are being filed, fewer dismissed after a case is filed, and more convictions obtained due to the

SAC's efforts.²⁰ Many of the approaches deal directly with the problems cited above, and may be replicated in other jurisdictions seemingly without much difficulty. These and other innovative approaches are presented below.

In Seattle, the SAC was responsible for instituting weekly meetings with prosecutors, police officers, and child protection workers. Strategies evolved from these meetings which have been adopted as standard policies and procedures for handling child sexual abuse cases. For example, a special children's interviewing room, located at the Sexual Assault Center, is now utilized. This provides a private, quiet, relaxed atmosphere which is less threatening than the police station. Both the SAC and a Washington, D.C. program, the Child Sexual Abuse Victim Assistance Project, make available children's toys, crayons and drawing paper, and books to put the child at ease during the interview.

Another approach utilized in Seattle is joint detective/prosecutor interviews of the child. Vertical prosecution has also been instituted in these cases, which means that one prosecutor handles the case at all stages of the proceedings. For example, in Baltimore, El Paso, Texas, New York City, Hennepin County, Minnesota, and other jurisdictions throughout the country there are special sex offense prosecution units in which one or more prosecutors handle all sexual abuse cases on a full-time basis. This practice insures greater sensitivity and expertise in dealing with child victims as well as with social service agency personnel and policies.

An additional special procedure involves designating one person to interview the child witness. One pre-trial statement would be taken from the child by a person specially trained in conducting interrogation of child victims. The interview might be tape-recorded or video-taped for use by the prosecutor and others who must learn the facts of the case, e.g., physicians and social workers. This practice is utilized in certain Scandinavian countries. In Israel, special "youth interrogators" are statutorily granted exclusive authority to interview child victim/witnesses. They are not police officers, but rather psychologists, psychiatric social workers, child care workers or others who receive special training in interviewing techniques as well as in legal procedures and rules of evidence. The youth interrogators do not wear uniforms and are forbidden to interview the child in a police station.²¹

When interviewing a child, certain techniques serve both to reduce the trauma to the child and to enhance information gathering necessary for successful prosecution.²²

The legal, mental health, medical, and social work professions must be psychologically prepared for handling the dynamics of intra-family child sexual abuse. It is important for the interviewer not to project his or her own feelings about the situation onto the child. Questions should not be suggestive and it should not be assumed that the child's experience was either bad or pleasurable. Dealing with these cases requires a calm, professional approach. Any feelings of anxiety or being ill-at-ease on the part of the professional may be conveyed to the child. The interviewer should try to establish a personal rapport with the child by asking about the child's interests, friends, school, etc., and by permitting the child to ask the interviewer questions. The reason for the interview and what will happen during the proceedings should be explained to the child in a simplified way.

The types and number of questions asked, as well as the language used, are extremely important. Young children have a very short attention span, so the interview should be as short as possible. The interviewer should employ language which is geared to the child's age and is appropriate for his or her level of comprehension. This includes identifying and using the child's terminology for parts of the anatomy. Children may respond to questions incompletely or inaccurately because the questions are not understood, or because of the child's age, he or she is simply unable to answer a question. Very young children possess concepts of time, space and distance which are personalized and are not necessarily logical and orderly. Thus, questions to a 4-year-old regarding the date or time of incidents are not appropriate or fruitful. Further, if the interviewer does not adapt his or her language and questions to the child's capabilities, the child may become frustrated and perhaps uncooperative. Frequently, professionals decide that a child cannot cope with the process or is not a credible witness, when in fact the interviewer's attitude and questions have inhibited or discouraged the child from communicating.²³ (See Appendix B for detailed interview guidelines).

The traditional tactic of filing multiple charges is also important in these cases, as it tends to result in more guilty pleas, and thus eliminates the need for the child to testify at trial. The Sexual Assault Center has indicated that about three-quarters of the defendants pled guilty during the one-year period between October, 1977 and September, 1978.²⁴

For a child, testifying in court may be the most traumatic experience of her involvement in the legal process. In

cases which go to trial, efforts should be made to modify or change trial procedures to protect the victim/witness. The Child Sexual Abuse Victim Assistance Project (CSAVAP) in Washington, D.C. employs a full-time attorney/criminal justice specialist who assists victims and families throughout the criminal proceedings. Among other things, the child is taken to the courtroom before the trial and is told what will happen during the trial.

A number of alternatives to the child's appearance in the court are possible. For example, by statute in Arizona, Montana and New Mexico, the child's testimony may be video-taped in the privacy of the judge's chambers, in the presence of the defendant, defense counsel and the prosecutor.²⁵ The video-tape may then be shown to the jury. This eliminates the need for the child to testify before the jury and a courtroom full of spectators. Other states permit the judge to exclude the public from any sexual offense trials, which would include child sexual abuse cases.²⁶

It has also been suggested that a legal representative or guardian ad litem (GAL) be appointed to advocate for the child victim/witness in a criminal proceeding.²⁷ Traditionally, guardians ad litem have been appointed to represent children in juvenile or family court dependency cases, and are entrusted with the protection of the child's interests. Such a special advocate for the child during the criminal trial may reassure the child, explain what is going on should the child become confused, and perhaps serve as a kind of "interpreter" by indicating to the court when questions may not be comprehensible to the child because of the child's age, level of comprehension, or emotional state.

The guardian ad litem also might oppose unwarranted continuances, seek to have the public excluded from the trial, have the case heard in the judge's chambers, or work with the prosecutor to assist him or her in sensitively dealing with the child. In the Dependency Section of the Los Angeles Superior Court, a policy has been adopted in which a guardian ad litem, who is appointed to represent a child in a juvenile court dependency proceeding, also accompanies the child to criminal court where a companion criminal case has been filed. The Superior Court has found that the effect of appointing a guardian ad litem for the child in criminal proceedings has reduced the trauma and confusion for the child, as well as assured an effective linkage between the criminal and juvenile court systems.²⁸

It has also been recommended that in criminal proceedings involving child victims, as little delay as possible occur in setting the trial date.²⁹ This will reduce the emotional stress of awaiting trial and minimize the likelihood of the child's memory fading. Further, trials should be scheduled early in the day, as children have a limited capacity to wait. In the Los Angeles court system, these two recommendations have been implemented. In Seattle, other experimental approaches have included the use of experts in the sentencing process for recommending treatment where appropriate and development of special methods for establishing the competency of child witnesses and selecting a jury (usually called the voir dire process) in child sexual abuse cases.

Finally, one innovative method should be noted for doing away with the child's appearance in open court altogether, although to our knowledge it has not been implemented. It has been proposed that a special "child-courtroom" be established which will protect child victim/witnesses without abrogating the constitutional rights of the defendant.³⁰ The child's testimony would be taken in a special room in which only the judge, prosecutor, defense counsel and special advocate for the child would be present. The defendant, jury, family and audience would be seated in another room behind a one-way glass through which the child's testimony could be observed. Appropriate electronic methods would be available for the defendant to communicate with his attorney. The remainder of the trial would proceed as usual in a regular courtroom. Since at least three states have already provided by statute that a child's testimony may be video-taped in the privacy of the judge's chambers, preventing the child from having to testify in front of the jury and the public, the child-courtroom model may not be as impractical to implement as it seems at first glance.

EVIDENTIARY PROBLEMS

There are certain evidentiary problems in prosecuting cases of child sexual abuse which may be difficult to overcome. The following discussion focuses upon criminal proceedings, although it also may apply to juvenile court hearings. When deciding whether the allegations of sexual abuse can be successfully proven, it is also important to bear in mind some of the suggestions made above relating to sensitive legal intervention.

The threshold question in all child sexual abuse cases relates to the competency of the child victim/witness.

