

CESAR A. PERALES
Commissioner



[An Informational Letter informs local districts of potential developments in the Social Services field, or of actual or potential developments in collateral fields of interest.]

INFORMATIONAL LETTER

TRANSMITTAL NO.: 83 INF-18
[Family and Children Services]

TO: Commissioners of Social Services
Child Protective Services Directors

SUBJECT: Child Abuse and Maltreatment:
Allegations and Determinations

DATE: October 18, 1983

SUGGESTED DISTRIBUTION: All Child Protective Service Staff

CONTACT PERSON: Any questions concerning this release should be forwarded to: Fredric Cantlo, Metropolitan Regional Office at 1-800-342-3715, extension 131-3484; John O'Connor, Eastern Regional Office, 1-800-342-3715, extension 3-1095; Karen Schimke, Buffalo Regional Office, 716-882-4093; and Linda Kurtz, Western (Rochester) Regional Office at 716-454-4272; or John Stupp, Associate Counsel, Office of Legal Affairs, 1-800-342-3715 extension 3-3272.

I PURPOSE: The purpose of the guidelines provided by this informational letter is to define common types of allegations of child abuse and maltreatment and factors to be considered in case determinations. They provide a starting point from which the child protective caseworker can proceed to collect and organize information. These guidelines, however, are not a substitute for full and detailed fact-gathering and assessment of the family, particularly the child suspected to be abused or maltreated.

FILING REFERENCES

Previous INFs/ADMs	Dept. Regs.	Social Services Law and Other Legal References	Bulletin/Chapter Reference	Miscellaneous References
81 INF 8	Part 432	SSL 412 et seq.	MB 192	CPS Caseworker Manual
81 ADM 34	Section 441.9	SSL 384-b.5		
82 ADM 60		FCA 1012 et seq.		
		PENAL LAW 35.10		
		PENAL LAW 130 et seq.		
		ED. LAW 3204 et seq.		

II. BACKGROUND:

Clear understanding of the definitions of child abuse and maltreatment is essential to child protective investigations and determinations. Case law and fair hearing decisions have interpreted statutory definitions contained in Section 412 of the Social Services Law and Section 1012 of the Family Court Act. Experience drawn from the operation of the State Central Register, monitoring, and training have also added knowledge about common types of allegations of abuse and maltreatment and considerations in decision-making. The guidelines incorporate this knowledge.

For each case situation, the caseworker must carefully obtain current facts and related history, and compare these facts with statutory definitions. The guidelines are intended to aid the caseworker in the collection of facts and focus the initial investigation.

III. IMPLICATIONS:

The operational guidelines provided by this informational letter further define and clarify considerations in the investigation and determination of allegations of child abuse and maltreatment.

IV. RECOMMENDED ACTIONS

The distribution of these guidelines to all child protective services staff is recommended. They should be inserted in the CPS Caseworker Manual. Use of these guidelines in training and supervisory conferences is encouraged.



Joseph Semidei
Deputy Commissioner
Division of Family and Children
Services

Attachment

**CHILD ABUSE AND MALTREATMENT:
ALLEGATIONS AND DETERMINATIONS**

New York State Department of Social Services

August, 1983

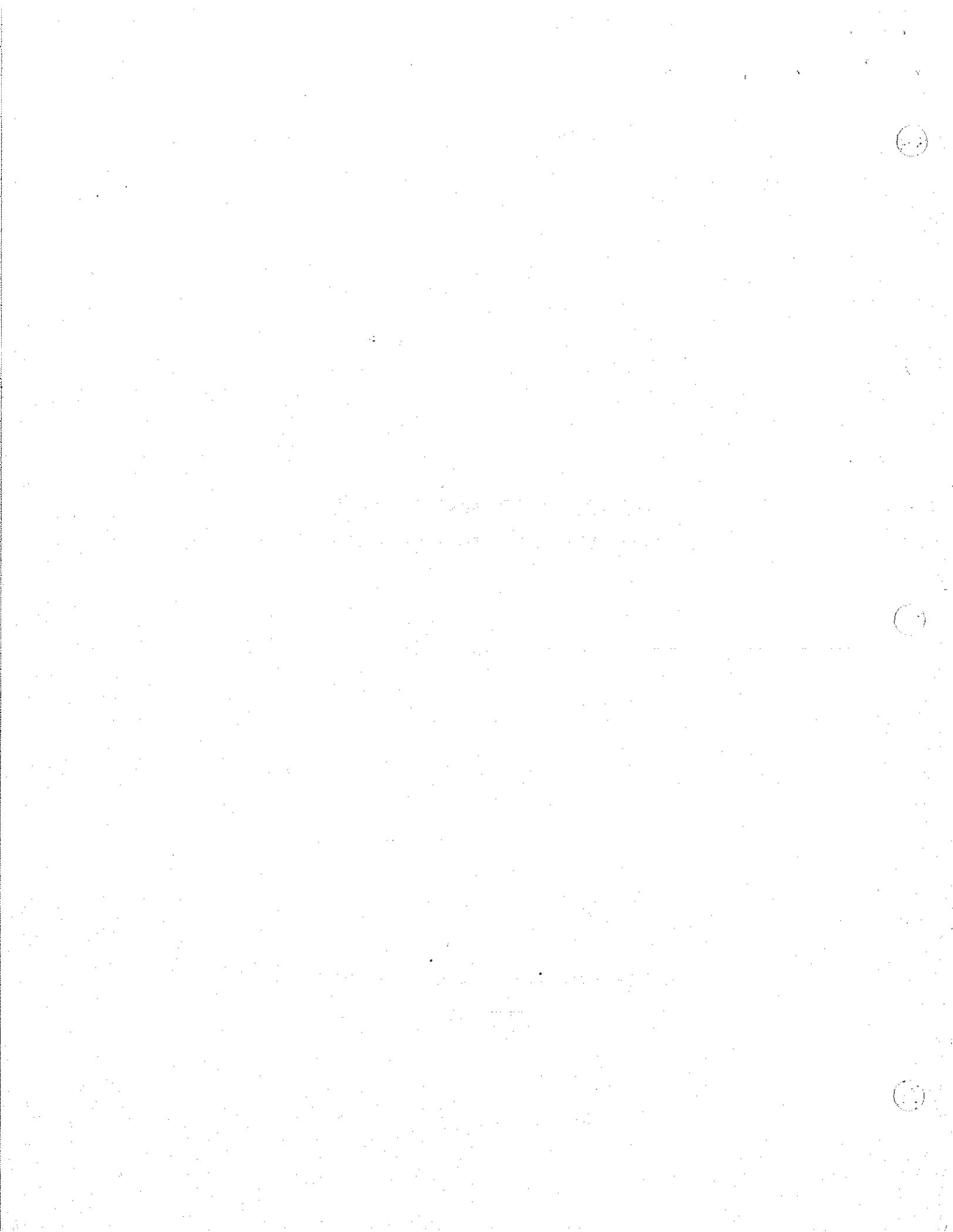
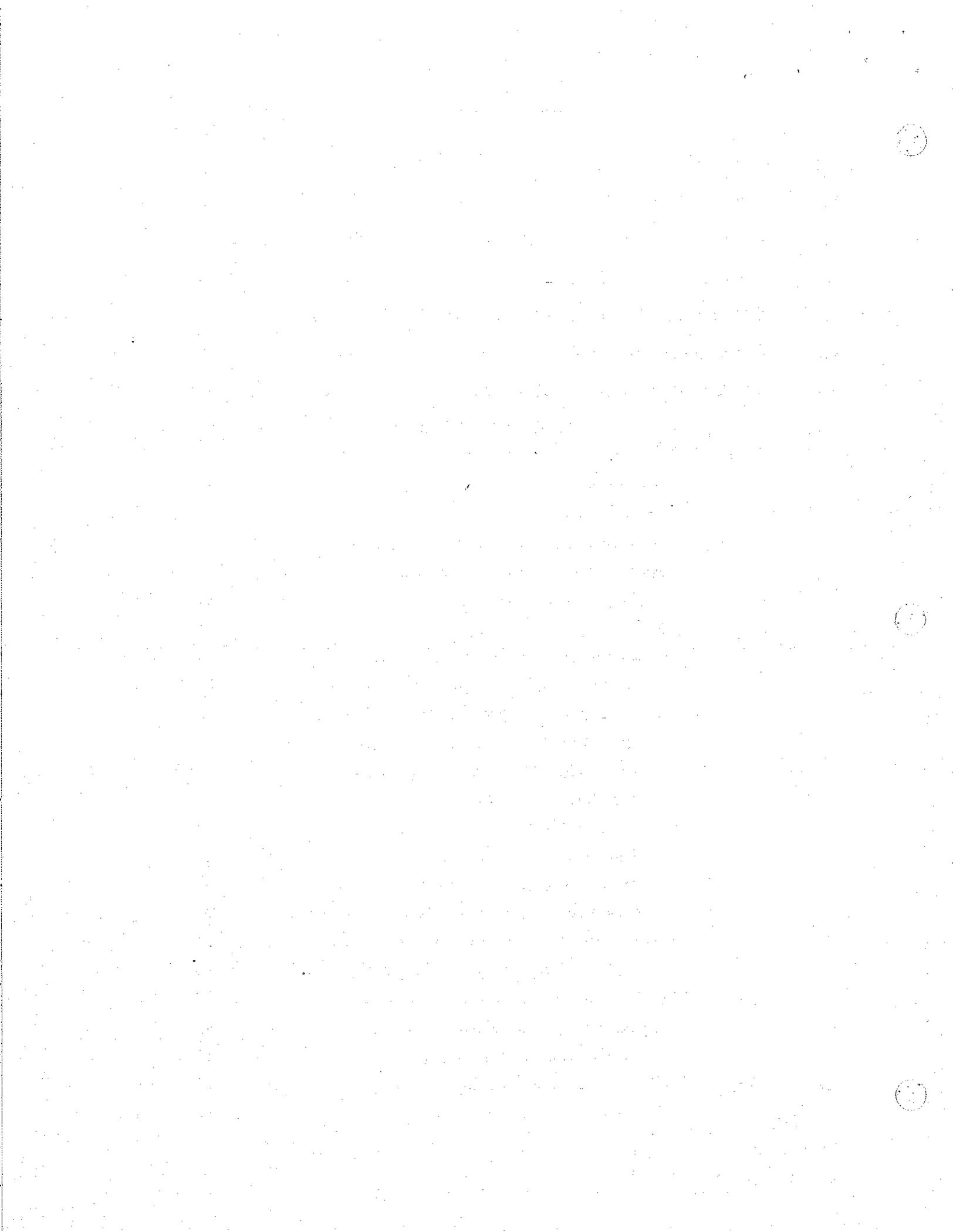


TABLE OF CONTENTS

		<u>PAGE</u>
I.	PURPOSE	1
II.	DEFINITIONS	1
III.	DETERMINATION OF CHILD ABUSE AND MALTREATMENT	3
IV.	SOURCES OF EVIDENCE	3
V.	STANDARDS OF CHILD PROTECTIVE PRACTICE	8
VI.	STANDARDS OF EVIDENCE	10
VII.	TAKING PROTECTIVE CUSTODY	12
VIII.	ALLEGATIONS RELATED TO CHILD ABUSE AND MALTREATMENT	15
	Fractures	16
	Internal Injuries	18
	Lacerations/Bruises/Welts	20
	Swelling/Dislocations/Sprains	22
	Choking/Twisting/Shaking	23
	Burns/Scalding	24
	Poisoning/Noxious Substances	25
	Excessive Corporal Punishment	26
	Newborn Drug/Alcohol Withdrawal	28
	Child's Drug/Alcohol Use	29
	Parent's Drug/Alcohol Use	30
	Medical Neglect	31
	Educational Neglect	33
	Emotional Neglect	35
	Sexual Abuse and Maltreatment	37
	Malnutrition/Failure-to-Thrive	39
	Inadequate Food/Clothing/Shelter	41
	Inadequate Guardianship	43
	Lack of Supervision	44
	Abandonment	45
	Other	46
IX.	BIBLIOGRAPHY	47



I. PURPOSE

On the following pages, common types of allegations of child abuse and maltreatment and factors to be considered in case determinations are described. This is a starting point from which the child protective caseworker can proceed to collect and organize information. These guidelines are not a substitute for full and detailed fact-gathering and assessment of the family and particularly the child suspected to be abused or maltreated. The basis for the determination of child abuse and maltreatment is the same whether the subject of the report is a parent or other person legally responsible for the child's care.

II. DEFINITIONS

"Maltreated Child" includes a child under 18 years of age who is defined as a neglected child by the Family Court Act, or who has had serious physical injury inflicted on him by other than accidental means. (Section 412, Social Services Law)

"Abused Child" means a child less than eighteen years of age whose parent or other person legally responsible for his care

- (i) inflicts or allows to be inflicted upon such child physical injury by other than accidental means which causes or creates a substantial risk of death, or serious or protracted disfigurement, or protracted impairment or physical or emotional health or protracted loss or impairment of the function of any bodily organ, or
- (ii) creates or allows to be created a substantial risk of physical injury to such child by other than accidental means which would be likely to cause death or serious or protracted disfigurement, or protracted impairment or physical or emotional health or protracted loss or impairment of the function of any bodily organ, or
- (iii) commits, or allows to be committed, a sex offense against such child, as defined in the penal law, provided, however, that the corroboration requirements contained therein shall not apply to proceedings under this article. (Section 1012, Family Court Act)

"Neglected Child" means a child less than eighteen years of age

- (i) whose physical, mental or emotional condition has been impaired or is in imminent danger of becoming impaired as a result of the failure of his parent or other person legally responsible for his care to exercise a minimum degree of care.

