

---

## Dealing with Parent and Child in Serious Abuse Cases

By Leonard P. Edwards and Inger Sagatun

---

The legal response to cases of serious intra-family child abuse presents a number of complicated and difficult issues. Among them are: Should the family be separated at the time of the discovery of the abuse and, if so, which members of the family should be removed from the home and for how long? Should the legal system be concerned with developing a plan to reunite the family? Should the offending parent be prosecuted by the criminal justice system and, if so, to what extent should the needs of the child and family be considered by the criminal courts in dealing with the offending parent?

There are conflicting legal and social goals in any attempt to resolve these questions. In some respects, the conflicting goals are reflected in the fact that a child abuse case typically is handled by two different courts, the juvenile and the criminal. In juvenile court the judge and other participants in the legal process attempt to structure a program that will be in the best interests of the child. The child is the subject matter of the proceeding, not the parents. In the criminal court, the judge, prosecutor and other participants are focusing upon the offending parent and determining the degree to which the aims of the criminal law should be applicable to him. To the extent that the best interests of the child involve continued contact with the offending

parent and the restructuring of the family, there may be a conflict between the juvenile court order and judgment by the criminal courts in sentencing the parent to long periods of incarceration.

The remainder of this paper focuses upon five propositions which we believe should be guiding principles for those persons charged with administering cases of serious child abuse. Within the discussion which follows the five propositions, we attempt to outline certain approaches to serious child abuse cases which will in part resolve the conflict inherent in dealing with the parent and child in these cases. Although the propositions may appear to be somewhat abstract, each is based upon the experience of professionals involved in the handling of child abuse cases in Santa Clara County, Calif.

A few introductory words are in order. Child abuse cases, as referred to in this paper, include only intrafamily occurrences. Those cases involving strangers who abuse children are excluded because there is no pre-existing relationship between the offender and the child. There are some abuse situations involving family friends or relatives other than parents, but whether they should be included in the category of cases will depend upon the relationship between the offender and the child and the specific needs of the minor.