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Child Abuse Prosecution Trial Advocacy Conference

When Indifference is a Crime: Investigating and Prosecuting Child Neglect

Presented by:

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Distributed by:

ARIZONA PROSECUTING ATTORNEYS' ADVISORY COUNCIL
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Investigating & Prosecuting Cases of Child Abuse

Victor Vieth, *Director, Education & Research*

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The agenda

- What is neglect?
- The tip of the iceberg: polyvictimization
- Neglect and culture
- Medical neglect/failure to thrive
- Educational neglect
  - Child torture
- Unusual sexual behaviors
- Drug usage
- Poisoning
  - Intent to harm, to calm, or to amuse?
- Exposure to domestic violence
- Tips of when to consider neglect
- Case study

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What is neglect?

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What is neglect?

- Neglect is a broad concept
- Depriving a child of "necessaries"
- Exposing a child to harmful substances or practices
- Neglect is the most common type of abuse

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The prevalence and impact of neglect

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Ten Adverse Childhood Experiences

- Emotional abuse (humiliation, threats) (11%)
- Physical abuse (hit hard enough to receive injuries) (28%)
- Contact sexual abuse (28% women, 16% men)
- Mother treated violently (13%)
- Household member alcoholic or drug user (27%)
- Household member imprisoned (6%)
- Household member chronically depressed, suicidal, mentally ill, psychiatric hospitalization (17%)
- Not raised by both biological parents (23%)
- Neglect—physical (10%)
- Neglect—emotional (15%)

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1 or more ACE increases risk of:

- Cancer
- Heart disease
- STDs
- Liver disease
- Smoking
- Alcohol abuse
- Obesity
- Drug dependence
- IV Drug Use
- Early intercourse, pregnancy
- Depression
- Anxiety disorders
- Hallucinations
- Sleep disturbances
- Memory disturbances
- Anger problems
- Domestic violence risk
- Job problems
- Relationship problems

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The impact of emotional abuse/neglect

- In a review of 5,616 children with histories of physical abuse, sexual abuse, or emotional abuse/neglect, *researchers concluded psychologically abused/neglected children face similar or worse outcomes than children enduring other abuse* (APA 2014)

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Polyvictimization research

- Exposure to multiple forms of victimization was common.
- Almost 66% of the sample was exposed to more than one type of victimization, 30% experienced five or more types, and 10% experienced 11 or more different forms of victimization in their lifetimes.
- Poly-victims comprise a substantial portion of the children who would be identified by screening for an individual victimization type, such as sexual assault or witnessing parental violence.
- Poly-victimization is more highly related to trauma symptoms than experiencing repeated victimizations of a single type and explains a large part of the associations between individual forms of victimization and symptom levels.

(Turner, Finkelhor, et al, 2010)

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What are options for the MDT?

- Differential response
- Civil child protection action
- Emergency relief
- Termination of parental rights (abandonment, egregious harm)
- Criminal charges

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When is a cultural practice neglect?

Coining

Cupping

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When is a cultural practice neglect?

- Snake handling
- Face cutting
- Female genital mutilation
- Male circumcision
- Healing by prayer

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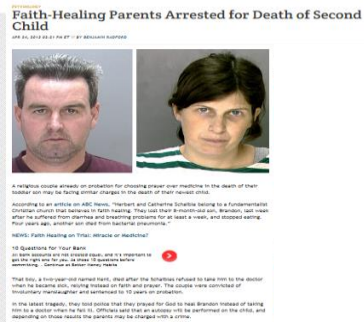
Faith healing



Faith-Healing Parents Arrested for Death of Second Child

A religious couple already on probation for choosing prayer over medicine in the death of their toddler son may be facing similar charges in the death of their newest child.

According to an article on ABC News, "Herbert and Catherine Schaible belong to a fundamentalist Christian church that believes in faith healing. They lost their 8-month-old son, Brandon, last week after he suffered from diarrhea and breathing problems for at least a week, and stopped eating. Four years ago, another son died from bacterial pneumonia."

NEWS: Faith Healing on Trial: Miracle or Medicine?

10 Questions for Your Bank

"That boy, a five-year-old named Kent, died after the Schaibles refused to take him to the doctor when he became sick, relying instead on faith and prayer. The couple were convicted of involuntary manslaughter and sentenced to 10 years on probation.

In the latest tragedy, they told police that they prayed for God to heal Brandon instead of taking him to a doctor when he fell ill. Officials said that an autopsy will be performed on the child, and depending on those results the parents may be charged with a crime.