(A) in supplying the child with adequate food, clothing, shelter or education in accordance with the provisions of part one of article sixty-five of the education law, or medical, dental, optometrical or surgical care, though financially able to do so or offered financial or other reasonable means to do so; or

(B) in providing the child with proper supervision or guardianship, by unreasonably inflicting or allowing to be inflicted harm, or a substantial risk thereof, including the infliction of excessive corporal punishment; or by misusing a drug or drugs; or by misusing alcoholic beverages to the extent that he loses control of his actions; or by any other acts of a similarly serious nature requiring the aid of the court; provided, however, that where the respondent is voluntarily and regularly participating in a rehabilitative program, evidence that the respondent has repeatedly misused a drug or drugs or alcoholic beverages to the extent that he loses self-control of his actions shall not establish that the child is a neglected child in the absence of evidence establishing that the child's physical, mental or emotional condition has been impaired or is in imminent danger of becoming impaired as set forth in paragraph (i) of this subdivision; or

(ii) who has been abandoned, in accordance with the definition and other criteria set forth in subdivision five of section three hundred eighty-four-b of the social services law, by his parents or other person legally responsible for his care. (Section 1012, Family Court Act)

"Subject of a Report" means any child reported to the central register of child abuse or maltreatment and his or her parent, guardian or other person legally responsible also named in the report or an operator of or employee or volunteer in a home or facility operated or supervised by an authorized agency, the division for youth, or an office of the department of mental hygiene or in a family day care home, a day care center or a day services program. (Section 412.4, Social Services Law).

"Person legally responsible" includes the child's custodian, guardian, or any other person responsible for the child's care at the relevant time. Custodian may include any person continually or at regular intervals found in the same household as the child when the conduct of such person causes or contributes to the abuse or neglect of the child. (Section 1012, Family Court Act)

"Impairment of emotional health" and "impairment of mental or emotional condition" includes a state of substantially diminished psychological or intellectual functioning in relation to, but not limited to, such factors as failure to thrive, control of aggressive or self-destructive impulses, ability to think and reason, or acting out or misbehavior, including incorrigibility, ungovernability or habitual truancy; provided, however, that such impairment must be clearly attributable to the unwillingness or inability of the respondent to exercise a minimum degree of care toward the child. (Section 1012, Family Court Act)

III. DETERMINATION OF CHILD ABUSE AND MALTREATMENT

The determination of child abuse and maltreatment must be done on a case-by-case basis. For each situation, the caseworker must carefully obtain current facts and related history, and compare these facts with the statutory definitions to see whether child abuse or maltreatment has occurred. Such facts as the age of the child, the type, severity, frequency of harm or danger of harm, and the acts or omissions of the parent or person legally responsible for the child's care must be thoroughly assessed in every case. The basis for the determination of child abuse and maltreatment is the same whether the subject of the report is a parent or other person legally responsible for the child's care.

"Some credible evidence" is needed to support an indication of child abuse or maltreatment. Some credible evidence is evidence worthy of belief. It may be either direct evidence which includes the results of the caseworker's interviews and observations or information which has been gathered from other sources: medical records, school records, police and other agency records.

The type of evidence gathered varies with the nature and circumstances of each case. During the investigation, facts, not opinions, or feelings, or beliefs, must be sought. Logic and common sense must be applied to each situation. Conclusions should not be drawn until all the available facts are obtained.

After the facts are gathered, they should be compared to the statutory definitions of abuse and maltreatment. Upon consideration of the facts and the legal definitions, a decision should be made whether there is some credible evidence of child abuse and maltreatment.

In some cases, there will be no clear cut evidence. In these cases, it is especially important to obtain facts about the child's condition from all sources; to determine who had access to or supervisory responsibility for the child at the time of the incident; and to rule out other explanations for the child's condition. It is also important to obtain consultation from a supervisor.

IV. SOURCES OF EVIDENCE

Throughout the assessment process, the caseworker must always be conscious of differences in culture or life styles which may affect responses in families. If the caseworker and family do not speak the same language, the services of an interpreter must be obtained. The worker must keep an open mind, approach the family in a neutral way, let the family know what rights they have under the law, what actions may be taken, and what services are available. A full discussion of caseworker's duties and responsibilities is in the Child Protective Services Manual, available from NYS Department of Social Services.

The major sources of evidence in assessing allegations of child abuse and maltreatment are:

- direct observation by the caseworker;
- interviews with the child and family;
- medical evaluation;
- psychiatric or psychological evaluation;
- statements from the person who made the report;

- interviews with other persons who have had an opportunity to observe or treat the family or child;
- photographs and X-Rays;
- records from agencies who know the child or family;
- consultation with supervisor and other experts.

1. Direct Observation by the Caseworker

It is essential to look at the child and the parent of person legally responsible for the child's care, and to examine the physical setting of the home. The worker should be alert to physical signs on the child's body which might indicate abuse or maltreatment such as unexplained bruises or welts, burns, bone fractures or other injuries; or constant hunger, poor hygiene, unattended medical needs or inappropriate clothing.

Behaviors and interrelationships of the parent and child should also be observed. Is the child wary of adults or does he or she demonstrate extremes in behavior, e.g., aggressiveness or withdrawal? Does the parent attempt to conceal the child's injury? How do the parent and child interact? Verbal and non-verbal messages should be recorded. Non-verbal messages include the amount of eye contact, facial expressions, presence or absence of communication.

The physical setting of the home such as eating and cooking facilities, cleanliness of the bathroom and kitchen, and presence of basics such as food, beds, windows and availability of light, heat and space for the family should also be examined and recorded. Again, facts not conclusions must be sought. The case-record should show what was seen and heard, for example, "garbage was thrown on the floor" as opposed to "the apartment was messy."

2. Interviews with Family Members

The family itself is a major source of information. Everyone who lives with the family or who is an important part of their lives should be interviewed regarding their perceptions of the family's problems and strengths. The caseworker must always be conscious of differences in culture or life styles which may affect responses in families. If the caseworker and family do not speak the same language, the services of an interpreter must be obtained. An interview with the parent or person legally responsible or other family member should elicit:

- Factual information and background—names, ages, work history of the immediate family, health and emotional state, and the existence of extended family and their location.

- The family's perception of the reported incident of child abuse or maltreatment. Notation of any inconsistencies or discrepancies in explanations should be made.
- A list of the family's contacts with service providers and others who play an important role in the family's life, e.g., neighbors, teachers, clergy.
- Historical information about the parent's child care practices, attitudes toward the child and the child's behavior, and the parent-child relationship. In particular, attitudes toward discipline, school, recreation and plans for the child should be discussed.
- What is needed to assure that the child(ren) is protected from injury or mistreatment and the strengths and weaknesses the family shows in addressing those needs.

3. Interviews with the Child(ren)

An interview with a child who is suspected of being abused or maltreated should be approached very gently and sensitively. The interviewer should begin by establishing rapport with the child through casual conversation or play activities depending on the age of the child. Although the interview with the child may take place in a variety of settings such as the home, medical facility, school or child care facility, an effort should be made to keep the interview informal, non-threatening, and free from interruptions. Ideally, the child protective worker should interview the child alone.

Questions will vary depending on the child's age, maturity and physical and emotional state. The interview should address the day to day activities of the child, attitudes toward his/her parents, and others important in his/her life, and circumstances surrounding the alleged abuse or maltreatment. The interviewer should not appear to take sides or express views on the alleged incident or press the child for information or details he or she is unable or unwilling to give. All children in the family setting should be evaluated, not just the child who is the subject of the report of abuse or maltreatment.

4. Medical, Psychiatric or Psychological Evaluations

Immediate medical evaluation is necessary in emergency situations involving such conditions as: bone fractures, head injuries, serious infections, burns, extensive bruising, sexual abuse, malnutrition, failure-to-thrive, internal injuries, bites, lacerations, high fever, difficulty in breathing, and any previously unattended medical problem.

Even in non-emergency situations, medical evaluation and medical history are an essential phase of the investigative process for cases of suspected child abuse and maltreatment. A description of the injuries associated with child abuse and maltreatment, and considerations in assessment begins on page 12.

Assessment of the mental health of the children or family is also important. A psychiatric or psychological examination should be obtained if the individual shows substantially diminished functioning in relation to, but not limited to, the following:

- Control of aggressive or self-destructive behaviors;
- Ability to think, remember, and communicate;
- Ability to interpret reality;
- Control of obsessional or compulsive thoughts or behaviors.

Psychological tests should always be administered and interpreted by qualified personnel. These tests are important diagnostic tools and aid in determining the effects of abuse or maltreatment and in developing a treatment plan.

The medical and psychological or psychiatric evaluation should note the severity of the parent's or child's condition, and to a reasonable medical certainty, the cause of the condition.

5. Contact with the Reporting Source and Others Who Know the Family

Further discussion with the person who made the report of suspected child abuse and maltreatment provides fuller and more accurate information concerning the nature and extent of the problem. The relationship of the reporter to the family, the willingness of the reporter to participate in the assessment process, if appropriate, and the identification of possible witnesses to the incident which caused the child's condition can all be ascertained through such contacts. It is important to ask why the source of the report made the report when they did to gauge the length and the severity of the child's situation.

Contact with other persons who have had an opportunity to observe or treat the child or family is also useful in obtaining a total picture of the family's current situation, history, strengths and weaknesses. Such persons include neighbors and friends, clergy, teachers, coaches, and the family physician.

6. Photographs and X-rays

Section 416 of the Social Services Law specifically allows and in some instances requires any person or official to take photographs of the areas of trauma visible on a child who is the subject of a report or to perform a radiological examination (X-ray), if medically indicated. Photographs should be taken promptly and X-rays performed in a timely fashion. The photographer should be skilled in working with children and in taking good quality photos.

Photographs and X-rays graphically preserve evidence, and assure accuracy in the description of the child's condition.

7. Agency Records

Medical, school, police, court, social service and other agency records add an additional dimension to the caseworker's observations and information gathered from interviews. Records should be thoroughly reviewed and studied. In addition to determining whether a report of child abuse or maltreatment has been previously indicated, the worker must check open and closed agency files to determine whether the agency is or has been providing services to the child and family. Closely related names or other spellings should also be checked. The results of these checks should be recorded in the case record.

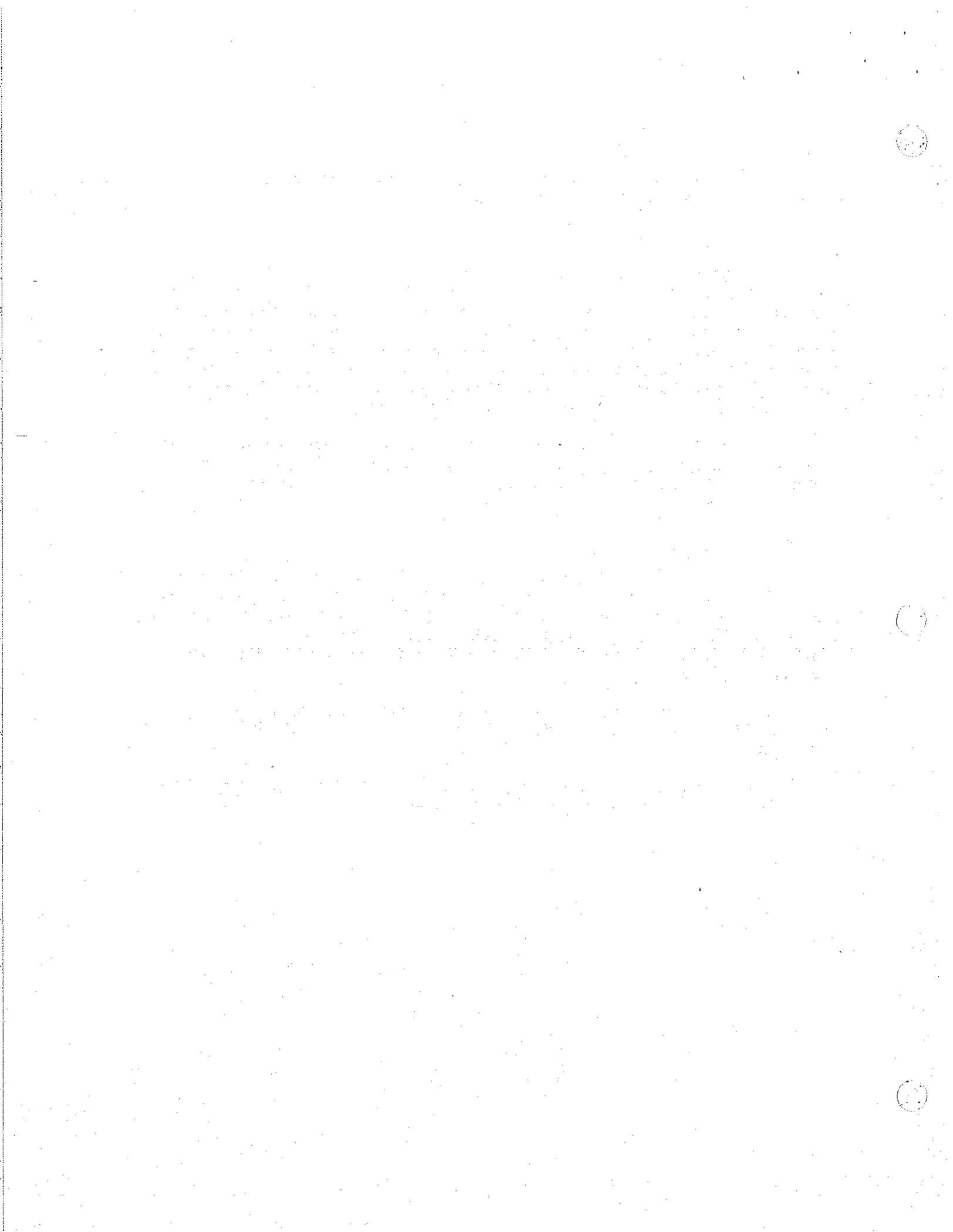
Ambiguities or inconsistencies which appear in the record should be clarified by the agency. Copies of pertinent documents should be gathered by the protective caseworker whenever information contained in these documents affects decision-making.

8. Consultation

The caseworker should review findings with his or her supervisor as part of the decision-making process. Ideally, in those cases which are complex and intricate, experts should be consulted or a multidisciplinary team composed of professionals from several disciplines such as law, health, mental health, and education should be used to assist the caseworker and supervisor in determining the needs of the family.