Most jurisdictions no longer set an age below which a child is incompetent to testify. Instead, the court has discretion to allow a child to testify if he or she is capable of accurately observing and communicating past events and understands the necessity of telling the truth (whether or not the abstract concept of an oath is comprehended). Children as young as three years have been held competent to testify in child sexual abuse cases.³¹ Again, it is important to understand the developmental stages of a child in order to elicit the necessary information. As discussed in the section on Sensitive Legal Intervention, failure to ask the proper questions in the right way may erroneously lead the police or prosecutor to believe a child is not a competent witness.

Another important related issue is whether the child has fabricated the allegation of sexual molestation. Until recently, many psychiatrists, trained in Freudian analysis, discounted children's reports of sexual attacks and attributed them to fantasy.³² The legal system's response to the perceived danger of false charges was to require corroboration of the child witness' testimony in sex offense cases. Current psychiatric theories, however, refute the notion that children's detailed complaints of sexual assaults are fantasized.³³ Many states now recognize this fact and have eliminated the requirement of corroboration for both minor as well as adult victims of sexual assault. Only four jurisdictions, the District of Columbia, Georgia, Nebraska, and New York, still require corroboration in all sex offense cases involving minors,³⁴ although 17 states require corroboration of a child victim's testimony in special or limited circumstances.³⁵ Twenty-nine states have abolished a corroboration requirement in all sexual offense cases. Two jurisdictions, the District of Columbia and New York, have eliminated the requirement for adult victims, but retained it for child victims.

The obvious problem with requiring corroboration is reflected in case disposition statistics for the District of Columbia. In 17% of all child sexual abuse cases during one 2-year period which were referred to prosecutors by the police department, charges were not filed because of a lack of corroborative evidence.³⁶ In cases of intra-family abuse, the corroboration requirement may be an even greater impediment to prosecution. First, there is usually no medical evidence to corroborate the crime. Children who are victims of sexual abuse by a parent or adult family member are rarely forcibly assaulted. They are more often bribed or cajoled. In addition, intra-family sexual abuse of children may involve sexual contact short of penetration. Finally, reports by a child that he or she has been sexually

abused often are made long past the time any physical evidence might have existed.

Even where a strict corroboration requirement has been abolished, prosecutors and police officers may feel some corroboration is necessary for a number of reasons. Juries may be less likely to convict on the basis of the child's testimony alone, and defendants may be less inclined to plead guilty. Perhaps the greatest hurdle in proving these cases, however, is not so much the lack of corroboration as the fact that the only available evidence is usually circumstantial.

An important source of evidence is the medical examination.³⁷ In all cases of child sexual abuse in which a medical exam is warranted (usually where the sexual offense occurred very recently), the child should be thoroughly examined, preferably by an experienced physician. In addition to any physical evidence, the doctor should also record a factual description of the child's general appearance and emotional state. The examination should be conducted with a view toward utilizing the medical records and tests as evidence in a trial. Certain hospitals have established detailed medical protocols for these cases.³⁸ These protocols include information such as the reasons for examining the child, where and when to conduct the exam, specific medical tests (e.g., venereal disease and pregnancy), and types of treatment for injuries. Statements made by the child to the examining physician may be admissible if they concern present pain or the cause of the condition, where the cause is relevant to medical treatment or diagnosis. The medical records should be admissible at trial as a business records exception to the hearsay rule.

Other forms of evidence to prove abuse may include admissions by the defendant, evidence of prior similar offenses, evidence of opportunity for the abuse to have occurred, former testimony in civil proceedings, *res gestae*, or excited utterances by the child, and prior inconsistent statements. Many jurisdictions liberally construe what constitutes an excited utterance when made by a child abuse victim. Moreover, excited utterances of the child may be admissible even where the child would be incompetent to testify.³⁹

Another significant impediment to the successful prosecution of these cases is the risk that the child will change the story he or she gave earlier. Child victims of sexual abuse are frequently influenced or pressured by the perpetrator and other family members to recant their story.

It is not unlikely for the child to later deny the incident, since the abuse probably ceased as soon as court proceedings were initiated and she wants life to go back to normal. In most jurisdictions, prior inconsistent statements are admissible only to impeach the child's credibility. Prosecution may thus be unsuccessful if the child's trial testimony refutes the abuse. Therefore, as allowed in some states, a child's prior inconsistent statements should be admissible as substantive evidence.

Another traditional evidentiary problem which has been resolved in the vast majority of states involves the husband-wife privilege. At common law, the husband-wife privilege actually includes two separate privileges. One is called the "testimonial" privilege, in which a spouse who is a party in a legal action may prevent the other spouse from testifying for or against him or her. In child abuse cases, this privilege frequently becomes an issue when a spouse seeks to prevent adverse testimony by the other spouse. The second privilege involves confidential communications between husband and wife. Courts have indicated two bases for exempting use of the marital privilege in child abuse cases.⁴⁰ First, the customary purpose for the privilege, that of preserving family harmony, is no longer relevant when such harmony has already been disrupted by parental child abuse. Family solidarity should not be maintained at the expense of harm to the child. Second, there is a substantial need for the testimony of the mother or other spouse in these cases where other evidence is lacking or insufficient.

Most states have abrogated the adverse testimonial privilege in all judicial proceedings. In all except one state, Utah, this privilege has been abolished either in all criminal proceedings or in criminal cases involving child abuse and neglect.⁴¹ The communications privilege has also been abolished in the majority of states in both civil and criminal cases.⁴² A few child abuse and neglect reporting statutes specifically abrogate the marital privilege in sexual abuse cases.⁴³ In addition, the United States Supreme Court has recently restricted the application of the marital privilege in federal cases by allowing adverse spousal testimony in any criminal proceeding.⁴⁴

COOPERATIVE CASE MANAGEMENT AND FAMILY TREATMENT ALTERNATIVES

Attorneys involved in child sexual abuse cases can improve the outcome of these proceedings through involvement

in an interdisciplinary team approach to the whole intervention process. An interdisciplinary team is typically composed of social work, medical, mental health, legal, and education professionals. These teams usually follow specific protocols and consider the child's need for both safety and for a healthy family life when making decisions. The benefits include increased communication between professionals, more coordinated delivery of services, better treatment plans, greater expertise, and improved morale through group support.⁴⁵ (See Appendix C for Minnesota team protocol example).

Interdisciplinary teams may also promote greater use of diversion alternatives, particularly for intra-family offenders. Where prosecutors, judges, and others in the legal system work cooperatively with the "helping" professions, it is likely to produce more beneficial results than if these cases are pursued by traditional methods. Use of the team approach should also lead to more effective linkages between judicial forums, especially where representatives from both the civil and criminal court systems participate. Whether a product of a team effort or not, standards and policies are needed to guide judges and attorneys in the juvenile and criminal justice systems in deciding which court should assume jurisdiction.

The necessity for coordination is illustrated in the following example of how legal intervention is initiated in one city. In the District of Columbia, the juvenile and criminal systems often act independently and make decisions without knowledge or awareness of what the other is doing. Criminal charges may not be filed, or if they are, the defendant is usually released on bond, on the belief that the juvenile court has removed the child from the home under emergency custody authority. At the same time, the juvenile court automatically removes the child, believing that the offender is still in the home.

Creative remedies could be utilized in the criminal process which would obviate emergency removal of the child. For example, the criminal court could issue a protective order, through which the offender is ordered to vacate the home as a condition of pre-trial release. Through a team approach, attorneys and judges in the criminal system can become knowledgeable regarding the nature of child sexual abuse, including the detrimental impact of removing the child from the home. This leads to more beneficial dispositions, such as described above, for all parties concerned. As stated earlier, another example of improved inter-court coordination is the appointment of a guardian ad litem to represent the child in both juvenile and criminal proceedings.