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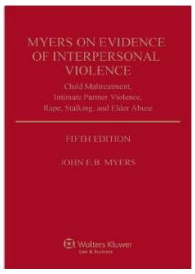
State and federal courts



When the child's life is at stake or "essential" medical care is needed "state interests in child welfare prevail."

– Professor John Myers

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What is "essential" medical care?

- Cases turn on their unique facts
- Degree of harm child may suffer
- Likelihood of serious harm
- Treatment experimental?
- Risks and side effects
- Child's preference (blood transfusion, club foot)

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How should MDTs respond?

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Working within the culture to protect a child

- Followers of Christ refuse all medical care
- Jehovah's Witnesses only prohibit the use of blood and its major fractions
- Christian Scientists allow dentists and doctors for "mechanical" reasons such as setting bones or childbirth
- Some faith healing communities will abide by court order

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Working with Amish communities

- Jesus' directive to "take no thought for your life" leads to lack of preventative care such as vaccinations
- However, there is no per se opposition to medical care
- No medical insurance thus payment plans needed
  - James Cates, *Serving the Amish* (John Hopkins Press 2014)

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The importance of education

- "If I had known that [Matthew] had meningitis, if I had known medicine had a 95% chance of healing him, then I would have taken him to a doctor. I'd never been to a doctor as a child…You can't begin to understand the helplessness of someone who doesn't know anything about medicine, how vulnerable we were in the face of our ignorance."
  - Rita Swan (Offit 2015)

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Provide education at birth—and follow up

"Rita and Doug Swan were instructed by their church to isolate themselves from all forms of medical information. If a television or radio program described a recent epidemic, they turned it off… As a consequence, the Swans knew little to nothing about health."

Offit (2015)

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Reach into isolated communities

- Natali Joy Mudd, 4 years old, developed a tumor near her right eye. Her parents relied on prayer and the tumor grew to the size of her head. After she died, the police found "streaks of blood along the walls in Natali's home. Blinded and unable to stand upright, she had leaned against the walls for support."
- Natalie's parents were members of the Faith Assembly Church who, along with Followers of Christ are "insular groups, sequestered from their surrounding communities."

Offit (2015)

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Address the underlying fear

- "When people choose to withhold lifesaving medicines from their children, the fear that holds them in place is often something unseen. Maybe it's an unspoken punishment from God, or denial of a place in Heaven, or simply the loss of a supportive community."
  - (Offit 2015)
- Identify the fear and see if the team can address it

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State intervention before birth

- Most courts are reluctant to allow the state to intervene before birth on behalf of children denied medical care on religious grounds
- Some commentators advocate limited right to intervene
- Can the state intervene if mother is using drugs or alcohol?

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Failure to thrive

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Failure to thrive

- Growth significantly under norms
- Organic: medical cause
- Non-organic: maltreatment
- Malnutrition common factor in both
- Prolonged process
- FTT deaths may be misleadingly labeled with a "medical cause" (chronic abuse or neglect may weaken immune system)

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Failure to thrive defenses

- Underlying medical condition
- Poverty (lack of resources such as transportation, food, etc.)
- Lack of parenting skills - ignorance
- Child wouldn't eat; vomiting; diarrhea

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More potential defenses

- Congenital - everyone in family is small
- Child healthy until just recently
- Another responsible for caretaking

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Determine if FTT is organic condition

- Medical tests for organic disorders
- Child fed in controlled environment
- Document growth for several months
- Establish whether parents sought out medical intervention, advice
- Evidence child emotionally deprived also

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FTT Scene investigation

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FTT Scene Investigation

- Age appropriate food
- Bottles, cans of formula, mixing instructions
- Freshness of food, evidence of recent purchases
- Diapers and dirty laundry

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FTT scene investigation

- Evidence other children well fed; photos
- No current photos of victim
- Photos of victim previously (contrast)
- No toys for victim
- Overall condition of home
- Parenting books

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Undiagnosed medical condition

- If condition exists at all, is it obvious to a reasonable person child needed medical attention?
- Caregiver legally competent and understood child needed medical attention?

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Poverty defense

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Poverty defense

- Look for evidence of money spent on non-necessities: alcohol, drugs, cigarettes, cable t.v., or family received public assistance and had access to resources for the baby.

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Ignorance defense

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Ignorance defense

- Parenting classes
- Raised other children
- Child survived fine for a period of time
- Other evidence supporting competence (parenting books/subscriptions, prescriptions, parenting discussions with peers, previous social service involvement)

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"We're all short" defense

- Even short children do not waste away
- Ask physician to adjust chart for premature child.