The caseworker should seek information from the above sources to accumulate the necessary information to ascertain the presence of child abuse and maltreatment.

If some credible evidence is present, the case shall be indicated. If no credible evidence exists, the case shall be unfounded.



V. STANDARDS OF CHILD PROTECTIVE PRACTICE

CHILD PROTECTIVE PROCESS	STANDARDS
1. Call to State Central Register.	1. Reasonable cause to suspect child abuse or maltreatment. A reasonable person in the same circumstances would suspect child abuse or maltreatment.
2. Register case of suspected child abuse or maltreatment at the State Central Register.	2. Full information is sought from the caller, and there is a presumption that the information, as given, is true. The information is compared to statutory definitions of child abuse and maltreatment. If the allegation, presumed to be true, meets the statutory definitions, the report is registered.
3. CPS 90 Day Determination to "indicate" that child abuse or maltreatment has occurred.	3. Some credible evidence—statements, or documents, or other evidence which is worthy of belief.
4. Emergency Removal of a child from custody of parent or person legally responsible under authority of Section 1022 or 1024 of the Family Court Act.	4. Child appears "so to suffer from abuse or neglect of his parent or other person legally responsible for his care that immediate removal is necessary to avoid imminent danger to the child's life and health, and there is not enough time to file a petition or hold a preliminary hearing under Section 1027 of the Family Court Act." (Section 1022, Family Court Act) A letter notifying the parent or other person legally responsible for the child of the removal must be provided at the time of removal.

CHILD PROTECTIVE PROCESS

STANDARDS

5. Contact with law enforcement.

5. The District Attorney immediately receives reports involving the death of a child. In addition, a copy of any or all reports shall be forwarded by Child Protective Services to the appropriate District Attorney if a prior request in writing has been made to CPS by the District Attorney. Information contained in the report may be made available to the police only if: the police are conducting an investigation under the jurisdiction of the District Attorney who has received information under the provisions cited above; a child is before the police and there is reasonable suspicion that the child is abused or maltreated and information in the report is required to determine whether to place the child in protective custody; a court order permits; client gives consent. In those cases in which an appropriate offer of service is refused and the child protective service determines, or if the service for any other appropriate reason determines that the best interests of the child require family court or criminal court action, it shall initiate the appropriate family court proceeding or make a referral to the appropriate district attorney, or both.
(Section 424.10, Social Services Law)

6. Bringing the case to Family Court (other than emergency removals).

6. The authority and remedies of the Family Court are needed to protect the child such as: order of protection or investigation, placement, supervision with conditions, order to obtain medical services, or to stay, modify, set aside or vacate an order.

VI. STANDARDS OF EVIDENCE

The standards of evidence differ with each step in the child protective process. Below is a chart which briefly outlines these standards.

PROTECTIVE SERVICES

STANDARDS

1. Administrative Fair Hearing

1. The subject of a report has the right to a fair hearing to determine whether the record of the report in the Central Register should be amended or expunged on the grounds that it is inaccurate or it is being maintained in a manner inconsistent with Title 6, Article 6 of the Social Services Law. The standard of evidence in maintaining such records is "some credible evidence." (See #3 on page 8)

2. Family Court Determination of whether child abuse or neglect occurred.

2. Fair Preponderance of Evidence - the outcome will favor the side which has the greater part of the evidence. "Greater" is a qualitative not quantitative term, i.e., the quality of the evidence of one side more nearly represents what took place. If the evidence weighs evenly, so that neither side has a preponderance of it, the issue will be resolved against the party which has the burden of proof and in favor of the opposing party. This is a higher standard than the standard used to "indicate" by child protective services. (See #3 on page 8)
-

VI. STANDARDS OF EVIDENCE

PROTECTIVE SERVICES

STANDARDS

3. Termination of Parental Rights: Family Court Standard

3. Clear and convincing evidence - in proceedings to remove a child permanently from the custody of allegedly abusive or neglectful parents, the standard is clear and convincing evidence. The evidence must exceed a fair preponderance and be highly probable.

4. Criminal Court Standard

4. Beyond a Reasonable Doubt - This is the highest standard. The evidence must point to one conclusion and leave no reasonable doubt about that conclusion.

VII. TAKING PROTECTIVE CUSTODY

When a child is reported to be maltreated, the child protective worker must first determine the child's safety needs and whether the child will be in imminent danger if he or she remains at home. In those situations which require that a child be removed from home a court order shall be obtained. (Sections 1022 and 1024, Family Court Act)

A. Emergency Removal Without Court Order

A child protective worker may take a child into protective custody without a court order and without consent of the parent or other person legally responsible for the child's care, regardless of whether the parent or other person legally responsible for the child's care is absent, if:

- (i) the child is in such circumstances or condition that his continuing in said place of residence or in the care and custody of the parent or person legally responsible for the child's care presents an imminent danger to the child's life or health; and
- (ii) there is not time enough to apply for an order under section one thousand twenty-two. (Section 1024, Family Court Act)

In such cases, the child protective worker who removes or keeps custody of a child, shall

- (i) bring the child immediately to a place approved for such purpose by the local social services department, unless the person who takes or keeps custody is a physician treating the child and the child is or will be presently admitted to a hospital, and
- (ii) make every reasonable effort to inform the parent or other person legally responsible for the child's care of the facility to which he has brought the child, and
- (iii) give, coincident with removal, written notice to the parent or other person legally responsible for the child's care of the right to apply to the family court for the return of the child pursuant to section one thousand twenty-eight of this act. Such notice shall be personally served upon the parent or other person at the residence of the child provided, that if such person is not present at the child's residence at the time of removal, a copy of the notice shall be affixed to the door of such residence and a copy shall be mailed to such person at his or her last known place of residence within twenty-four hours after the removal of the child. If the place of removal is not the

child's residence, a copy of the notice shall be personally served upon the parent or person legally responsible for the child's care forthwith, or affixed to the door of the child's residence and mailed to the parent or other person legally responsible for the child's care at his or her last known place of residence within twenty-four hours after the removal. The form of the notice shall be prescribed by the chief administrator of the courts.

- (iv) inform the court and make a report pursuant to title six of the social services law, as soon as possible.
(Section 1024(b) of the Family Court Act)

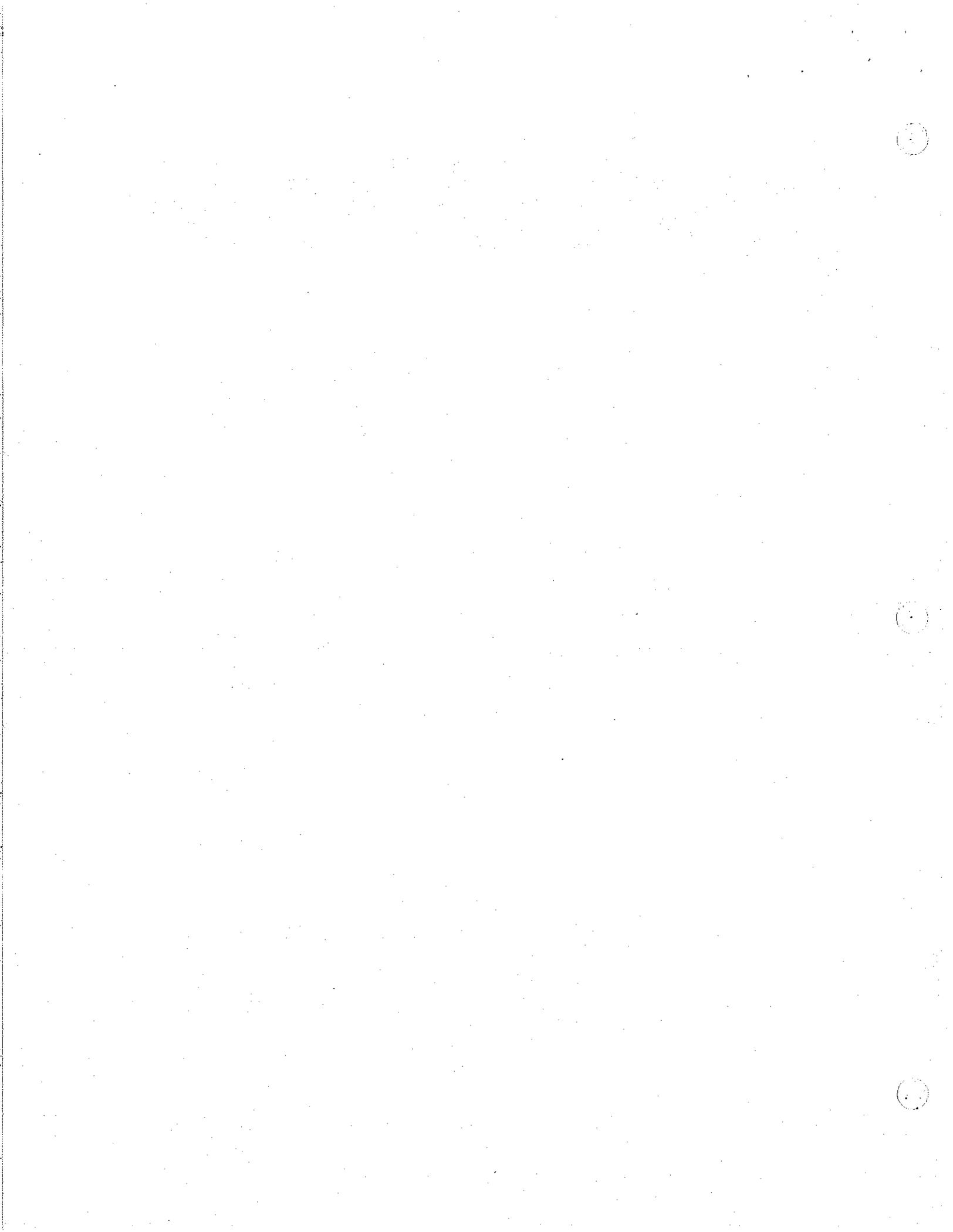
The Family Court Act further provides that any person acting in good faith in the removal or keeping of a child pursuant to Section 1024 shall have immunity from civil or criminal liability which otherwise might be incurred or imposed as a result of such removal or keeping. (Section 1024(c) of the Family Court Act)

B. Imminent Danger

Conditions evidencing imminent danger to the child's life and health would include, but not be limited to, the following:

- the child has suffered serious physical or emotional injury, for example, sexual abuse, and the parent or caretaker refuses or is unable to protect the child.
- the child is in a dangerous environment and there is a substantial likelihood that the child will be harmed and the parent or caretaker refuses or is unable to protect the child.
- the child does not have minimum necessities such as food, clothing, shelter, medical care and the parent or caretaker refuses or is unable to supply them although financially able or offered financial or other reasonable means to do so.
- the child does not receive the minimum degree of supervision for his age and the parent refuses or is unable to care for the child.
- parent or caretaker states that s/he will seriously harm or kill the child or the child(ren) indicates s/he will harm or kill himself or herself.

The determination of imminent danger must be made on a case-by-case basis, taking into consideration: the child's age, type of environment condition of the child, behavior and condition of the parent or caretaker, history of the family if known, ability and willingness of the parent or caretaker to accept services, and the accessibility and availability of services to alleviate the imminent danger of harm.

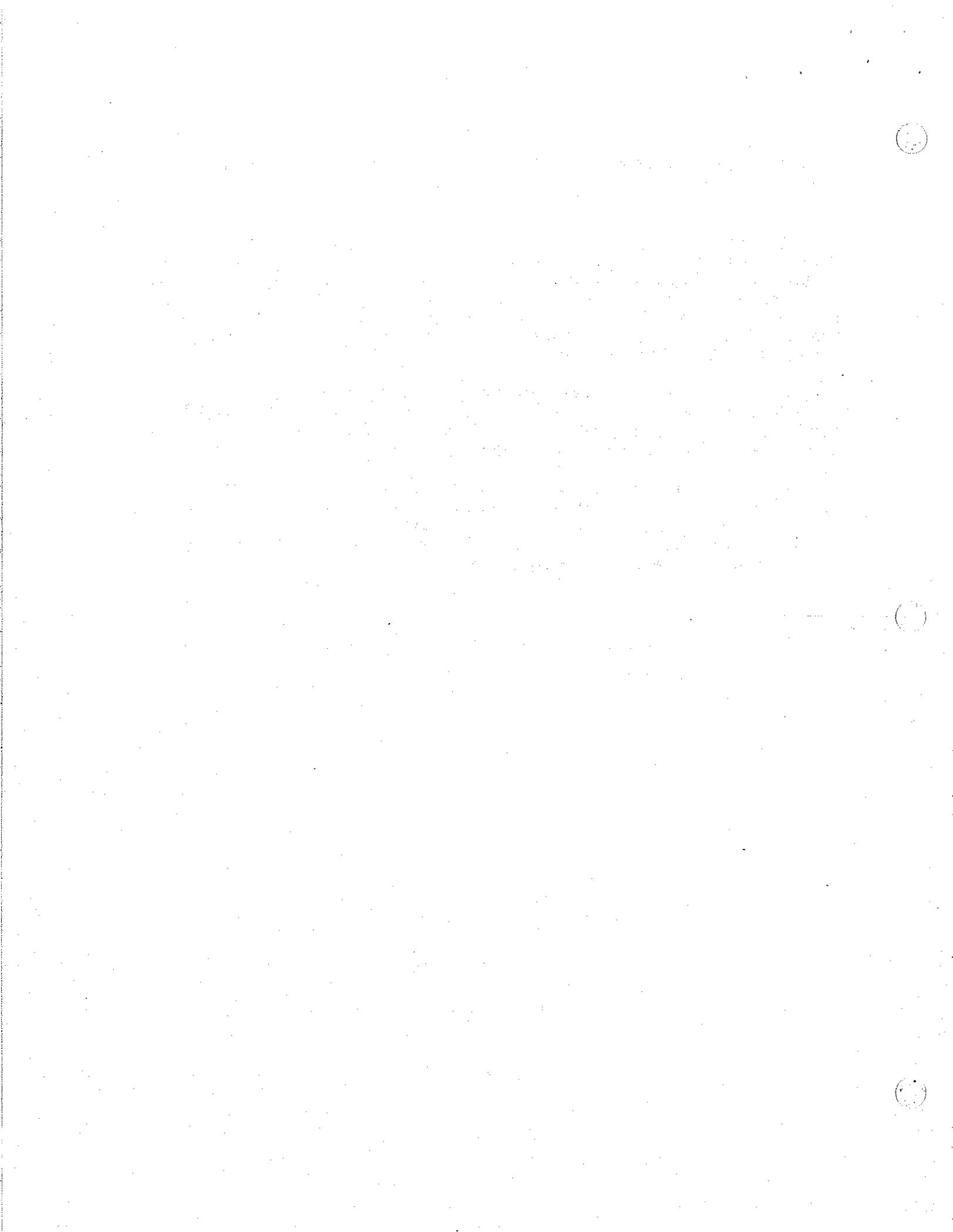


VIII. ALLEGATIONS RELATED TO CHILD ABUSE AND MALTREATMENT

The following definitions are descriptive and not all-inclusive. The determination of child abuse and maltreatment is on a case-by-case basis. The "immediate considerations" which follow each definition statement are listed to structure the collection of facts and the organization of information in the initial investigation, immediately following the receipt of the report. These considerations are not a substitute for full and detailed fact-gathering and assessment of the child(ren) and family.