In cases where there is a cooperative mother, who may herself be a victim of the father's physical abuse, the probate or other civil court may be utilized in lieu of or in conjunction with the juvenile or criminal court. Zealous pursuit of juvenile court action to protect the child often results in the automatic and sometimes unwarranted removal of the child from a supportive mother. Serious consideration should be given to assuring that neglect petitions are filed against a mother only when the facts clearly indicate her inability or refusal to protect the child. Where, for example, the mother has kicked the father out of the home, and the evidence suggests she was unaware of the father's abuse, a juvenile court petition against the mother may not be appropriate. Again, the team approach is an excellent mechanism for dealing with this issue.

It is generally agreed that the offender and all members of a family can benefit from specialized treatment services. Some prosecutors' offices actually have specialized social services units to facilitate provision of such treatment.⁴⁶ Such units can improve the quality and depth of the prosecutor's investigation as well as help prepare child witnesses for trial. They can also evaluate psychological/medical reports on the child, perpetrator and family members from which the prosecutor can make informed decisions concerning the disposition of a case. Finally, they can assume an advocate role and protect the child victim from further victimization while acting as a catalyst for services which promote the child's well-being and best interests.

Few prosecutors' offices, however, will be able to support these ambitious internal units. For most district or county attorneys, knowledge of and effective linkages to appropriate community services/treatment programs will continue to be a vital part of their responsibilities. A program in Minneapolis, Minnesota for victims of sexual abuse has stated that such abuse is psychologically damaging to all family members, and that effective treatment may require at least two years of intensive individual and group therapy.⁴⁷ Lawyers involved in these cases should immediately seek out mental health programs, counselors and therapists that are trained to work specifically with sexually abusive families. Funding for such treatment may be available through a family's medical insurance coverage, state or federally funded programs, or a juvenile court order directed at the appropriate public agencies.

Treatment professionals must be well-trained and willing to commit themselves to long-term therapy with the family.⁴⁸ In addition to traditional therapy, some programs

offer special support groups of peers for victims, perpetrators, spouses, and siblings.⁴⁹ If the perpetrator is placed on probation or the family put under continued juvenile court supervision, there must be close monitoring to assure a follow-through of all terms and conditions of the treatment plan.

A model program in San Jose, California called the Child Sexual Abuse Treatment Program (CSATP) deserves special mention because of its unique approach to dealing with intra-family sexual abuse. The CSATP has been providing treatment exclusively to incest families since 1971. The program's treatment approach is based upon principles of humanistic psychology.⁵⁰ In addition to professional therapy sessions, the treatment process involves the equally important components of Parents United and Daughters and Sons United. Parents United, a self-help, support group of fathers and mothers of sexually abused children, evolved out of the need for families who were in severe crisis and isolated from relatives and friends to receive more help than could be provided in professional counselling sessions.⁵¹ Parents United is a mechanism for families to talk to and meet with other families who have endured and survived a similar crisis. The organization also assists new members in meeting their financial, employment and other needs which are often threatened when the sexual abuse is disclosed. Daughters and Sons United provides support and reassurance for the child victims of the sexual abuse.

The CSATP and self-help groups work cooperatively with the child protective services agency (called the Juvenile Probation Department in San Jose) and the Sexual Assault Unit of the San Jose Police Department. (See flow chart, Appendix D.) Due to effective agency, police and program networking and coordination, the offender usually agrees to move out of the home and the child normally is allowed to remain with the mother. Further, because of special police interviewing techniques with both the victim and offender, most offenders confess at the outset and ultimately plead guilty.⁵² Thus, very few hearings or trials occur and children are spared the trauma of testifying.

Most offenders are charged with felonies and serve county jail time ranging from three months to a year, followed by three to five years probation. Professional therapy and attendance at Parents United meetings are also mandatory.⁵² In the majority of cases, the offender remains out of the home for one year or more.⁵³ Professional counselling is first conducted with family members individually. The primary goal is to rebuild the mother-

child relationship, and to work toward reuniting the family where possible. This involves mother-child counselling, mother-father counselling, and eventually father-child and family counselling. 54

The CSATP claims there has been no recidivism among offenders who have fully participated in the program. 55 This extraordinary result may raise doubts among treatment professionals who normally see at least some recidivism for sex offenders. 56 Measuring success of treatment is difficult, however, and according to one expert, is not accurately or adequately measured by the recidivism (technically a conviction for a later sexual offense) rate of those who have gone through a treatment program. 57 Other authorities question the treatment modality utilized by the CSATP and believe behavioral therapy designed to eliminate the inappropriate sexual preference for a child is the only effective method for preventing remolestations. 58

A more important problem with the San Jose approach is that it may not be easily adapted to other jurisdictions whose cases, for the most part, do not involve middle-class, nuclear families who want to preserve family ties. The long-term efficacy or success of the San Jose program or other treatment programs is indeed unknown. 59 However, it is important to recognize that alternatives to traditional intervention and disposition of intra-family child sexual abuse cases are being developed and portend more helpful outcomes for the child as well as the entire family.

CONCLUSION

As stated in the Introduction, the legal profession has not kept pace with other professions in addressing the problem of child sexual abuse. It is hoped that these materials will serve as a step in closing this gap. We ask that practitioners handling these cases also share with us any special methods, techniques, or approaches which they have found effective or successful. During the coming months, the Sexual Abuse Project of the ABA's National Legal Resource Center for Child Advocacy and Protection looks forward to a mutual exchange of information and ideas with members of the legal profession. Through such an exchange, the ABA expects to promote improved utilization of the legal system in child sexual abuse cases on a nation-wide basis.

FOOTNOTES

1. N. Groth, Patterns of Sexual Assault Against Children and Adolescents, in SEXUAL ASSAULT OF CHILDREN AND ADOLESCENTS 3-42 (1978). Others see no difference between the stranger and intra-family offender. See discussion in text infra at 21-22, and footnote 58, infra.
2. Child Abuse and Neglect State Reporting Laws, National Center on Child Abuse and Neglect, U.S. Department of Health and Human Services, at 5 (1980).
3. S. Weinberg, Incest Behavior (1955).
4. Landis, Experiences of 500 Children With Adult Sexual Deviation, 30 PSYCH. Q. SUPP. 91 (1956).
4. Child Sexual Abuse: Incest, Assault and Sexual Exploitation, National Center on Child Abuse and Neglect, U.S. Department of Health and Human Services, at 3 (August, 1978).
6. National Analysis of Official Child Neglect and Abuse Reporting (1978), National Center on Child Abuse and Neglect, American Humane Association, and Denver Research Institute, at 34.
7. Child Sexual Abuse: Incest, Assault, and Exploitation, supra note 4, forthcoming revised 1980 edition, at 7. The Children's Hospital found boy-victims constituted 25% of their child sexual abuse cases in 1978-79. Although boys are victims of sexual abuse, we usually will use "she" to refer to the victim and "he" to refer to the perpetrator throughout this paper for the sake of convenience.
8. Giarretto, Humanistic Treatment of Father - Daughter Incest, in CHILD ABUSE AND NEGLECT: THE FAMILY AND THE COMMUNITY 143, 157 (R. Helfer and C. Kempe ed. 1976).
9. D.C. Code Ann. §§22-1901, 2801 (1973).
10. Interview with David Lloyd, Criminal Justice Specialist, Child Sexual Abuse Victim Assistance Project, in the District of Columbia (July 3, 1980).
11. Me. Rev. Stat. Ann. tit. 17-A, §556 (Supp. 1978). The Commentary to Maine's incest statute explicitly states that both parties must be at least 18 years

old. Cases of intra-family sexual abuse of minors are covered by the criminal sexual offense statute.