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Defenses

Child was healthy - lost weight rapidly

1. Thorough medical workup should demonstrate whether malnutrition is chronic or acute
2. Very rare that emaciation occurs rapidly

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Child sexual behaviors as sign of neglect/abuse

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Sexual behaviors (Johnson 2014)

- 40-85% of children 12 and younger engage in some sexual behaviors
- Most of this behavior is "informational gathering" as children explore each other's bodies by looking and touching (i.e. playing doctor) or exploring gender roles (i.e. playing house)
- Most sexual behaviors are limited, voluntary, between children of similar ages, size and developmental status

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Adults vs. children (Johnson 2014)

- Adults see sexual activity based on our grown-up experiences of sexual desire and orgasm-seeking behaviors.
- While pre-teens may be motivated by more adult like sexual desires, "this is rarely true of younger children."
- For these kids private parts are a "mystery and secrecy that inspires them to discover what they are all about."

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Normal behavior (AAP)

- Children 2-6 commonly engage in:
  - self-touching
  - showing their genitals, looking at the genitals or others, trying to see an adult in the nude
  - talking about body functions, etc.

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NCTSN pre-school children (less than 4)

- Explore/touch private parts (in private or public)
- Rub private parts with hand or against objects
- Showing private parts to others
- Trying to touch mother's or other women's breast
- Removing clothes and wanting to be naked
- Attempting to see others undressing
- Talking to same aged children about "poop" and "pee"

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NCTSN 4-6 year olds

- Purposely touch genitals (masturbation)—sometimes in the presence of others
- Attempting to see others naked or undressing
- Mimicking dating behavior (kissing, holding hands)
- Talking about private parts, using "naughty" words they often don't understand
- Explore private parts with children their own age (playing doctor, "show me yours, I'll show you mine")

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Case scenario (NTSN)

- Three girls, all five years old, are playing together in a room and when someone checks on them finds their panties are off, they are giggling and pointing to and touching each other's genitals
- Normal or abnormal?

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What do you say?

- "It looks like you're touching each other's private parts. This is not a good idea. You can touch your own private parts, but not other people. Other people are not allowed to touch your private parts either."
  - Johnson (2014)

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NCTSN 7-12 year olds

- Masturbation but usually in private
- Playing games with children their own age (truth or dare, playing family, playing boyfriend/girlfriend)
- Looking at pictures of naked people
- Viewing/listening to sexual content in media (TV, movies, games, the Internet, music)
- Wanting more privacy (when undressing, etc)
- Beginnings of sexual attraction to peers

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Abnormal Sexual Behavior (Friedrich CSBI)

- placing child's mouth on sex part
- asking to engage in sex acts
- masturbating with object
- inserting objects in vagina/anus
- imitating intercourse
- making sexual sounds
- french kissing
- undressing other people
- asking to watch sexually explicit TV
- imitating sexual behavior with dolls

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Normal or abnormal? (NCSBY)

Mr. and Mrs. Cornelison's four sons ranged in age from 5 to 10 years old. All the boys loved sports. Every evening and weekend was filled with practices, games, and other activities. One Saturday morning, Mrs. Cornelison told her sons to get in their uniforms for their games. As the children dressed, it was unusually quiet in the bedroom, so Mrs. Cornelison went to see what was happening. She found two of her sons, ages 7 and 9, undressed and touching each other's private parts. She was shocked. She told her husband what she saw. Mr. Cornelison had the boys get dressed, and he talked to each of them separately. The boys seemed embarrassed. They reported that they were just getting dressed and were wondering what it would be like to touch each other.

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Normal or abnormal? (NCSBY)

Ms. Blackwood is worried about her grandchildren, Summer, age 7, and Darren, age 5. Their father sexually abused them a year ago. Summer and Darren were sent to live with Ms. Blackwood after her daughter (the children's mother) left to be with her husband. Since being in her home, her grandchildren seem to have no boundaries. No one is a stranger to them. They try to hug or kiss everyone. Summer especially likes to talk with men, even at the grocery store. Recently, Ms. Blackwood found Summer with her mouth on Darren's privates while they were taking a bath together. Ms. Blackwood didn't know what to do; she just froze watching them. After the initial state of shock, she told the children that they had better stop that. Summer wasn't upset about the behavior or about how it might impact Darren.

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MDT responses to concerning sexual behaviors (children below 12)

- The younger the child, the more likely they are mimicking behaviors seen or repeating behaviors they have experienced
- An initial step for the MDT is to screen for the possibility of child abuse
- Consider applying for a child protection petition
  - Ratnayake (2013)

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A great resource

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Educational neglect

- Historically permissible to deprive child of education
- Today, education is seen as a necessity
- When is a child being "educationally neglected?"