For each situation the caseworker must carefully obtain current facts and related history, and compare these facts with the statutory definitions contained in Section 412 of the Social Services Law and Section 1012 of the Family Court Act to see whether child abuse or maltreatment has occurred.

Such facts as the age of the child, the type, severity, frequency of harm or danger of harm, and the acts or omissions of the parent or person legally responsible for the child's care must be thoroughly assessed in every case. All children in the family setting must be evaluated not just the child who is the subject of the report of abuse or maltreatment.



FRACTURES

A fracture is a break in a bone. Common types are: chip fractures, a small piece of bone is flaked from the major part of the bone; comminuted fracture, the bone is crushed or broken into a number of pieces; compound fractures, fragments of bones protrude through skin; simple fracture, bone breaks without wounding surrounding tissue; spiral fracture, the line of the fracture is twisted encircling the bone; and torus fracture, a folding, bulging, buckling fracture.* Medical examination is necessary to determine the nature and extent of the injury. In cases of fractures, diagnosis depends on the results of X-rays. It is essential that adequate X-ray films be obtained and interpreted by a qualified physician.

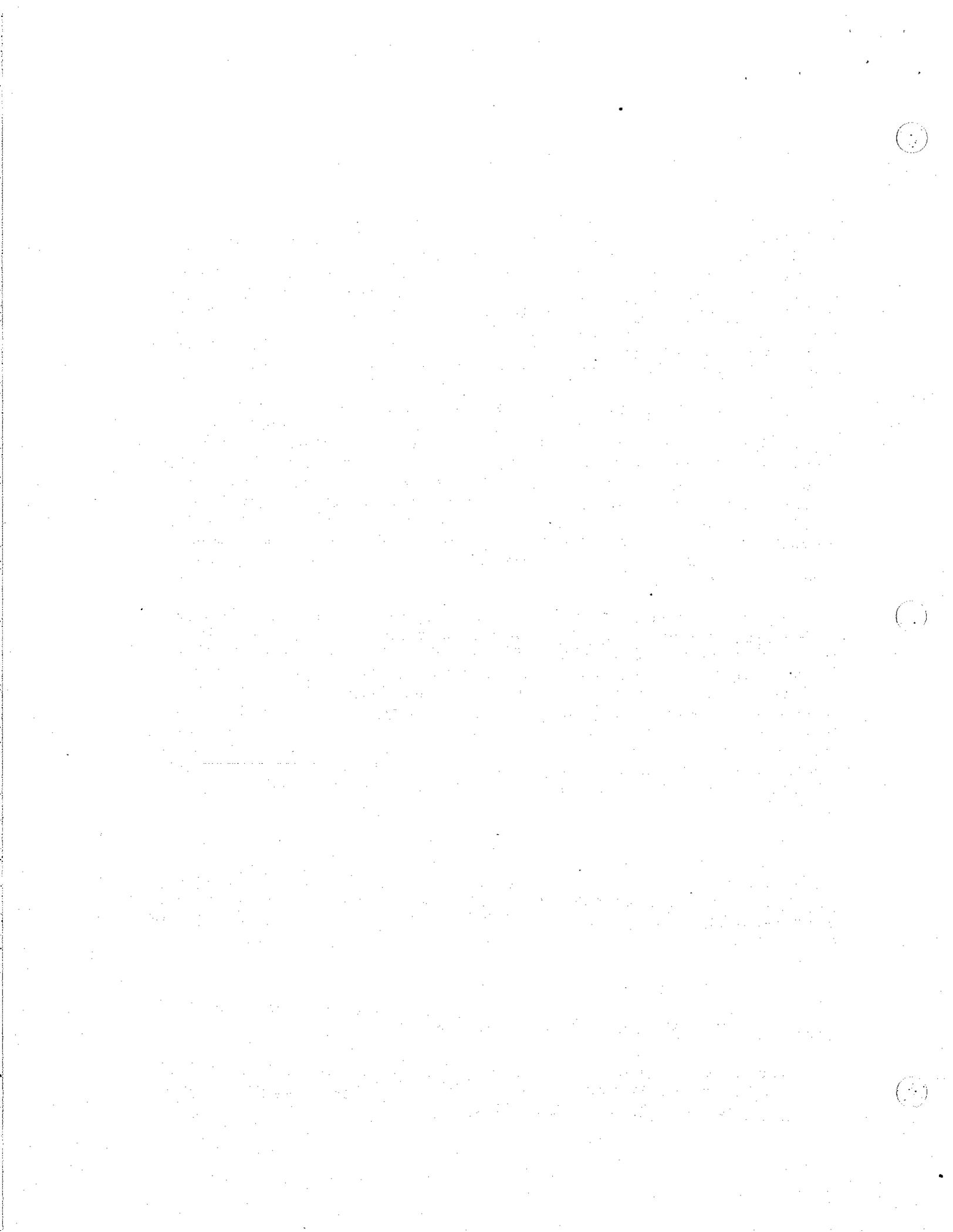
Qualified interpretation of the initial x-ray of an epiphyseal fracture, often involving growing bones of the arms or legs, is particularly important. An epiphyseal fracture is an injury to the epiphyses, a part or process of a bone which is separated from the main body of the bone by a layer of cartilage. The epiphyses becomes united with the bone through further growth of bony tissue (callus). Because the fracture has occurred through cartilage, little can be noted from the initial x-ray examination, aside from extensive tissue swelling. By the tenth day following the initial injury, build-up of callus will demonstrate the extent and magnitude of the injury. These injuries can lead to abnormal growth and permanent deformities.

In general the major causes of bone fractures in childhood are falls, injuries while playing or engaging in athletic activities or while moving heavy objects or equipment, or car/bicycle accidents. Frequent sites of fractures are: the clavicle (collar bone); humerus (the long bone in the arm which extends from the shoulder to the elbow); the forearm, the elbow, femur (the thigh bone); and fingers. During periods of rapid growth, children may sustain fractures of long bones from minor twists or sprains. For example, the shinbone is susceptible to spiral fracture in children between the ages of two and five years; however, spiral fractures are unlikely to occur to children who are not yet ambulatory. In the growing child, fractures of the skull, the pelvis, neck, thigh bone, and spine occur from major trauma.**

Bone fractures which are unexplained, multiple or in various stages of healing or where the reason given for the fracture is inconsistent with the nature of the injury may be indicators of child abuse or maltreatment. Nelson's Textbook of Pediatrics (Tenth Edition) recommends a radiologic survey for trauma consisting of examination of the long bones, skull, ribs and pelvis for all cases of suspected physical abuse.

* Interdisciplinary Glossary on Child Abuse and Neglect (US Government Printing Office DHEW Publication No. (OHDS) 78-30137) page 34.

** This paragraph summarizes major issues discussed by John C. Wilson, M.D. in "Fractures and Dislocations in Childhood" Pediatric Clinics of North America (Vol., 14, No. 3, August 1976).



IMMEDIATE CONSIDERATIONS

- Were adequate X-ray films obtained and what were the findings?
- Was a detailed physical examination performed and what were the findings? If child abuse or maltreatment is suspected, were color photos of visible trauma taken?
- Was a discussion held with medical professionals concerning the child's condition and their opinion as to the nature and cause of the fracture? What were the results? Identify professionals by name and address.
- Were the child and family interviewed concerning the history and explanation of the fracture, and is the explanation consistent with the type and location of the fracture and the child's age and condition? Good note taking is essential. Use direct quotes.
- What was the extent of parental control over the child at the time of the injury and during the events leading to the injury?



INTERNAL INJURIES

There are four major categories of internal injuries. Medical examination is necessary to determine the nature and extent of these injuries.

1. Injuries to the Face

The eyes are particularly sensitive organs and blunt trauma to the eye can cause hemorrhages, dislocate the lens or detach the retina. A direct blow to the nose may cause bleeding, swelling or deviation of the bone. Blows to the mouth may result in swelling, loose or missing teeth. Abuse-related injuries to the ear include twisting injuries of the lobe and bruises, ruptures or hemorrhaging.

2. Injuries to the Head and Nervous System

Injuries to the head are especially serious because they may injure the brain. Head injuries may result from sharp blows or severe shaking especially of infants.

Trauma to the spinal cord may cause damage to motor nerves and lead to paralysis of muscles. Other signs of head or nerve injury are loss of consciousness, seizures, or increased drowsiness; however, it must be remembered that an unconscious child may be suffering from the effects of medication or poison.

Injuries to the head may also be caused by hair pulling. Bald patches on the head interspersed with normal hair may be evidence of such injury; however, medical examination is necessary to examine the extent of the injury and rule out other causes.

3. Subdural Hematomas

A subdural hematoma is an accumulation of blood in the space between the outermost covering of the brain and covering of the brain. In many cases there is no associated skull fracture or bruising or swelling on the site of the injury. In the acute form, there is direct injury to the brain. In the chronic form, there is a gradual accumulation of blood resulting in headaches, progressive stupor, muscular weakness affecting one side of the body, and other symptoms which may appear weeks after the injury. This injury can be caused by a sharp blow to the head or the severe shaking of an infant (see - CHOKING, TWISTING, SHAKING - page 23). With infants, the only sign of injury may be coma or seizure.

INTERNAL INJURIES (Cont'd.)

4. Abdominal Injuries

Signs of abdominal injury include recurrent vomiting, swelling and tenderness. A blow or other trauma may also injure other organs such as the liver and kidney.

Forceful blows to the abdomen may also cause bruises and ruptures resulting in hemorrhage, shock or death.

IMMEDIATE CONSIDERATIONS

- Was a detailed physical examination performed and what were the findings?
- If child abuse or maltreatment is suspected, were color photos of visible trauma taken?
- Was a discussion held with medical professionals concerning the child's condition and their opinion as to the nature and cause of the injury? What were the results? Identify professionals by name and address.
- Were the child and family interviewed concerning the history and explanation of the injury, and is it consistent with the type and location of the injury and the child's age and condition? Good note taking is essential, use direct quotes.
- What was the extent of parental control over the child at the time of the injury and during events leading to the injury?

LACERATIONS/BRUISES/WELTS

Lacerations are jagged cuts or tears in the skin. The presence of multiple skin injuries in various stages of healing may be indicators of child abuse or maltreatment. Medical examination is needed to determine the nature and extent of these injuries. Skin injuries, such as scars or other disfigurements often resemble the shape of the instrument used: strap marks, belt buckles, looped cords, choke marks on the neck, bruises from gags, rope burns or blisters especially around the wrists or ankles.

Welts are raised ridges on the skin, often seen in the lower back area and are usually left by a slash or blow. Skin injuries of this nature may also be due to scraping or rubbing.

Human bite marks are distinctive crescent shaped lines of tooth imprints. A child's bite can be distinguished from an adult's by the larger size of the arch of the crescent. Human bites compress flesh causing bruises; animal bites normally tear the flesh.

Bruises are caused by bleeding beneath the skin without tearing it. They may often be finger tip in size and distribution. Old and multiple new bruises, and/or bruises on the face/back of legs are suspicious. Bleeding disorders might be the reason for the child's bruises. This is not common, but needs to be ruled out by medical tests. The caseworker must be constantly mindful that some bruises are a normal occurrence in growing children and care must be taken to assess the situation fully. Medical examination is needed to determine the nature and extent of these injuries.

The following chart approximates the age of the bruise as suggested by the color of the skin:

<u>AGE (days)</u>	<u>COLOR*</u>
0-2	Swollen, tender
0-5	blue/red
5-7	green
7-10	yellow
10-14	brown
14-28	clear

*These colors vary with the skin pigmentation of the child.

IMMEDIATE CONSIDERATIONS

- Has a complete and detailed physical examination been performed?
What were the results?
- Has the physician recorded a precise description of the injury including age of the injury, location on the body, color, and whether other injuries were evident?

LACERATIONS/BRUISES/WELTS (Cont'd.)

- If child abuse or maltreatment is suspected, have color photographs been taken?
- Was a discussion held with medical professionals concerning the child's condition and their opinion as to the nature and cause of the injury? Identify professionals by name and address.
- Were the child and the family interviewed concerning the history and explanation of the injury, and is it consistent with the type and location of the injury and the child's age and condition? Good note taking is essential. Use direct quotes.
- What was the extent of parental control at the time of the injury and during events leading to the injury?