12. Daugherty, The Crime of Incest Against the Minor Child and the States' Statutory Responses, 17 J. FAM. L. 93, 115 (1978-79).
13. N.J. Stat. Ann. §§2.c:14-2, :14-3 (Supp. 1980). Three states, Michigan, Ohio and Vermont, have incest laws which only prohibit marriage between certain relatives. Sexual abuse of children is thus covered only under the criminal sex offense provisions.
14. Progress Report, Sexual Assault Center, Seattle, Washington, to Law Enforcement Assistance Administration, U.S. Department of Justice, at 4 (May 31, 1979).
15. For a listing of the 34 states and an excellent chart and analysis of protection order statutes, see L. Lerman, Response, Vol 3, No. 12 (Center for Women Policy Studies, Aug./Sept. 1980). The states with statutes protecting sexually abused children are Delaware, Kansas, Maryland, Massachusetts, Minnesota, Oregon, Pennsylvania, and West Virginia.
16. Mass. Ann. Laws ch. 276, §42A (Michie/Law. Coop 1980). See also L. Lerman, Response, supra note 15.
17. V. DeFrancis, Protecting the Child Victim of Sex Crimes, at 3 (1969).
18. Presentation by Sergeant Carol Painter, Los Angeles County Sheriff's Department, at Judicial System Personnel Workshop, sponsored by Guardian Ad Litem/Dependency Court Improvement Project, in Los Angeles (June 27, 1980).
19. DeFrancis, supra note 17. See also Sgroi, Introduction: A National Needs Assessment for Protecting Child Victims of Sexual Assault, in SEXUAL ASSAULT OF CHILDREN AND ADOLESCENTS xv, xix, xx (1978).
20. Progress Report from Sexual Assault Center, supra note 14, at 3.
21. Libai, The Protection of the Child Victim of a Sexual Offense in the Criminal Justice System, 15 WAYNE L. REV. 977, 995 (1969). Under emergency circumstances, the police may interview the child. The interview may also be conducted in a police station where there is no possibility for it to occur somewhere else. Id. at 998, 999.

22. L. Berliner and D. Stevens, Advocating for Sexually Abused Children in the Criminal Justice System, at 2 (November, 1976) (on file with the Sexual Assault Center, Seattle, Washington).
23. Id. at 13.
24. Progress Report from Sexual Assault Center, supra note 14, at 4.
25. Ariz. Rev. Stat. Ann. §§12-2311, 2312 (Supp. 1979-80); Mont. Rev. Codes Ann. §§46-15-401, 402, 403 (1979); N.M. Stat. Ann. §30-9-17 (1978).
26. See, e.g., Mass. Ann. Laws ch. 278, § 16A (Michie/Law. Coop. 1980); Commonwealth v. Blondin, 324 Mass. 564, 87 N.E.2d 455 (1949), cert. denied, 339 U.S. 984; State v. Schmit, 273 Minn. 78, 139 N.W.2d 800 (1966). In the Minnesota decision, the court stated, "Where it appears that minors are unable to testify competently and coherently before an audience because of embarrassment or fright, temporary exclusion of the public is permissible." See also 6 Wigmore, Evidence §1835 (1976).

The right of the public to attend criminal trials was recently addressed by the U.S. Supreme Court in Richmond Newspapers, Inc. v. Virginia, 48 U.S.L.W. 5008 (Jul. 2, 1980). The Court held that unless there is an overriding interest stated in a court's findings, a criminal trial must be open to the public. Id. at 5015. The Supreme Court did state, however, "We have no occasion here to define the circumstances in which all or part of a criminal trial may be closed to the public, ... but our holding today does not mean that the First Amendment rights of the public and representatives of the press are absolute." Id. at n.18. In support of this statement, the court noted the section in Wigmore's Evidence which cites jurisdictions permitting exclusion of the public from sex offense trials. The court further indicated that "a trial judge, in the interest of the fair administration of justice may impose reasonable limitations on access to a trial." Id.

The implications of this decision in determining whether a child victim of sexual abuse may testify outside the presence of the public are thus not clear. A Kentucky Supreme Court opinion, decided just before Richmond News, held in a case involving sodomy of children that the emotional trauma and embarrassment of the child victim/witnesses did not justify closing the courtroom to the public. Lexington Herald Leader v. Tackett 49 U.S.L.W. 2041 (Jun. 24, 1980). Other courts may, however, decide that the child's testimony

may be taken privately, particularly in those states allowing video-taping and where the rest of the trial is open to the public.

27. Berliner and Stevens, supra note 22, at 14.
28. Progress Report, Guardian Ad Litem/Dependency Court Improvement Project, Los Angeles County Superior Court, at 9 (January 1, 1980 - March 31, 1980).
29. Berliner and Stevens, supra note 22, at 13.
30. Libai, supra note 21, at 1016-17. It has been noted that the child-courtroom idea may violate the defendant's right under the Sixth Amendment to physically confront his or her accuser. G. Melton, Psycholegal Issues in Child Victims' Interaction With the Legal System, at 7-9 (unpublished paper presented at the First World Congress of Victimology Conference, Washington, D.C., August, 1980). The author cited a 1979 federal case involving a kidnapping victim. The case held that a videotaped deposition of the victim, including cross-examination by defense counsel, at which the defendant was not physically present but could observe the proceedings by monitor, abridged the defendant's right to physical confrontation. U.S. v. Benfield, 593 F.2d 815 (8th Cir. 1979).
31. See, e.g., Kellum v. State, 396 A.2d 166 (Del. 1978). For a discussion of the competency issue and other evidentiary questions, see S. Mele-Sernovitz, Parental Sexual Abuse of Children: The Law as a Therapeutic Tool for Families, in LEGAL REPRESENTATION OF THE MALTREATED CHILD 71 (D. Bross, ed., National Association of Counsel for Children, 1979).
32. See, e.g., Guttmacher and Weihofen, Psychiatry and the Law, at 374 (1952).
33. See, e.g., Peters, Children Who Are Victims of Sexual Assault and the Psychology of Offenders, AM. J. PSYCHOTHERAPY 398 (July, 1976); Rosenfeld, Fantasy and Reality in Patients' Reports of Incest, J. CLINICAL PSYCH. 159 (April, 1979) and A Historical Perspective on the Psychiatric Study of Incest, AM. J. FORENSIC PSYCH. 65 (1978); D. Finkelhor, Sexually Victimized Children (1979).
34. Arnold v. U.S., 358 A.2d 335 (D.C. Cir. 1976); Georgia Code Ann. §26-2018 (1978); State v. Aby, 287 N.W.2d 68

(Nebr. 1980); N.Y. Penal Law §130.16 (McKinney 1975) At least one state, Mississippi, requires corroboration where the victim is over 13 years old. Pittman v. State, 236 Miss. 592, 111 So.2d 415 (1959).