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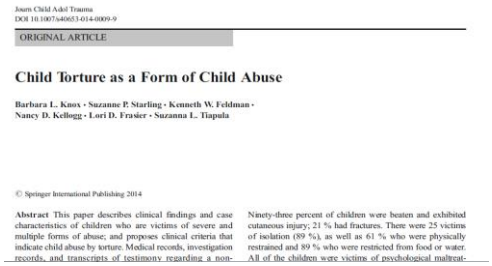
Child torture



Journ Child Adol Trauma
DOI 10.1007/s40653-014-0009-9

ORIGINAL ARTICLE

Child Torture as a Form of Child Abuse

Barbara L. Knox · Suzanne P. Starling · Kenneth W. Feldman · Nancy D. Kellogg · Lori D. Frasier · Suzanna L. Tiapula

© Springer International Publishing 2014

Abstract This paper describes clinical findings and case characteristics of children who are victims of severe and multiple forms of abuse; and proposes clinical criteria that indicate child abuse by torture. Medical records, investigation records, and transcripts of testimony regarding a non-

Ninety-three percent of children were beaten and exhibited cutaneous injury; 21 % had fractures. There were 25 victims of isolation (89 %), as well as 61 % who were physically restrained and 89 % who were restricted from food or water. All of the children were victims of psychological maltreat-

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Medical definition (Knox, et all 2014)

- Two or more physical assaults on two or more occasions or a single prolonged incident causing "prolonged physical pain, emotional distress, bodily injury or death" and
- At least two elements of psychological abuse "such as isolation, intimidation, emotional/psychological maltreatment, terrorizing, spurning or deprivation."
- Inflicted by child's caretakers

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Medical definition continued

- "Neglect is usually present, and manifests as failure to seek appropriate care for injuries and/or malnutrition."
- Resulting in "prolonged emotional distress, pain and suffering, bodily injury/disfigurement, permanent bodily dysfunction, and/or death."
  - Knox, et al (2014)

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Typical characteristics (Knox, et al)

- Median age of victims 7.5 years
- 45% of cases, the victim's siblings coerced into participating in the torture
- 65% of siblings also abused, though less severe

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Typical characteristics (Knox, et al)

- 93% beaten
- 89% food deprivation
- 79% fluid restrictions
- 61% physically restrained
- 64% bodily functions restricted
- 36% died

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Typical characteristics (Knox, et al)

- 29% never went to school
- 47% removed from school to be "home-schooled"
- More than 50% of victims not known outside immediate family

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Violence and isolation correlates

- "As the level of violence and control in the homes increased, perpetrators increased the isolation of the victims from everyone but their immediate caretakers"
  - Knox, et all (2014)

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Case scenario

- After a school suspected or reported abuse or neglect, family would move
- In 8th grade, child disclosed abuse, case was unsubstantiated because parents convinced CPS child was a liar
- Child was then "home-schooled" and never left the house for four years

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Case scenario continued

- Child kept in a basement with 16 dogs
- Child slept on floor with the dogs and feces
- Child expected to do all housework, care for the dogs and her 3 younger sisters (ages 13, 11, and 9)

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Case scenario continued

- Physical abuse:
  - Child beaten with belts, sticks, tools & boards
  - Burned on face, feet, hands and tongue
  - Teeth, fingers, and toes smashed with hammer
  - Forced to wear shock collar and shocked until she screamed
  - Shot in leg with a pellet gun

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Case scenario continued

- Neglect:
  - Forced to do chores outside in the winter barefoot
  - Denied medical care
  - Denied education
- Emotional abuse:
  - Mom cut her hair crudely as humiliation
  - Child only given old clothes of mother's to wear
  - Child not allowed to participate in Christmas or other holidays
  - Child's birthday not recognized

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The use of religion in torture

- "Perpetrators seemed to utilize a framework of necessary discipline and corporal punishment to justify their abusive acts…some perpetrators saw it as a religious duty to discipline their children harshly."
  - Knox, et al (2014)

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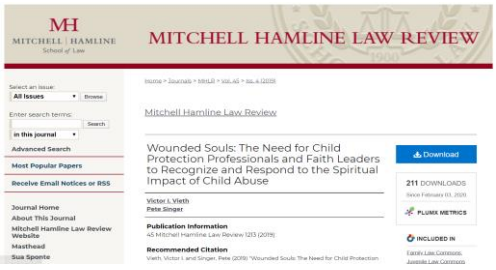
A helpful resource



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Drug use

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Drug use

- By parents: increases risk child will be abused but is this enough to prove neglect?
- By children: basis for child protection action if condoned or parent fails to get child treatment
- Using drugs to control child: is it neglect to control or sedate child chemically?
- Meth labs