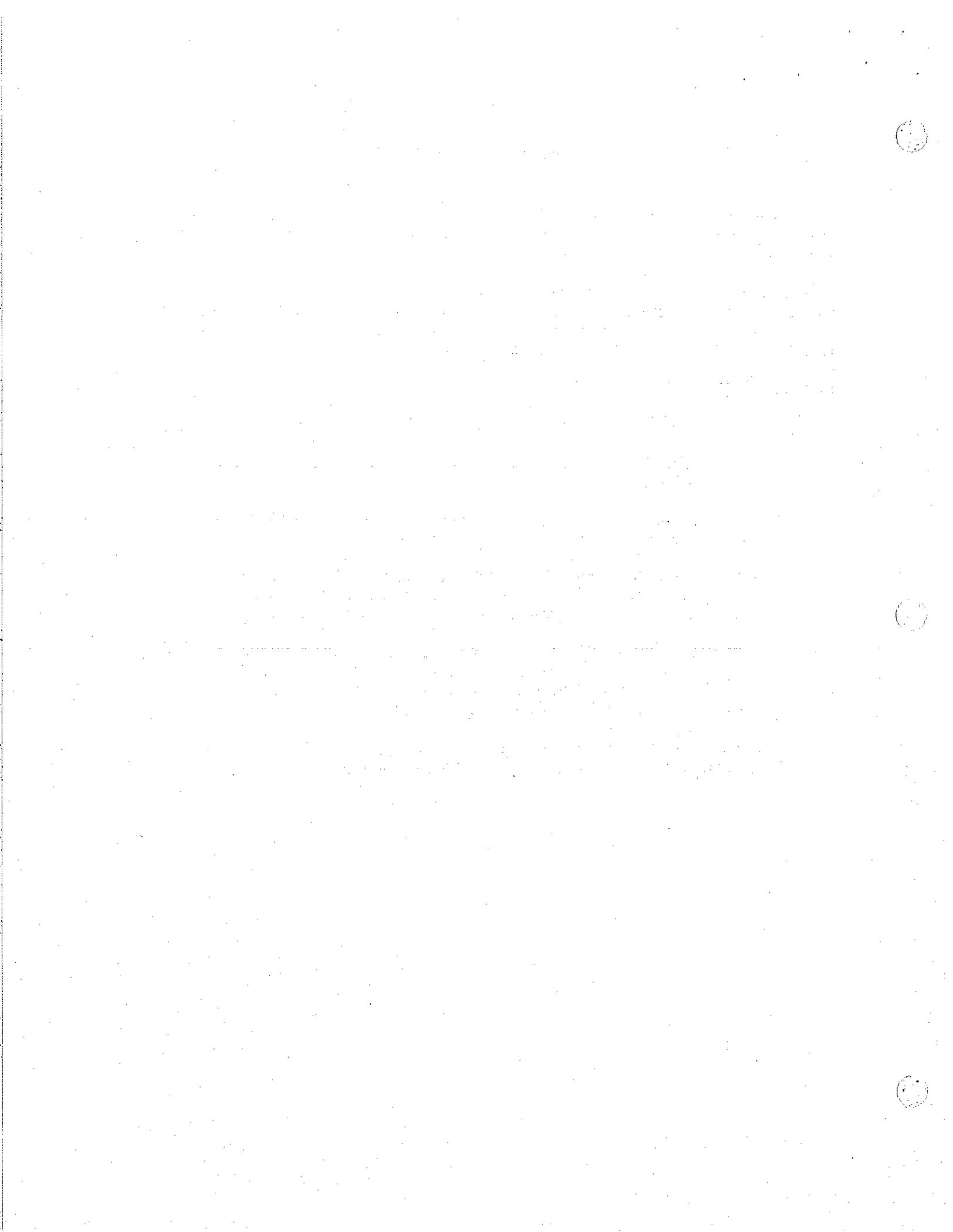
SWELLING/DISLOCATIONS/SPRAINS

Swelling at points where two bones join, tenderness at the ankles, wrists or other joints are signs of skeletal injuries without fracture. A child's ability to walk is limited by such injuries to the legs.

If a child's leg or arms are pulled or jerked or twisted suddenly or forcibly, a bone can be put out of position (dislocation), or the ankles and wrists or other parts of the body at a joint can be sprained. Medical examination is necessary to determine the nature and extent of these injuries.

IMMEDIATE CONSIDERATIONS

- Were adequate X-ray films obtained? What were the results?
- Was a detailed physical examination performed and what were the findings?
- If child abuse or maltreatment is suspected, were color photos of visible trauma taken?
- Was a discussion held with medical professionals concerning the child's condition and their opinion as to the nature and cause of the injury? Identify professionals by name and address.
- Was the child and family interviewed concerning the history and explanation of the injury, and is it consistent with the type and location of the injury and the child's age and condition? Good note taking is essential. Use direct quotes.
- What was the extent of parental control over the child at the time of the injury and during events leading to the injury?



CHOKING/TWISTING/SHAKING

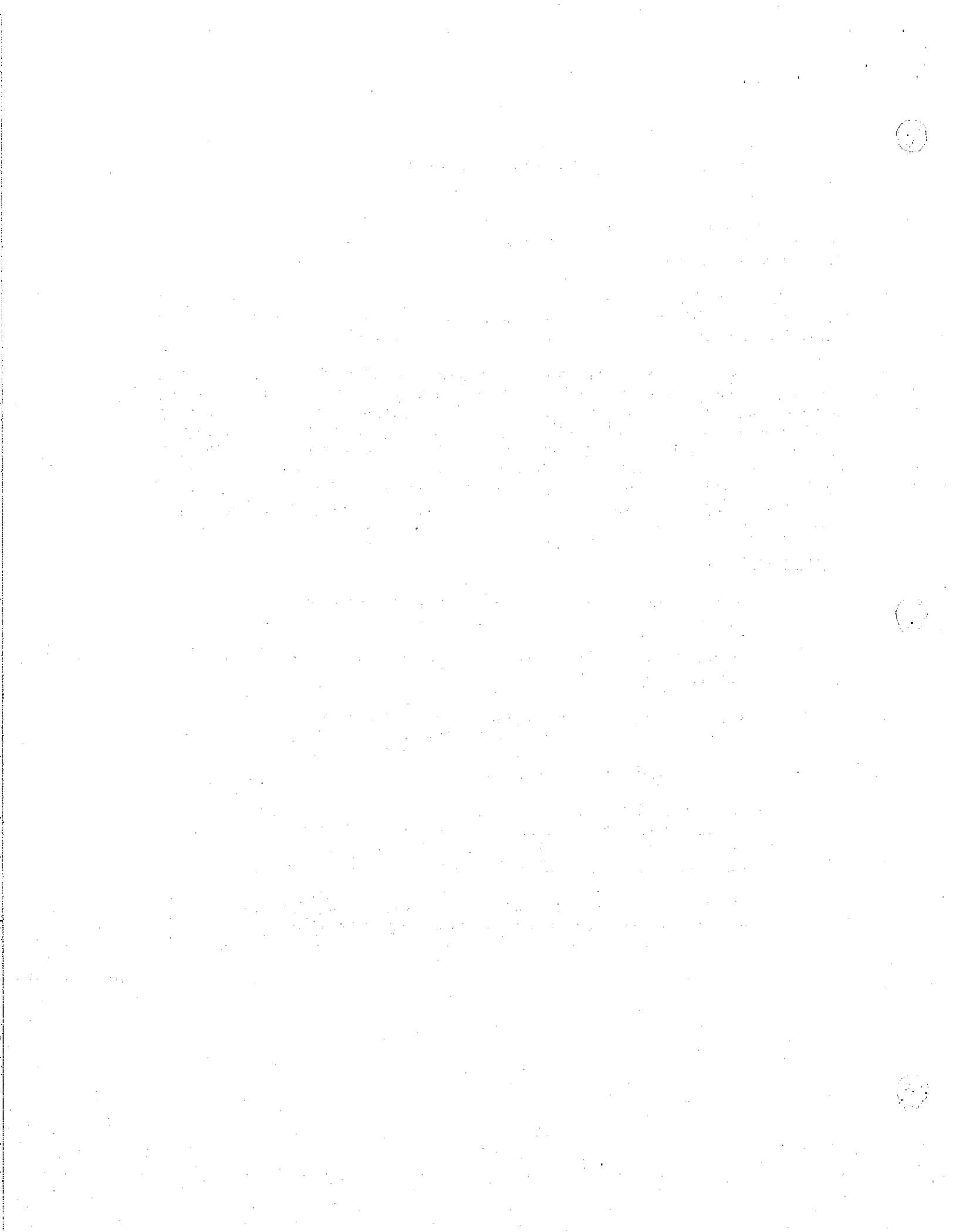
Twisting and shaking children can produce serious injuries. Twisting injuries to the ear can cause injuries to the earlobe; in cases of sexual abuse, genitals may be injured by twisting.

Repeated or forcible twisting of a child's arms or legs can result in a spiral bone fracture. Violent shaking can cause injury to the brain or spinal column; repeated blows and shaking can cause hemorrhages and swelling.

Choking occurs by compression of the child's windpipe which stops breathing. Hands or cords or long scarfs placed on the neck can cause such compression if pressure is applied. Suffocation can result when a foreign body or object such as food (peanuts, chicken bones), coins, safety pins, plastic bags, or balloons become lodged in the windpipe. Infants between 6 to 12 months are particularly likely to place things in their mouths; any child under six years of age should receive close supervision when near foreign objects which could be swallowed (see LACK OF SUPERVISION, p. 44). Medical examination is necessary to determine the nature and extent of these injuries.

IMMEDIATE CONSIDERATION

- Was a detailed physical examination performed and what were the findings?
- If child abuse or maltreatment is suspected, were color photos of visible trauma taken?
- Was a discussion held with medical professionals concerning the child's condition and their opinion as to the nature and cause of the injury? What were the results? Identify professionals by name and address.
- Was the child and family interviewed concerning the history and explanation of the injury, and is it consistent with the type and location of the injury and the child's age and condition? Good note taking is essential. Use direct quotes.
- What was the extent of parental control over the child at the time of the injury and during events leading to the injury?



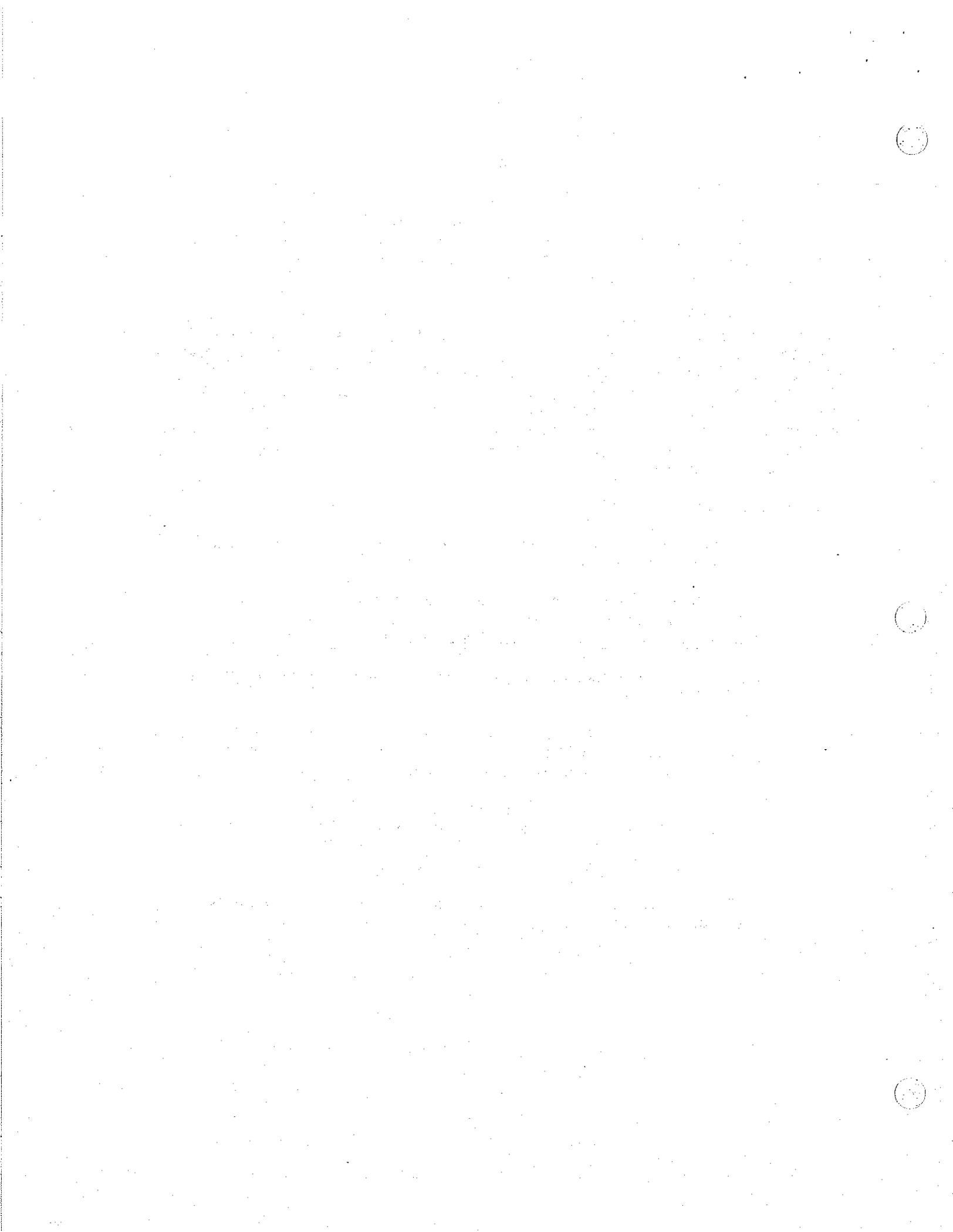
BURNS/SCALDINGS

Damage to skin tissue is caused by direct contact with heat, hot liquid, chemicals, vapor, or fire. Burns of the first degree show redness; in the second degree, blistering; and in the third degree, destruction of the skin tissue. These signs vary with the skin color of the child.