35. See, e.g., State v. Munoz, 114 Ariz. 466, 561 P.2d 1238 (1977), where the complainant's testimony is incredible or the facts recited are physically impossible; Hohn v. State, 538 S.W.2d 619 (Tex. App. 1976), where complaint not made within six months of the event.
36. D.C. Criminal Justice System Outcome (statistics) of Child Sexual Abuse Victim Assistance Project's cases in the District of Columbia (Feb. 22, 1978 - March 15, 1980).
37. See Lloyd, Medical-Legal Aspects of Sexual Abuse, 8 PEDIATRIC ANNALS 5 (May, 1979) for an excellent discussion of this topic. For an analysis of how social workers can prepare sexual abuse cases for court and recommend dispositions, see C. Schrier and J. Ensminger, Evidence Collection/Preparation for Court in Sexual Abuse Cases (unpublished paper on file with the ABA-National Legal Resource Center for Child Advocacy and Protection).
38. Such hospitals include the Harborview Medical Center, Seattle, Washington (where the Sexual Assault Center is located) the Children's Hospital National Medical Center, Washington, D.C. (where the Child Sexual Abuse Victim Assistance Project is headquartered), and Children's Hospital, St. Paul-Ramsey Medical Center, St. Paul, Minnesota. The National Center on Child Abuse and Neglect is including protocols from a number of hospitals in its forthcoming publication Child Sexual Abuse: Selected Readings.
39. In Anderson, Children's Out-of-Court Statements, Wisconsin Bar Bulletin, 47 (October, 1974), the admissibility of res gestae in child sexual abuse cases is discussed and analyzed. See also D. Bahlmann, Trial Issues in Child Abuse, Course Materials, Child Abuse Seminar, National College of District Attorneys, at 18 (Feb. 20-25, 1977). For a discussion of exceptions to the hearsay rule and other evidentiary problems in child abuse and neglect cases generally, see Plaine, Evidentiary Problems in Criminal Child Abuse Prosecutions, 63 GEO.L.J. 257 (1974).
40. See U.S. v. Allery, 526 F.2d 1362, 1366 (8th Cir. 1975). The Allery case involved the statutory rape of a child by her father. The court held that adverse spousal testimony may be allowed in cases where an offense has been committed against a child of either spouse.

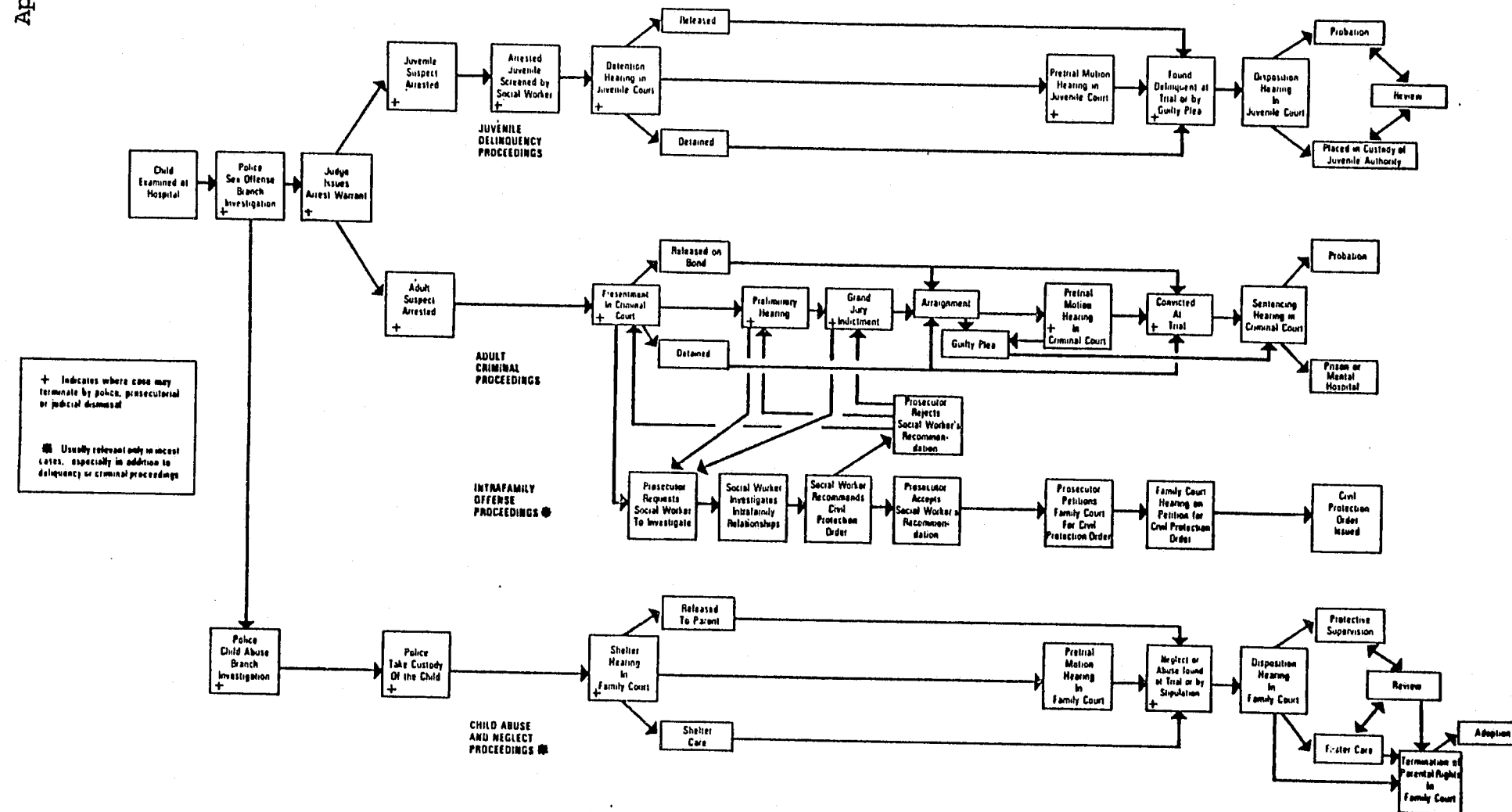
41. In most states, the marital privilege has been abolished by statute either in the provisions relating to competency of witnesses or in the provisions of the child abuse and neglect reporting statutes. Some states have abolished the privilege by case law. A number of these court decisions are statutory interpretations of provisions which abolish the privilege in actions between the spouses; courts have deemed a crime committed by one spouse against the child as a crime against the other spouse. See Chamberlain v. State of Wyoming, 348 P.2d 280 (1960). In civil cases, all except five states, Alabama, Georgia, Montana, Ohio, Utah and Washington, have abolished the adverse testimonial privilege.
42. The communications privilege has not been abrogated in criminal cases or criminal cases involving child abuse or neglect in eight states and the District of Columbia. The eight states are Georgia, Iowa, Maryland, Massachusetts, Mississippi, Montana, New Jersey and Vermont. In civil cases, the communications privilege may still be invoked in child abuse or neglect cases in nine states, which include Georgia, Iowa, Maryland, Mississippi, Montana, New Jersey, Utah, Vermont, and Washington. For judicial interpretations of statutory abrogations of the marital privilege, see State of Oregon v. Suttles, 287 Or. 3, 597 P.2d 786 (Or. 1979); Merritt v. State, 339 So.2d 1366 (1976) (Mississippi); Martin v. State, 584 S.W.2d 830 (Ct. Crim. App. Tenn. 1979); Kentucky v. Boarman, No. 80-CA-233-MR (Ky. Ct. App., Sept. 12, 1980); Cumbee v. Commonwealth of Virginia, 254 S.E.2d 112 (1979). Several of these cases specifically deal with sexual abuse of a child by a parent.
43. Ark. Stat. Ann. §42-815 (1977); A.S. Code tit. 21, §2909 (Supp. 1977); Minn. Stat. Ann. §626.556(8) (Supp. 1976); and V.I. Code Ann. tit. 19, §179 (1976).
44. Trammel v. U.S., U.S., 100 S.Ct. 906 (1980).
45. Incest, Confronting the Silent Crime, A Manual for Educators, Law Enforcement, Medical, Human Services and Legal Personnel, Minnesota Program for Victims of Sexual Assault, St. Paul, Minnesota (1979), at 29-31.
46. For example, there is a Family Service Unit in the District Attorney's office in Norfolk County, Massachusetts. See Wixted, Social Service Coordination for the Child Abuse Victim, Family and Abuser in the Criminal Prosecution of Child Abuse: An Emerging Discipline, in ADVOCATING FOR CHILDREN IN THE COURTS 325, American Bar Association National Institute (1979) (National Legal Resource Center for Child Advocacy and Protection, Washington, D.C.).

