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Introduction

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Introduction

John E.B. Myers*

Child abuse is widespread and has serious legal, sociological, medical, and psychological sequelae.¹ More than one thousand American children die yearly from physical abuse and severe neglect.² Countless additional children are bruised and battered, usually in the name of parental discipline. Turning to child sexual abuse, David Finkelhor observes that “[b]ecause sexual abuse is usually a hidden offense, there are no statistics on how many cases actually occur each year.”³ The best research indicates that approximately 500,000 new cases of child sexual abuse occur yearly.⁴ Twenty percent of girls experience some form of sexual abuse during childhood.⁵ Males appear to be sexually abused at a lower rate than girls, with approximately five percent to ten percent of boys sexually abused during childhood.⁶

With these sobering numbers as fuel, the modern era of child protection picked up steam in the 1960s and 1970s. During this period, and on into the 1990s, the amount of child abuse litigation—particularly criminal prosecution—spiraled upward.⁷ Today, the legal system plays a central role in society’s effort to reduce child abuse and protect children. Yet, child abuse is often exceedingly difficult to prove. The three articles in this symposium discuss many of the complex issues involved in investigating and litigating child abuse. In physical abuse cases, the victim’s injured body often provides the most compelling evidence, and the article by Thomas Lyon, Elizabeth E. Gilles, and Larry Cory provides a thorough discussion of medical evidence of physical abuse.⁸

When the issue is child sexual abuse, evidentiary problems are compounded by the fact that most forms of sexual abuse leave no physical traces or medical evidence. As the Court observed in *Pennsylvania v. Ritchie*,⁹ “[c]hild [sexual] abuse is one of the most difficult crimes to detect and prosecute, in large part because there often are no witnesses except for the victim.”¹⁰ In sexual abuse litigation, therefore, the child’s

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1. See generally DAVID FINKELHOR, CURRENT INFORMATION ON THE SCOPE AND NATURE OF CHILD SEXUAL ABUSE, 4 THE FUTURE OF CHILDREN 31 (1994); ROBERT M. REECE, CHILD ABUSE: MEDICAL DIAGNOSIS AND MANAGEMENT (1994) (discussing the harmful effects of child abuse); David J. Kolko, *Child Physical Abuse*, in THE APSAC HANDBOOK ON CHILD MALTREATMENT 21 (John Briere et al. eds., 1996) (providing information on the prevalence of child abuse); Kathleen A. Kendall-Tackett et al., *Impact of Sexual Abuse on Children: A Review and Synthesis of Recent Empirical Studies*, 113 PSYCHOL. BULL. 164 (1993).

2. See DEBORAH DARO & DAVID WIESE, CURRENT TRENDS IN CHILD ABUSE REPORTING AND FATALITIES: NCPA’S 1994 ANNUAL FIFTY STATE SURVEY (1995).

3. FINKELHOR, *supra* note 1, at 32.

4. *Id.*

5. *Id.* at 37.

6. *Id.*

7. See JOHN E.B. MYERS ET AL., A CENTURY OF CHILD SEXUAL ABUSE LITIGATION (forthcoming).

8. Thomas D. Lyon, Elizabeth E. Gilles & Larry Cory, *Medical Evidence of Physical Abuse in Infants and Young Children*, 28 PAC. L.J. 93 (1996).

9. 480 U.S. 39 (1987).

10. *Ritchie*, 480 U.S. at 60.