Rope burns often occur on the ankles, wrist or neck. In suspected cases of abuse or maltreatment, cigarette burns most often appear on the hands, feet and buttocks. Care must be used in distinguishing cigarette burns from impetigo, a contagious skin disease marked by small elevations of the skin containing pus. Scaldings may result from an act or an omission of a parent such as failure to supervise the child. Scaldings may also be inflicted as punishment, such as immersion in hot water. Medical examination is necessary to determine the nature and extent of the injury. Color photographs should be taken in suspected cases of child abuse and maltreatment.

IMMEDIATE CONSIDERATIONS

- Has a complete and detailed physical examination been performed?
What were the results?
- Has the physician recorded a precise description of damage to the skin tissue including age of the injury, location, degree of damage, color and whether any other injuries were apparent?
- If child abuse or maltreatment is suspected, have color photographs of the visible trauma been taken?
- Was a discussion held with medical professionals concerning the child's condition and their opinion as to the nature and cause of the injury? Identify professionals by name and address.
- Were the child and family interviewed concerning the history and explanation of the injury, and is it consistent with the type and location of the injury and the child's age and condition?
Good note taking is essential. Use direct quotes.
- What was the extent of parental control at the time of the injury and during events leading to the injury?



POISONING/NOXIOUS SUBSTANCES

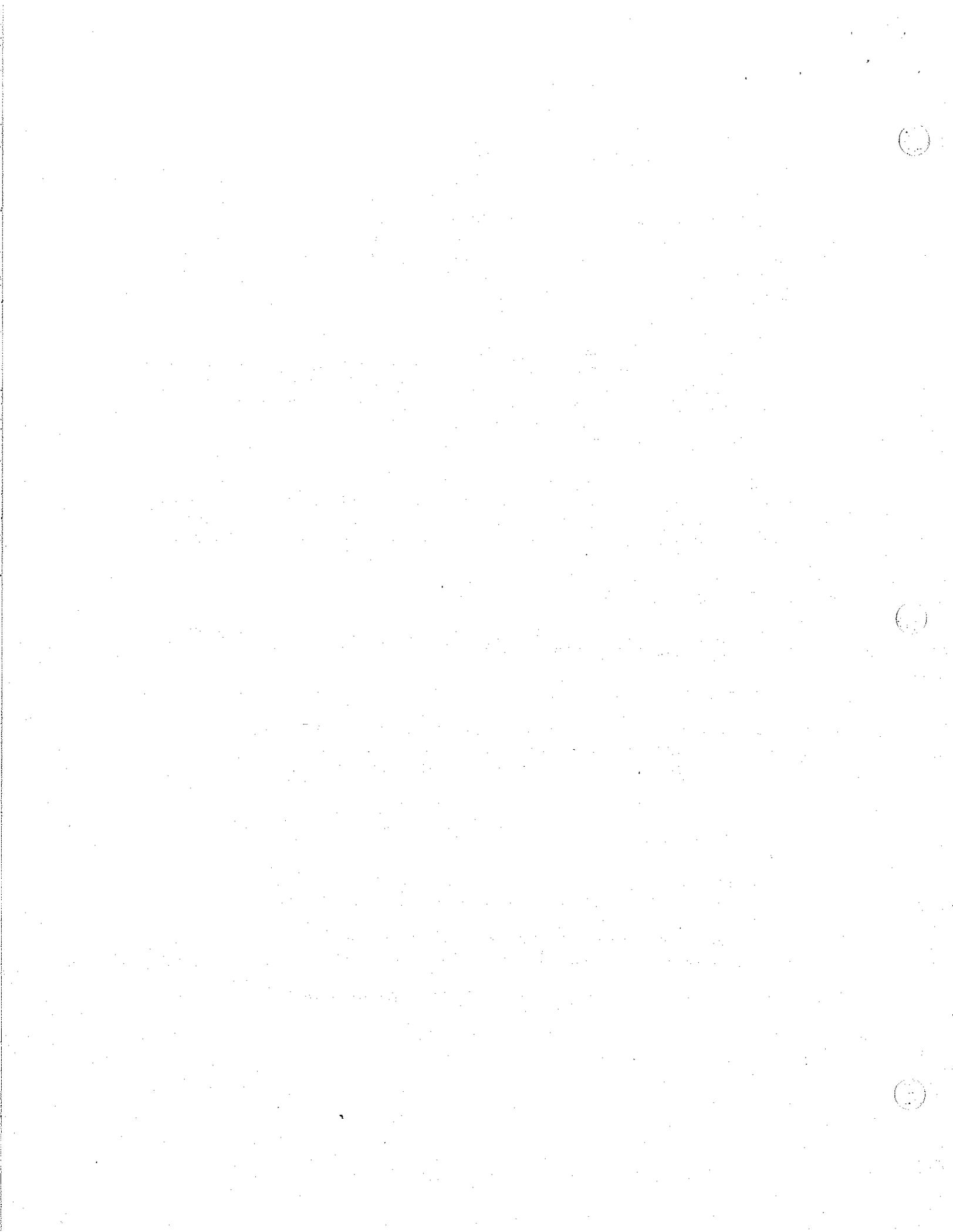
Prescribed medication, non-prescribed medication, household cleaning products, oils, paint thinners, fuels, fertilizers, and some house plants are among the materials which can cause serious harm if ingested by a child. The total circumstances must be considered, but certain components are key in evaluating whether child abuse or maltreatment is present:

- Age of the child;
- Location of the noxious substance;
- Way in which the substance is stored and labelled; (for example, is it placed in a locked cabinet or out of reach of the child).
- Other steps the parent takes to guard against access by a child;
- Actions taken to seek care for the child;
- Previous incidents and pattern of care.

Certain poisonings or the ingestion of other harmful substances by a child may be due to acts of a parent or other person legally responsible, or caused by omissions in supervising the child. If the child is an infant, intentional poisoning should be considered. Medical examination is necessary to determine the nature and extent of the injury.

IMMEDIATE CONSIDERATIONS

- Has a complete and detailed physical examination been performed? What were the results?
- What is the age and capacity of the child?
- Was a discussion held with medical professionals concerning their opinion as to the nature and cause of the child's condition? Identify professionals by name and address.
- Were the child and family interviewed concerning the history and explanation of the incident? Good note taking is essential. Use direct quotes.
- What was the extent of parental control of the child at the time of incident and during events leading to the incident?
- Did the parent perceive danger to the child and take steps to prevent harm to the child? What steps were taken?
- What actions were taken by the parent after the incident?



EXCESSIVE CORPORAL PUNISHMENT*

Excessive corporal punishment constitutes child neglect. Corporal punishment is excessive if it goes beyond what is objectively reasonable. In assessing what is reasonable, the following are critical to consider:

- The child's age, sex, physical and mental condition, and capacity to understand correction;
- The nature of the punishment;
- The seriousness of injury to the child or risk of serious injury;
- The means of punishment used -- is it appropriate to correct the child's behavior -- are less severe alternatives available;
- The purpose of the punishment;
- The child's behavior which requires correction;
- The character of the punishment, is it degrading or brutal;
- Duration of punishment, whether it is protracted beyond the child's endurance.

The Family Court has held that the standard of reasonableness as defined above applies for all situations regardless of cultural or ethnic background. In the Matter of Rodney C., 91 Misc. 2d 677, 398 N.Y.S. 2d 511 (Fam. Ct., Onondaga Co., 1977)

IMMEDIATE CONSIDERATIONS

- Has a complete and detailed physical examination been performed? What were the results?
- Are there any visible signs of injury to the child's body? Has the physician recorded a precise description of the injury, including age of the injury, location on the body, color, other injuries which have healed, and diagnosis? If child abuse or maltreatment is suspected have color photographs been taken?

*The use of reasonable corporal punishment by a parent or other person legally responsible is permissible pursuant to Section 35.10, Penal Law; however, corporal punishment of children in care of authorized agencies is prohibited by New York State Department of Social Services regulation (18 NYCRR 441.9).

EXCESSIVE CORPORAL PUNISHMENT (Cont'd.)

- What is the child's capacity to understand correction?
- Were the child and family interviewed concerning the history, purpose and reason for punishment? Use direct quotes.
- What was the character and means of punishment and how long did it last?

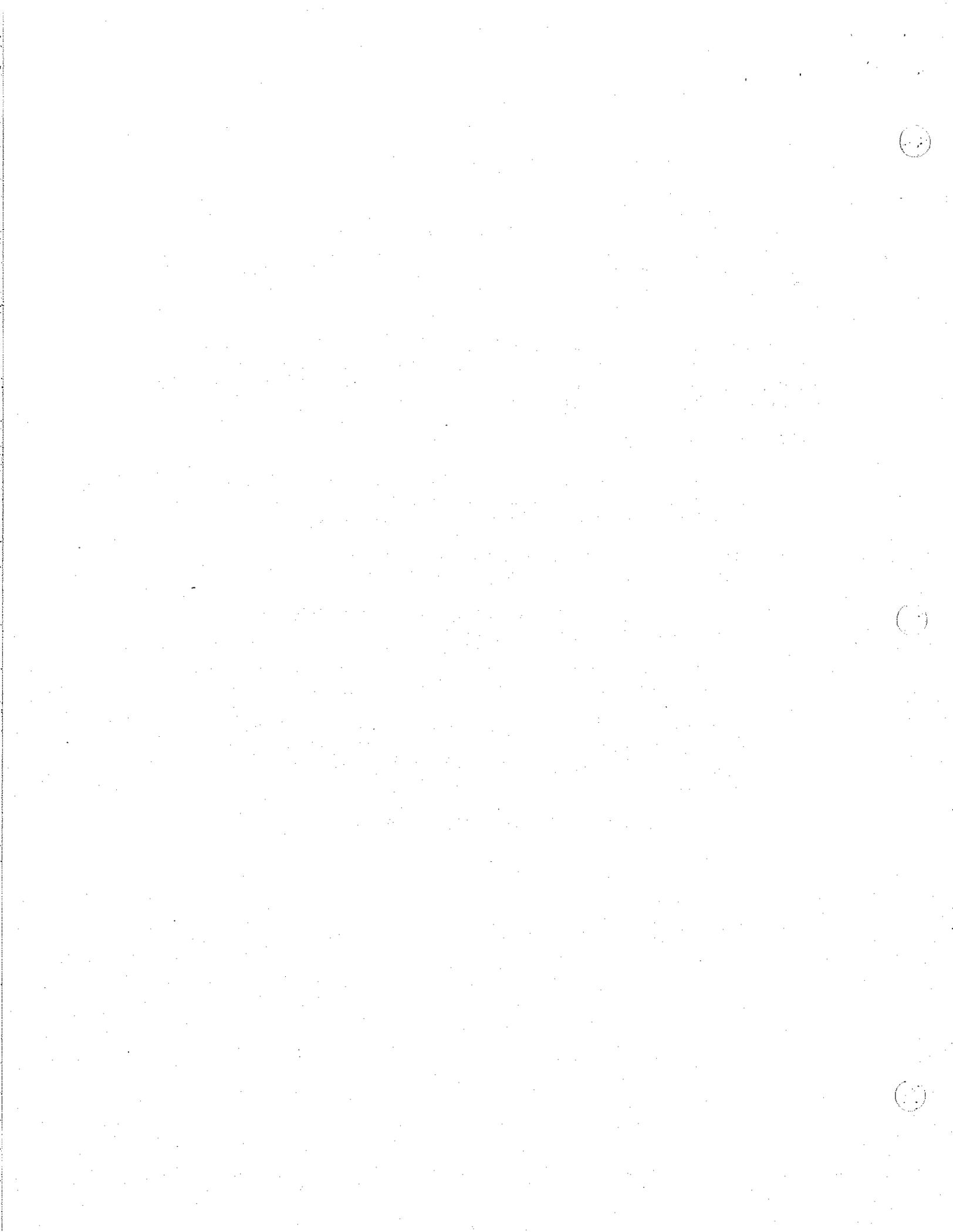
NEWBORN DRUG/ALCOHOL WITHDRAWAL

During pregnancy, the use of drugs or alcohol -- legal or illegal -- affects the fetus and may impair the infant's growth and development. In severe cases, infants exhibit drug withdrawal symptoms, for example tremors, after birth. The infant's neurological, gastro-intestinal and respiratory systems may be damaged due to drug or alcohol use during pregnancy, and this may not be evident immediately after birth.

The key issue to consider is whether the infant's physical, mental or emotional condition has been impaired or is in danger of becoming impaired as a result of the failure of his parent or other person legally responsible to exercise a minimum degree of care in the use of drugs or alcohol.

IMMEDIATE CONSIDERATIONS

- What is the infant's condition, and what has been the nature and effect of the drug or alcohol on the infant in the opinion of medical professionals? Give names and addresses.
- What is the parent's explanation for the newborn's condition? Good note taking is essential. Use direct quotes.
- What are the results of medical examination concerning the type of drug or alcohol use for both parent and infant?
- What is the parent's capacity to exercise a minimum degree of care to meet the infant's physical and emotional needs?
- Have medical professionals to a reasonable medical certainty causally linked the infant's condition to the parent's failure to exercise a minimum degree of care in the use of drugs or alcohol?
- Are the results of the toxicology report available?



CHILD'S DRUG/ALCOHOL USE

The use of drugs or alcohol can cause serious harm to a child's mental and physical development, or place the child in imminent danger of harm.