47. Incest, Confronting the Silent Crime, supra note 46, at 7.
48. The Department of Health and Human Services National Center on Child Abuse and Neglect (NCCAN) recently awarded four treatment training grants for the training of professionals involved in child sexual abuse cases. The programs, which each received \$200,000 grants for a three-year period, were (1) Sexual Assault Center, Seattle, Washington; (2) Joseph J. Peters Institute, Philadelphia, Pennsylvania; (3) Child Abuse Unit Studies, Education and Services (CAUSES), Chicago, Illinois; and (4) Child and Family Services of Knox County, Knoxville, Tennessee. The Child Sexual Abuse Treatment Program (CSATP), in Santa Clara County, California, received funding a year ago from NCCAN to conduct a pilot treatment training program. The program, called the Institute for the Community as Extended Family, also recently received funding for two more years.
49. For example, the CSATP, supra note 48, promoted the formation of Parents United, Inc. and Daughters and Sons United, Inc.
50. E. Kiersh, Can Families Survive Incest?, Corrections Magazine (April, 1980), at 32, 33.
51. Presentation by Sgt. Eugene Brown, Sexual Assault Unit, San Jose Police Department, at the Institute for Community as Extended Family (ICEF) Child Sexual Abuse Treatment Training Program, in San Jose, California (Jan. 21, 1981).
52. Id.; Interviews with Elizabeth Cobey, Legal Counsel, Parents United, in San Jose, California (Jan. 18-23, 1981).
53. Interviews with Elizabeth Cobey, supra note 52.
54. Presentation by Henry Giaretto, Director, CSATP, at ICEF Child Sexual Abuse Treatment Training Program, in San Jose, California (Jan. 20, 1981); H. Giaretto, Humanistic Treatment of Father-Daughter Incest, 18 J. Humanistic Psych. 4 (Fall 1978), at 64, 65.
55. Giaretto, Humanistic Treatment, supra note 54.
56. An in-patient treatment program at Western State Hospital in Fort Steilacoom, Washington, found that from December, 1967, to May, 1979, 22% of the sex offenders (all sex offenders) who had completed the treatment process were recidivists. M. Saylor, A Guided

Self-Help Approach to Treatment of the Habitual Sexual Offender, Presentation at the 12th Cropwood Conference, Cambridge, England (Dec. 7-9, 1979).

57. N. Groth, Men Who Rape, the Psychology of the Offender (1979), at 222. According to Groth, one reason for the failure of recidivism rates to measure the efficacy of treatment is that they only reflect those remolestations which are reported.
58. This type of treatment is based on the premise that all child sex offenders possess a deviant sexual arousal system, and that incest and stranger offenders thus should be treated no differently. See G. Abel, J. Becker, W. Murphy, B. Flanagan, Identifying Dangerous Child Molesters, Presentation at the 11th Banff International Conference on Behavior Modification (Mar. 21, 1979) (on file with the Sexual Assault Center, Harborview Medical Center, Seattle, Washington). Behavioral therapists claim that only behavior modification techniques which replace the deviant system with an appropriate sexual arousal system will "cure" the offender. Presentation by Roger Wolfe, Northwest Treatment Associates, Seattle, Washington, at the Child Sexual Abuse Treatment/ Training Institute, University of Washington School of Social Work, in Seattle, Washington (Jan. 21, 1981). This treatment approach markedly differs from that utilized by the CSATP, which makes a clear distinction between the motivation, and thus the treatment, of the incest and stranger offender. Interestingly, however, both approaches utilize the peer group therapy model as a crucial part of the treatment process.
59. According to Nicholas Groth, "As yet, no single method of treatment or type of therapeutic intervention has proved to be a totally effective remedy." Groth, supra note 57, at 215, 216.

LEGAL PROCESSES IN SEX ABUSE CASES



Developed by David Lloyd, Esq.

Reprinted from A Model Curriculum for the Multidisciplinary Management of Child Sexual Abuse,
 Child Sexual Abuse Victim Assistance Project, Children's Hospital National Medical Center, (in press).

INTERVIEWING CHILD VICTIMS

GUIDELINES FOR CRIMINAL JUSTICE SYSTEM PERSONNEL

Background Information

The following issues affect the child's ability to give a history of sexual assault and influence the cooperativeness of victim and family.

I. Child's Developmental Level

A child's cognitive, emotional and social growth occurs in sequential phases of increasingly complex levels of development. Progression occurs with mastery of one stage leading to concentration on the next.

Cognitive - Preconceptual, concrete, intuitive thinking in the young child gradually develops toward comprehension of abstract concepts. Time and space begin as personalized notions and gradually are identified as logical and ordered concepts.

Emotional - The young child perceives her/himself egocentrically with little ability to identify her/himself in a context. S/he is dependent on the family to meet all needs and invests adults with total authority. The child often reflects the emotional responses of the parents. S/he gradually shifts to greater reliance on peer relationships and emotional commitments to people outside the family.

Behavioral - The young child is spontaneous, outgoing and explosive with few internal controls and only a tentative awareness of external limits. S/he has a short attention span. A child most often expresses feelings through behavior rather than verbally. As the child grows, s/he develops internal controls and establishes a sense of identity and independence. Peers and other adults have increasing influence on behavior.

II. Sexual Assault

Characteristics of the assault affect the child's emotional perception of the event and to a great extent determine the response. The closeness of the child's relationship to the offender, the duration of the offense, the amount of secrecy surrounding the assault, and the degree of violence are the factors which have the greatest impact on the child's reaction. The child may very well have ambivalent feelings toward the offender or be dependent on him for other needs.

III. Response to Child

The child is fearful of the consequences of reporting a sexual assault. The response of the family support system and official agencies will directly affect the resolution of the psychological trauma and her/his cooperativeness as a witness. The child fears s/he will be disbelieved or blamed for the assault and almost always is hesitant about reporting.

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INTERVIEWING CHILD VICTIMS

GUIDELINES FOR CRIMINAL JUSTICE SYSTEM PERSONNEL

I. Preparing for Interview

Prior to interviewing the child, obtain relevant information from parents/guardian, and if applicable, Child Protective Services caseworker, physician, and/or Sexual Assault Center/Rape Relief counselor.

- A. Explain your role and procedures to above personnel, and enlist their cooperation.
- B. Determine child's general developmental status: age; grade; siblings; family composition; capabilities; ability to write, read, count, ride a bike, tell time, remember events; any unusual problems: physical, intellectual, behavioral; knowledge of anatomy and sexual behavior; family terminology for genital areas.
- C. Review circumstances of assault (as reported already by child to other persons): what, where, when, by whom, and to whom reported; exact words of child; other persons told by child; how many have interviewed child; child's reaction to assault; how child feels about it and what, if any, behavioral signs of distress (nightmares, withdrawal, regression, acting out) have occurred.
- D. Determine what reactions and changes child has been exposed to following revelation of the assault(s): believing; supportive; blaming; angry; ambivalent; parents getting a divorce; move to a new home.

II. Beginning the Interview

- A. Setting - The more comfortable for the child, the more information s/he is likely to share.
 1. Flexibility - A child likes to move around the room, explore and touch, sit on the floor or adult's lap.
 2. Activity - Playing or coloring occupy child's physical needs and allows her/him to talk with less guardedness.
 3. Privacy - Interruptions distract an already short attention span, divert focus of interview, and make self-conscious or apprehensive child withdraw.
 4. Support - If the child wishes a parent or other person present, it should be allowed. A frightened or insecure child will not give a complete statement.
- B. Establishing a relationship
 1. Introduction - Name, brief and simple explanation of role, and purpose:
 - "I am the lawyer (or legal person) on your side; my job is to talk to children about these things because we want them to stop happening."
 2. General exchange - Ask about name (last name), age, grade, school and teacher's name, siblings, family composition, pets, friends, activities, favorite games/TV shows. (It often helps to share personal information when appropriate, e.g., children, pets.)
 3. Assess level of sophistication and ability to understand concepts - Does child read, write, count, tell time; know colors or shapes; know the day or date; know birthdate; remember past events (breakfast, yesterday, last year); understand before and after; know about money; assume responsibilities (goes around neighborhood alone, stays at home alone, makes dinner, etc.)