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Poisoning, drugging

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Poisoning

- 50% of accidental poisoning cases occur in children 2-3 years old
- Accidental poisoning uncommon in infants and kids between the ages of 6-10
- Is it a one-time event? Are parents willing to remedy situation?
- Unusual poisoning (lethal dosages of household foods)

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Intent to Harm

- Some parents or care providers have used poison to get rid of a problem child.
- Some parents have poisoned their children intentionally and then tried to sue formula companies.
- Poisons are so common in the home that they can become an easy cover-up for a homicide.
- Bleach, lye, drain cleaners, rat poison, pepper, radiator fluid

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Intent to Harm

- Investigators should check for recently acquired life insurance policies.
- Carefully check dates of prescriptions and dates purchased.
- Interview friends, neighbors, babysitters to ascertain relationship between child and parent or care provider.
- Contact doctors or hospitals for medical records that might indicate rejection of the child at time of birth.

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Intent to Calm

- Parents or care providers frustrated with prolonged crying or restless nights sometimes use prescription drugs to make child sleep.
- Sedatives are most commonly used.
- Some parents use alcoholic beverages to get children to sleep.
- Some parents have put marijuana in children's bottles to quiet them.

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Intent to Amuse

- Some parents/caretakers give alcoholic beverages to their child and find amusement in the child's drunken condition.
- Some parents/caretakers while under the influence of hallucinogens, give that drug to the child in the mistaken and confused belief that their child will enjoy the feeling or high.

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Domestic violence and neglect

Recording from the National Center on Domestic and Sexual Violence
Available at http://www.ncdsv.org/ncd_911.html

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Effects of Exposure to IPV
(Summers, 2006)

	Infants	Preschool Age	School Age	Adolescents
Behavioral	•Fussy •Decreased responsiveness •Trouble sleeping •Trouble eating	•Aggression •Behavior problems •Regressive behavior •Yelling, irritability •Trouble sleeping	•Aggression •Conduct problems •Disobedience •Regressive behavior	•Dating violence •Delinquency •Running away •Truancy •Early sexual activity
Social		•Trouble interacting with peers •Stranger anxiety	•Few and low quality peer relations	•Dating violence (victim or perpetrator) •Increased risk for teen pregnancy

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Effects of Exposure to IPV
(Summers, 2006)

	Infants	Preschool Age	School Age	Adolescents
Emotional/ Psychological	•Attachment needs not met	•Fear/anxiety, sadness, worry •PTSD •Negative affect •Feeling unsafe •Separation anxiety	•Somatic complaints •Fear & anxiety, depression, low self-esteem, shame •PTSD •Limited emotional response	•Substance abuse •Depression •Suicidal ideation •PTSD •Feeling rage, shame •Unresponsiveness
Cognitive	•Inability to understand	•Self-blame	•Self-blame •Distracted, inattentive •Pro-violent attitude	•Short attention span •Pro-violent attitude •Defensive

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Signs of neglect

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Consider neglect when the parent/caregiver:

- Appears to be indifferent to the child
- Seems apathetic or depressed
- Behaves irrationally or in a bizarre manner
- Is abusing alcohol or other drugs

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Consider the possibility of neglect when the child:

- Is frequently absent from school
- Begs or steals food or money
- Lacks needed medical or dental care, immunizations, or glasses
- Is consistently dirty and has severe body odor
- Lacks sufficient clothing for the weather
- Abuses alcohol or other drugs
- States that there is no one at home to provide care

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Always consider polyvictimization

- Exposure to multiple forms of victimization was common.
- Almost 66% of the sample was exposed to more than one type of victimization, 30% experienced five or more types, and 10% experienced 11 or more different forms of victimization in their lifetimes.
- Poly-victims comprise a substantial portion of the children who would be identified by screening for an individual victimization type, such as sexual assault or witnessing parental violence.
- Poly-victimization is more highly related to trauma symptoms than experiencing repeated victimizations of a single type and explains a large part of the associations between individual forms of victimization and symptom levels.
  - (Turner, Finkelhor, et al, 2010)

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Case Study

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Crime scene investigation

- Marks on child's neck
- Measure length of chain & child's arm span
- Can child access food? Water? Bathroom? Entertainment (TV, computer, books)? Chair? Bed?
- Can child see park from window?
- Child's clothes (wetness/soiling)
- Temperature in the house
- Can dog access food, water, bed, toys, toilet area (paper, outdoors)?

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Questions for prosecutors

- Are there any potential defenses?
- How will you overcome these defenses?

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"Till the night be passed"

"Silence in the face of evil is itself evil. Not to act is to act."

– Dietrich Bonhoeffer

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