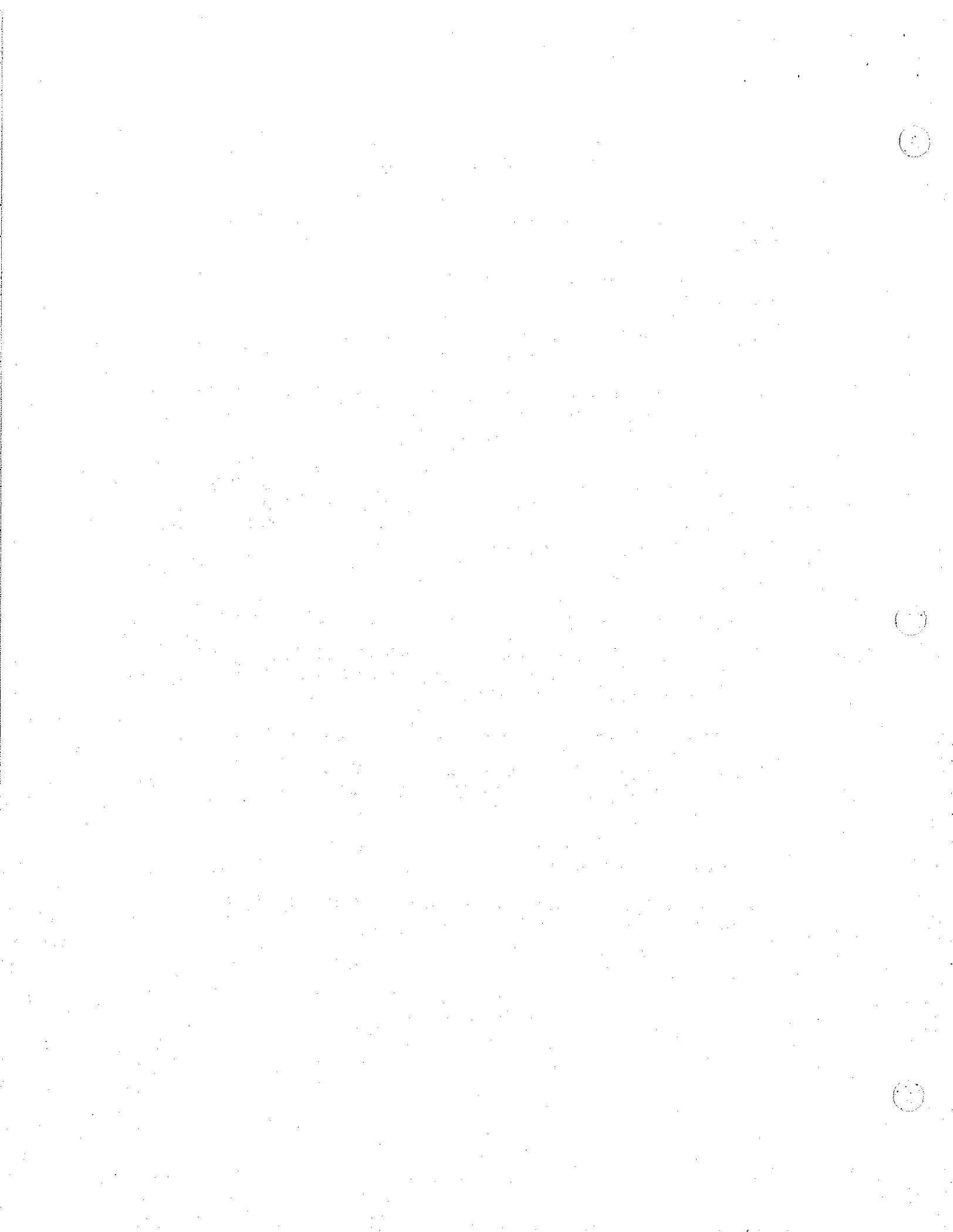
To be considered child abuse or maltreatment, a child's use of drugs or alcohol needs to be a result of:

- A quantity sufficient to cause harm or imminent danger of harm to the child's physical development, or mental health and
- Parental failure to exercise a minimum degree of care in preventing the child's use of this quantity of drugs or alcohol.
(See LACK OF SUPERVISION - page 44).

Parental actions in the wrongful administration of legally prescribed drugs or failure to administer prescribed drugs to the child which create or allow to be created a substantial risk of physical injury or impaired condition or imminent danger of impaired condition may also indicate abuse or maltreatment. (See INADEQUATE GUARDIANSHIP - page 43)

IMMEDIATE CONSIDERATIONS:

- What is the age and physical and mental condition of the child?
- What is the type, quantity, and quality of drug or alcohol involved? How long has this behavior been continuing? Have the parents been aware of these activities?
- What was the effect of the drug/alcohol use on the child?
- What was the extent of parental control over the child at the time of the incident and during events leading to the incident?
- What is the parent's explanation? Good note taking is essential. Use direct quotes.
- Did parental actions meet the minimum degree of care needed by the child?

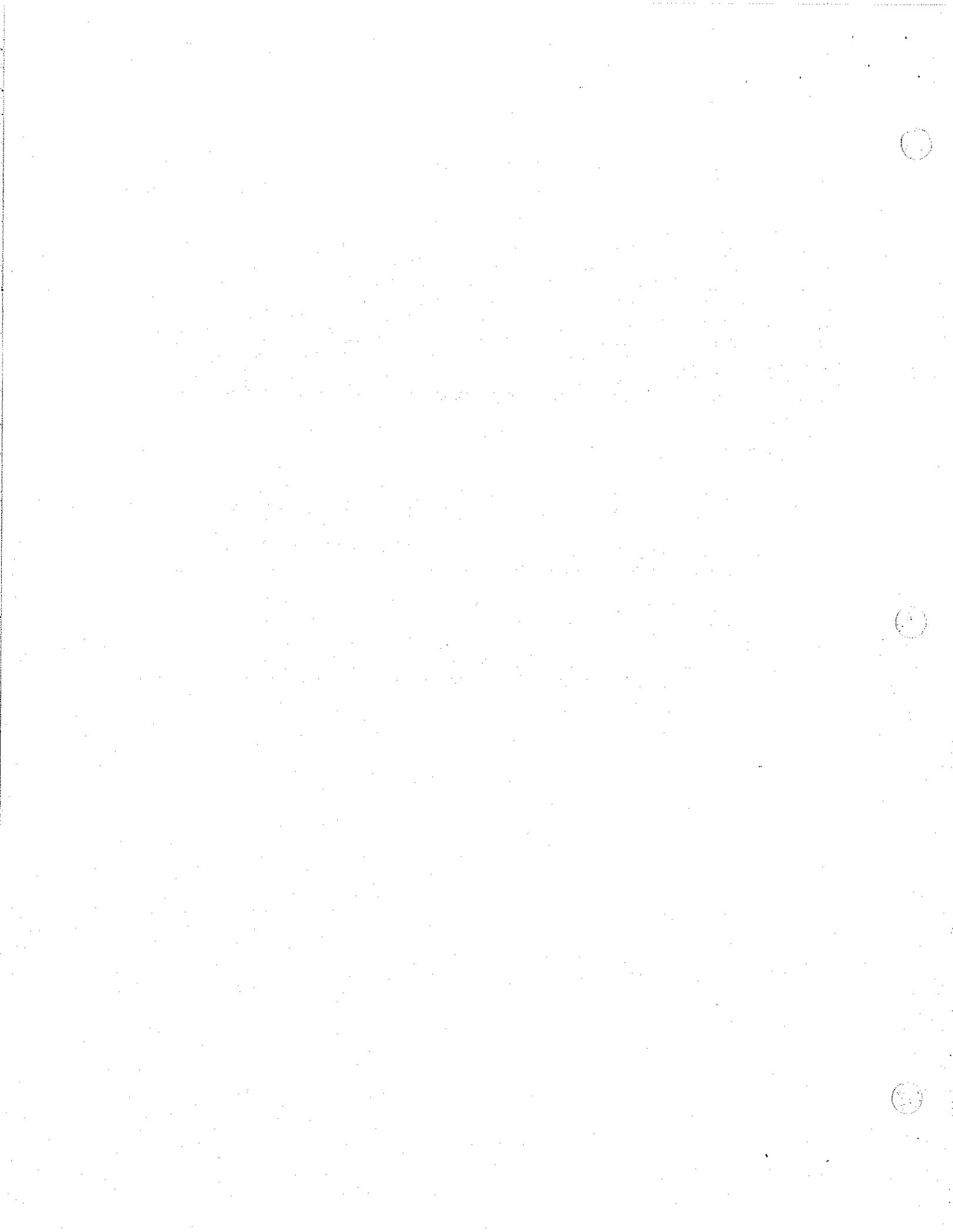


PARENT'S DRUG/ALCOHOL USE

The use of drugs or alcohol -- legal or illegal -- by a parent or other person legally responsible for the care of a child can result in harm or imminent danger of harm to a child's physical, mental or emotional condition. The key issue to determine is whether the parent has misused a drug or drugs or alcoholic beverage to the extent that self-control of actions is lost and he/she is unable to care for the child, has harmed the child, or is substantially likely to harm the child. The fact that the parent or caretaker is voluntarily and regularly participating in a rehabilitative program is irrelevant in assessment of whether child abuse or maltreatment has occurred if the child's physical, mental or emotional condition has been impaired or is in imminent danger of impairment due to the parent's acts or omissions.

IMMEDIATE CONSIDERATIONS

- What is the child's physical, mental, or emotional condition?
Has the child been harmed or is he in imminent danger of harm?
- What is the parent's explanation for these conditions? Good note taking is essential. Use direct quotes.
- What are the results of medical examination concerning the parent's drug or alcohol use?
- What is the parent's capacity to exercise a minimum degree of care to meet the child's physical, mental and emotional needs?



MEDICAL NEGLECT

A parent or other person legally responsible for the child must supply adequate medical, dental, optometrical or surgical care if financially able to do so or offered financial or other reasonable means to do so.

This can include:

- Seeking adequate treatment for conditions which impair or threaten to impair the child's mental, emotional or physical condition;
- Following prescribed treatment for remedial care including psychiatric and psychological services;
- Obtaining preventive care such as post-natal check-ups, and immunizations for polio, mumps, measles, diphtheria and rubella.

The parent's failure to seek or follow adequate treatment or desire to select an unconventional form of treatment must be considered in light of:

- The seriousness of the child's condition and risk of further harm to the child;
- The parent's awareness of the child's condition and risk of further harm to the child;
- Whether the parent has sought accredited medical opinion;
- The consensus of responsible medical authority regarding treatment;
- Whether the parent's failure to seek adequate treatment or select an unconventional form of treatment impairs the child physically or emotionally;
- Whether the parent fails to seek adequate treatment despite financial or other reasonable means to do so.

Article 10 of the Family Court Act authorizes intervention not only in life and death emergencies, but also in situations where a child is denied adequate medical, dental, optometrical, or surgical care due to the parent's or person legally responsible's failure to provide "an acceptable course of medical treatment for their child in light of all the surrounding circumstances... The Court's inquiry should be whether the parents, once having sought accredited medical assistance, and having been made aware of the seriousness of their child's affliction, and the possibility of cure if a certain mode of treatment is undertaken, have provided for their child a treatment which is recommended by their physician, and which has not been totally rejected by all responsible medical authority." In the Matter of Hofbauer, 47 N.Y. 2d 648, 393 N.E. 2d 1009, 419 N.Y.S. 2d 936 (1979)

MEDICAL NEGLECT (Cont'd.)

The same test applies in cases in which a parent objects to medical treatment based on religious belief. The focus must be whether the parents have provided an acceptable course of medical treatment for their child in light of all the surrounding circumstances. A child who has been harmed or who is in imminent danger of harm, as a result of a parent's failure to supply adequate medical, dental, optometrical, or surgical care, although financially able to do so or offered reasonable means to do so is a neglected child. In the Matter of Gregory S. et al, 85 Misc. 2d 845, 380 N.Y.S. 2d 620, (Fam. Ct., Kings Co. 1976)

IMMEDIATE CONSIDERATIONS

- In the opinion of accredited medical professionals, what is the nature and extent of the child's condition?
- Did the parent seek accredited medical assistance for the child?
- What do responsible medical authorities prescribe as the recommended form of treatment? Identify authorities by name and address.
- What is the parent's explanation for his course of action? Have inadequate finances blocked parental ability to obtain treatment? Good note taking is essential. Use direct quotes.
- Has the child's condition been impaired by parental actions or failures to act?

EDUCATIONAL NEGLECT

Each minor from six to sixteen years of age shall attend full-time day instruction. Exceptions include: a minor who has completed a four-year high school course of study; a minor for whom application for full-time employment certificate has been made and who is eligible therefor may, though unemployed, be permitted to attend part-time school not less than twenty hours per week instead of full-time school; and in each city of the state and in union free school districts having a population of more than forty-five hundred inhabitants and employing a superintendent of schools, the board of education shall have power to require minors from sixteen to seventeen years of age who are not employed to attend upon full-time instruction. (Section 3205, Education Law)

A minor may also be exempted from attendance where there are sufficient grounds to prove that his physical or mental condition would endanger the health or safety of himself or that of others. Determination of mental or physical condition shall be based upon actual examination made by a person or persons qualified by appropriate training and experience, in accordance with the regulations of the State Education Department. (Section 3208, Education Law) Regular attendance is required, in accordance with the regulations of the State Education Department. Absences from required attendance shall be permitted only for causes allowed by the general rules and practices of the public schools or as the commissioner establishes. (Section 3210, Education Law)

A minor may attend instruction at a public school or elsewhere; however, the course of study is prescribed by rule and regulation. (Section 3204, Education Law) If home instruction is provided, the burden is on the parent to show that home instruction is substantially equivalent to minors of like age and attainments at public school. "Substantially equivalent" means equal in worth or value, meeting essential and significant elements and correctly covering the subject matter for the required courses. In the Matter of Falk, 110 Misc. 2d 104, 441 N.Y.S. 2d 785 (1981)

To be considered educational neglect, the following must be present:

- Unexcused absence from full-time instruction; or
- The course of study provided to the minor does not comport to requirements of State Education Law; and
- The parent's or caretaker's failure to exercise care in enrolling or facilitating school attendance (not the child's desire to be truant);
- The school notifies the parent or person legally responsible regarding unexcused absences where appropriate.

IMMEDIATE CONSIDERATIONS

- What is the reason for the child's absence from school? Both child and parent should be questioned. Good note taking is essential. Use direct quotes.
- Is this absence permitted by the general rules and practices of the public schools or as the commissioner establishes?
- What steps did the parent or other person legally responsible take to insure the child's attendance?
- Did the school notify the parent or other person legally responsible of the child's absence?
- If the child's place of instruction is at home or elsewhere, is the child receiving substantially equivalent instruction to minors of like age and attainment in public school?