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III. Obtaining History of Sexual Assault

A. Preliminaries

1. Use language appropriate to child's level; be sure child understands words. (Watch for signs of confusion, blankness, or embarrassment; be careful with words like incident, occur, penetration, prior, ejaculation, etc.)
2. Do not ask WHY questions ("Why did you go to the house?" "Why didn't you tell?") They tend to sound accusatory.
3. Never threaten or try to force a reluctant child to talk. Pressure causes a child to clam up and may further traumatize her/him.
4. Be aware that the child who has been instructed or threatened not to tell by the offender (ESPECIALLY if a parent) will be very reluctant and full of anxiety (you will usually notice a change in the child's affect while talking about the assault). The fears often need to be allayed.
 - "It's not bad to tell what happened."
 - "You won't get in trouble."
 - "You can help your dad by telling what happened."
 - "It wasn't your fault."
 - "You're not to blame."
5. Interviewer's affective response should be consonant with child's perception of assault (e.g., don't emphasize jail for the offender if the child has expressed positive feelings toward him).
6. Ask direct, simple questions as open-ended as allowed by child's level of comprehension and ability to talk about the assault.

B. Statement

1. WHAT

- "Can you tell me what happened?"
- "I need to know what the man did."
- "Did he ever touch you? Where?"
- "Where did he put his finger?"
- "Have you ever seen him with his clothes off?"
- "Did you ever see his penis (thing, pee pee, weiner) get big?"
- "Did anything ever come out of it?"

Once basic information is elicited, ask specifically about other types of sexual contact.

- "Did he ever put it into your mouth?"
- "Did he ever make you touch him on his penis?"

2. WHO

Child's response here will probably not be elaborate. Most children know the offender and can name him, although in some cases the child may not understand relationship to self or family. Ascertain from other sources what is the exact nature/extent of the relationship.

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3. WHEN

The response to this question will depend on child's ability, how recently assault happened, lapse between last incident and report, number of assaults (children will tend to confuse or mix separate incidents). If the child is under six, information re: time is unlikely to be reliable. An older child can often narrow down dates and times using recognizable events or associating assault with other incidents.

- "Was it before your birthday, the weekend, Valentine's Day?"
- "Was it nighttime or daytime?"
- "Did it happen after dinner, 'Happy Days', your brother's bedtime?"

4. WHERE

The assault usually occurs in the child's and/or offender's home. Information about which room, where other family members were, where child was before assault may be learned.

5. COERCION

What kind of force, threat, enticement, pressure was used to insure cooperation and secrecy?

- "Did he tell you not to tell?" "What did he say?"
- "Did he say something bad would happen or you would get in trouble if you told?"
- "Did the man say it was a secret?"

C. Assessing credibility and competency

1. Does child describe acts or experience to which s/he would not have normally been exposed? (Average child is not familiar with erection or ejaculation until adolescence at the earliest.)
2. Does child describe circumstances and characteristics typical of sexual assault situation? ("He told me that it was our secret"; "He said I couldn't go out if I didn't do it"; "He told me it was sex education".)
3. How and under what circumstances did child tell? What were exact words?
4. How many times has child given the history and how consistent is it regarding the basic facts of the assault (not times, dates, circumstances, sequence of events, etc.)?
5. How much spontaneous information can child provide? How much prompting is required?
6. Can child define difference between truth and a lie? (This question is not actually very useful with young children because they learn this by rote but may not understand the concepts.)

IV. Closing the Interview

A. Praise/thank child for information/cooperation.

B. Provide information

1. Child - Do not extract promises from child regarding testifying. Most children cannot project themselves into an unknown situation and predict how they will behave. Questions about testifying in court or undue emphasis on trial will have little meaning and often frightens the child (causing nightmares and apprehension).

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2. Parent - Provide simple, straightforward information about what will happen next in the criminal justice system and approximately when, the likelihood of trial, etc.
- C. Enlist cooperation - Let them know who to contact for status reports or in an emergency; express appreciation and understanding for the effort they are making by reporting and following through on process.
- D. Answer questions; solicit responses.
- E. Refer to Sexual Assault Center/Rape Relief for counseling, medical care, advocacy.

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5/78

From Incest, Confronting the Silent Crime,
A Manual for Educators, Law Enforcement,
Medical, Human Services and Legal Personnel,
Minnesota Program for Victims of Sexual
Assault, at Appendix A, 47-48.

RAMSEY COUNTY CHILD ABUSE TEAM RATIONALE, STRUCTURE & FUNCTION, PROCESS

RATIONALE

Child abuse is a complex and multi-faceted problem including medical, psychological, social, and legal aspects. No one profession or agency has all the expertise or resources needed to adequately resolve these interrelated problems. Hence, the need is to work together. That is what the team process is designed to facilitate. The purpose of the team is to develop coordination and cooperation among the numerous agencies providing services to abused children and their families. It is a forum for the exchange of information and the collaboration on service plans for these families.

STRUCTURE & FUNCTION

The Child Abuse Team of Ramsey County is a community-based interdisciplinary team. Membership includes representation from all community agencies which are significantly involved in the intervention and/or treatment process for abusing families. This includes:

Children's Hospital
Face to Face Health and Counseling Center
Ramsey County Attorney's Office
Ramsey County Mental Health Department
Ramsey County Nursing Service
Ramsey County Welfare Department
St. Paul Police Department
St. Paul-Ramsey Medical Center
Suburban Police Departments
Ramsey County School Districts
Wilder Child Guidance Clinic

Member agencies have agreed to:

1. Routinely utilize the team process on all cases of confirmed abuse.
2. Share across agency lines, via the team, information pertaining to the abuse and such further information about the families as will aid in protection and rehabilitation efforts.
3. Discuss respective service plans and coordinate activity with one another on a case-by-case basis.
4. Member agencies have not abrogated their respective roles and responsibilities: e.g., police - investigation of abusive incident; welfare - child protection, family assessment and ongoing case management; mental health - psychological evaluations and clinical therapy services. The team as a body does not dictate the action of any professionals. It is only able to discuss and recommend.

TEAM PROCESS

There are three phases of the staffing process:

1. Emergency staffing
2. Treatment planning meeting
3. Implementation

Emergency Staffings.

Emergency staffings are called when a child appears to be in imminent danger and there may be need for an emergency custody petition. Team members are on call for emergency meetings. Much of what occurs in an abuse emergency is the result of significant prior planning. As a result of this planning, there are defined, agreed upon interagency procedures for reporting professionals, welfare social workers, medical staff and police officers defining their roles and responsibilities in reporting suspected abuse, in assessing/investigating/evaluating the situation and in securing legal custody of the child if needed. Emergency team meetings are held to allow the protection worker, reporting source, medical staff and investigating police to pool their initial information and thus make initial decisions regarding protection on the basis of more information than any one member would have alone (also, to share the burden of that decision). The effort, whatever possible, is to find reasonable alternatives to an emergency custody petition that would guarantee protection for the child.

Treatment Planning Staffing.

This staffing is held as soon as all the relevant information is available, i.e. police investigation, medical report, social work assessment of family and background, psychological/psychiatric evaluation. The purpose of this meeting is to focus on the long range view of the case, to define goals, relevant services and responsible agencies.

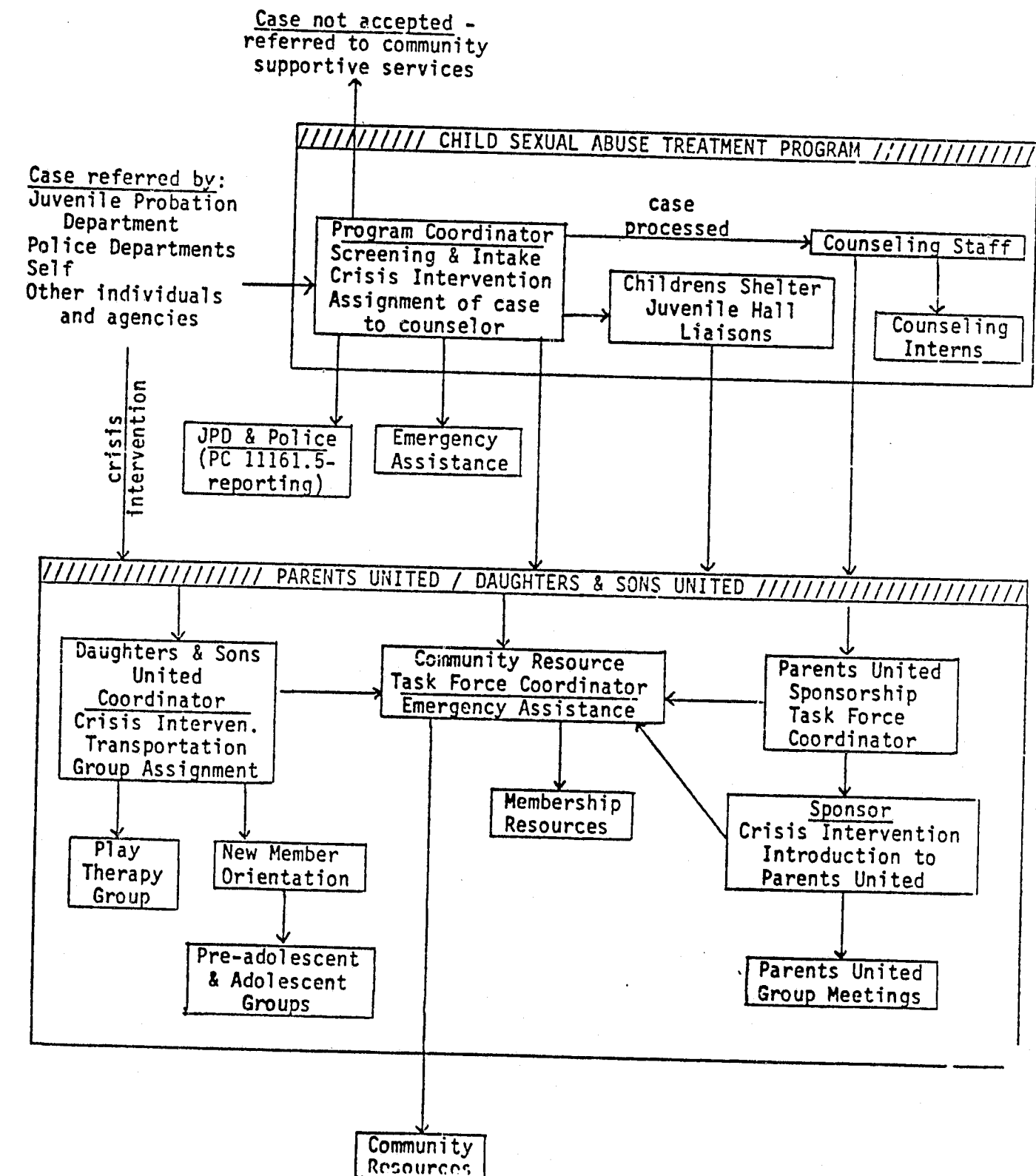
Implementation Staffings.

As long as three or more agencies are providing services, the active professionals staff the case at least once quarterly to monitor case progress. Any professional involved in the case can request a staffing more frequently than that if he/she is encountering problems or having questions.

How do you get the process to work?

1. Administrative commitments from all involved agencies must be secured, agreeing to participate in the team process.
2. Designation of a position of team coordinator is equally important. The primary responsibility of the coordinator is to the team, and activity is focused on maintaining an effective coordination and communication process. This position functions best if placed in a "neutral" agency, i.e. one that does not have any legal responsibility for abuse cases. This helps keep clear the distinction between community coordination and case management.
3. Role definitions of team members must be clear, mutually agreed upon, and reviewed periodically to keep lines of authority and responsibility clear.

SANTA CLARA COUNTY
CHILD SEXUAL ABUSE TREATMENT PROGRAM
and
PARENTS UNITED / DAUGHTERS & SONS UNITED

FLOW CHART

About... The ABA Young Lawyers Division

Within the overall structure of the American Bar Association, the Young Lawyers Division (YLD) occupies a unique position. Unlike the other organizational components of the ABA, YLD activities are not limited to any one substantive area of the law. Instead, YLD interests cut across all of the Association's professional and public interest programs. In effect, the YLD functions as a complete bar association with its own national leadership structure for the younger members of the bar (defined as all attorney members of the ABA under the age of 36), while at the same time functioning as a full participant in the work of the Association's overall Section, Division and Committee structure. With more than 115,000 member attorneys drawn from all fields of practice, the YLD is the largest single membership group within the ABA.

Young lawyers have traditionally been the most dedicated volunteers in the public service and pro bono work of the organized bar, and the national leadership of the YLD has sought to harness this idealism and commitment in coordinated efforts to address major issues and problems. In recent years these efforts have included administration of a Disaster Emergency Relief Program and Indochinese Refugee Legal Assistance Program, the publication of a mental disability law compendium and multistate survey of prisoner access to legal assistance in correctional institutions, and the vigorous support of an Affiliate Activation and Outreach Program which provides technical assistance and on-site consultation to affiliates who seek to undertake local public service action programs. Nearly one hundred new affiliate programs are generated each year.

The Young Lawyers Section of the Philadelphia Bar Association has, since 1971, sponsored a volunteer child representation program in Philadelphia. The efforts of this group inspired the creation of the National Legal Resource Center for Child Advocacy and Protection.

About... The ABA Public Service Activities Division

Throughout its history, one of the goals of the ABA has been to apply the knowledge and experience of the legal profession to promotion of the public good. This objective now pervades virtually every activity of the Association. It is also the exclusive and overriding mission of the ABA's Division of Public Service Activities (PSA), one of the major program divisions which provides staff support for the Association's many attorney-sponsored programs and activities. Within the ABA, seven committees, four interdisciplinary commissions, one membership section, and one national resource center are served by the Division. These are:

- Section of Individual Rights and Responsibilities
- Commission on Law and the Economy
- Commission on Legal Problems of the Elderly
- Commission on Medical Professional Liability
- Commission on the Mentally Disabled
- Council on Legal Education Opportunity
- Committee on World Order Under Law
- Committee on Housing and Urban Development Law
- Committee on Energy Law
- Committee on Election Reform
- National Legal Resource Center for Child Advocacy and Protection

Through these units, the ABA studies a variety of issues and formulates remedial responses ranging from policy positions through study reports, clearinghouse efforts, demonstration projects, public education initiatives and working conferences. These activities are advanced within the Division by a support staff of over thirty persons and an annual budget of over \$3 million, much of which is derived from federal and private foundation grants. The "volunteers" who direct these endeavors and guide Divisional work are primarily, but not exclusively, lawyer members of the ABA. They include distinguished legal scholars, legislators, judges, private practitioners, public interest lawyers, corporate presidents, governmental analysts, eminent doctors, scientists, and economists.

END