EMOTIONAL NEGLECT

To establish emotional neglect, there must be evidence of substantially diminished psychological or intellectual functioning in the child and this condition is attributable to the parent's conduct.

Three factors are present:

- Parental (caretaker) pattern of behavior has a harmful EFFECT on the child's emotional health and well-being.
- The effect of emotional neglect can be OBSERVED in the child's abnormal performance and behavior.
- There is SUBSTANTIAL IMPAIRMENT to the child's ability to function as a normal human being - to think, to learn, to enter into relationships, -- DUE TO PARENT'S CONDUCT.

The child's emotional health and development may be substantially impaired in relation to, but not limited to, the following:

- Control of aggressive or self-destructive impulses - lack of control results in harm to the child and/or others. This is not an isolated incident, but an established pattern of behavior.
- Ability to think and reason - the child's intellectual or psychological functioning is impaired over a specific period of time.
- Ability to speak and use language appropriately.
- Acting out or misbehavior - incorrigibility, ungovernability, habitual truancy. These behaviors must be exhibited by the child over a significant period of time. They do not include responses to temporary, soon to be resolved, family stresses.
- Other behavior - extreme passive behavior, overly adaptive behavior, extreme social withdrawal, psychosomatic symptoms, severe anxiety.

Assessment of the child's emotional health should be conducted by a qualified professional. The psychological or psychiatric evaluation should specify the level of the child's dysfunction, and, to a reasonable medical certainty, whether the dysfunction is causally linked to the acts or omissions of the parent or other person legally responsible for the child's care.

EMOTIONAL NEGLECT (Cont'd.)

A parent may be incapable of fulfilling a child's cognitive or emotional needs due to severe mental illness or mental retardation. The fact of mental illness or mental retardation alone does not establish emotional neglect by the parent. It must be shown that the parent's mental illness or mental retardation results in impairment of the child's mental or emotional or physical condition.

IMMEDIATE CONSIDERATIONS

- What is the child's condition? What aspect of the child's emotional health and development has been substantially impaired?
- Was a discussion held with professionals concerning the child's condition and their opinion as to its nature and cause? Identify professional by name and address.
- What is the parent's capacity to provide care for the child?
- What was the parent's explanation for the child's condition? Good note taking is essential. Use direct quotes.
- Did parental actions meet the minimum degree of care needed by the child?
- Is the child's impaired condition clearly attributable to the parent's unwillingness or inability to exercise a minimum degree of care toward the child?
- How long has the child's impairment lasted? Has the condition stayed the same or become worse?

SEXUAL ABUSE AND MALTREATMENT

A "sexually abused child" is a child less than 18 years of age whose parent, or other person legally responsible for his care, commits or allows to be committed a sex offense against such child as defined by penal law. (Section 130, Penal Law) Sex offenses in the penal law include rape, sodomy, and any other non-consensual sexual contact. For all sex offenses, a person is deemed legally incapable of consent if less than 17 years, or mentally defective, or mentally incapacitated, or physically helpless.

Sexual abuse and maltreatment include situations in which the parent or other person legally responsible for the child's care commits or allows to be committed:

- Touching a child's mouth, genitals, buttocks, breast or other intimate parts for the purpose of gratifying sexual desire; or forcing or encouraging the child to touch the parent or other person legally responsible in this way for the purpose of gratifying sexual desire.
- Engaging or attempting to engage the child in sexual intercourse or deviate sexual intercourse.
- Forcing or encouraging a child to engage in sexual activity with other children or adults.
- Exposing a child to sexual activity or exhibitionism for the purpose of sexual stimulation or gratification of another.
- Permitting a child to engage in sexual activity which is not developmentally appropriate when such activity results in the child suffering emotional impairment. (See EMOTIONAL NEGLECT page 35.)
- Using a child in a sexual performance such as a photograph, play, motion picture or dance regardless of whether the material itself is obscene.

For a detailed discussion of the problem of child sexual abuse, see NYSDSS Informational Release, "Reporting Sexual Abuse, Maltreatment and Exploitation of Children," published November 1981.

IMMEDIATE CONSIDERATIONS

- o Has a complete and detailed physical examination been performed?
What were the results?

SEXUAL ABUSE (Cont'd.)

- Was a discussion held with medical professionals concerning the condition of the child and their opinion as to the reason for the child's condition? Identify professionals by name and address.
- Was the child interviewed first and separately from the family? Was the family interviewed concerning the child's condition? Good note taking is essential. Use direct quotes.
- Were interviews conducted so that trauma was minimized?
- What was the extent of parental control at the time of the alleged incident?
- Is retribution against the child likely as a result of disclosure?
- Has the appropriate law enforcement agency been contacted?

MALNUTRITION/FAILURE-TO-THRIVE

These are two distinct conditions and should be assessed separately. Malnutrition is failure to receive adequate nourishment. It may be caused by inadequate diet, lack of food or insufficient amounts of needed vitamins and minerals. Failure-to-thrive is a medical condition seen in infants and children who are not making normal progress in physical growth, specifically falling below the mean height or weight for their age and sex. This may be measured in percentiles. For example, a child may be described as below the 3rd percentile in weight. This means that 97 percent of children that age weigh more. The terms also apply to children who fail to maintain previously established patterns of growth, who are excessively delayed in sexual development, or stunted in growth (deprivational dwarfism).

The abnormal conditions which can interfere with the growth process are numerous. Five major factors are: defects in internal functions of the body, for example, the heart, kidneys, endocrine glands; environmental and interpersonal factors, for example, an infant must have physical care and love to grow properly; nutrition, both the proper quality and quantity of food; and genetics, what is inherited plays a dominant role in the potential for growth and development.*

To obtain an accurate diagnosis, it is essential that a physician evaluate a child who is suspected to be suffering from failure-to-thrive or malnutrition. The family history should be searched for diseases which might affect growth, the physical examination of the child must be detailed and thorough, bone X-rays should be obtained and specialized laboratory tests performed. In cases where environmental conditions are suspected to be the cause of failure-to-thrive, Nelson's Textbook of Pediatrics (Tenth Edition) recommends that the child be hospitalized and a regular feeding schedule be maintained for a maximum two weeks. The key consideration is whether the infant who is unable to gain weight at home, can gain weight rapidly and easily in the hospital.

It should be underlined, however, that diagnosis is complex and requires a skilled physician.

IMMEDIATE CONSIDERATIONS:

- Was a complete and detailed physical examination of the child conducted and what were the results?
- Were X-rays and laboratory tests obtained and what were the results?

* Interdisciplinary Glossary on Child Abuse and Neglect (US Government Printing Office DHEW Publication No. (OHDS) 78-30137) page 30.

MALNUTRITION/FAILURE-TO-THRIVE (Cont'd.)

- **What was the parent's explanation for the child's condition. Good note taking is essential. Use direct quotes.**
- **Were the interactions of the parent and child observed and what were the findings?**
- **Was a discussion held with the physician and other medical professionals concerning their diagnosis and explanation of the child's condition? What were the results? Identify professionals by name and address.**

INADEQUATE FOOD/CLOTHING/SHELTER

An actual failure by the parent or other person legally responsible to supply adequate food, clothing or shelter, although financially able to do so or offered financial or other reasonable means to do so, is a form of child maltreatment.

Food

Nutrients such as vitamins, minerals and proteins are as essential for growth in children as is an adequate intake of calories.

Poor growth of a child is the primary reason for suspecting inadequate food intake and nutrition. This may be due to organic or environmental conditions. Anemia, in which there is a reduction in the number of red blood corpuscles or amount of hemoglobin or both, may be characterized by paleness and lack of vitality. Nutritional anemia is due to inadequate oral intake of iron-containing foods such as eggs and milk. Medical examination is necessary to determine the nature and extent of the injury to the child.

Clothing

A child needs basic clothing items such as underwear, shoes and outer clothes to provide protection from weather conditions. To ensure adequate hygiene, clothing must be reasonably clean so that there is freedom from disease and infection.

Shelter

Children require shelter which ensures basic safety, sanitation, and heat. A family may live in substandard housing because it is unable to find or afford better conditions. Such things as broken furniture, overcrowding, and messiness are generally not grounds for protective intervention by themselves. If the condition represents a health or safety hazard to the child which the parent or other person legally responsible is unable or unwilling to correct or take reasonable steps to correct, protective intervention is warranted.

IMMEDIATE CONSIDERATIONS

- What is the condition of the child? Has the child been harmed or is he in imminent danger of harm?
- What was observed to be inadequate in the provision of food, clothing or shelter?
- What is the parent's explanation for these conditions?
Use direct quotes.

INADEQUATE FOOD/CLOTHING/SHELTER (Cont'd.)

- To what degree has the parent sought to provide adequate food, clothing or shelter for the child?
- Did the parent or other person legally responsible fail to provide adequate food, clothing or shelter despite financial ability or other reasonable means to do so?

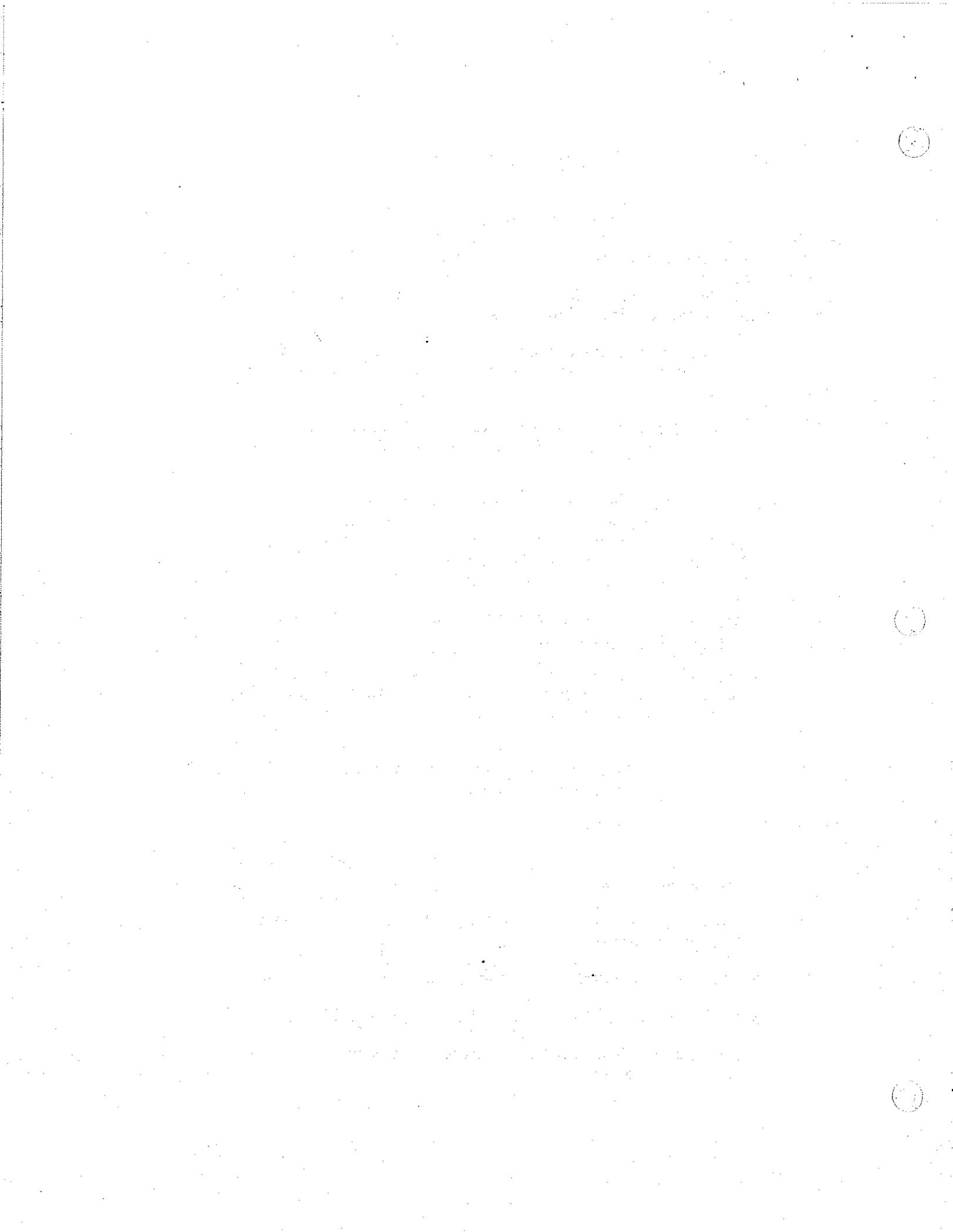
INADEQUATE GUARDIANSHIP

This term applies to the overall quality of care the parent or other person legally responsible provides the child(ren). Guardianship is inadequate if it fails to meet a reasonable minimum standard of care for the child within commonly accepted societal norms. Inadequate guardianship results in actual physical or developmental harm to the child, or imminent danger of such harm. Inadequate guardianship includes, but is not limited to:

- Continually allowing a child to remain away from home for extended periods of time without knowledge of the child's whereabouts.
- Making demands beyond the child(ren)'s physical or emotional abilities which results in harm or imminent danger of harm to the child.
- Exploitation of the child(ren) by a spouse in marital or custodial disagreements, or litigation disputes which results in specific harm or imminent danger of harm to the child. Litigation itself is not sufficient to show inadequate guardianship. (See EMOTIONAL NEGLECT, page 35)
- Exposing, exploiting or encouraging the child to participate in illegal and/or immoral acts.
- Leaving a child(ren) in the care of another person without establishing a plan for the provision of adequate food, clothing, education or medical care.
- Providing constant surveillance of the child and limiting activities to the extent these actions result in harm or imminent danger of harm to the child.

IMMEDIATE CONSIDERATIONS

- What is the condition of the child(ren)? Has the child been harmed or is he in imminent danger of harm?
- What is the age of the child and what capacity does he have to care for himself?
- What is the parental capacity to provide care for the child?
- What are the parents' current child care practices?
- Do these practices meet a reasonable, minimum standard of care for the child?



LACK OF SUPERVISION

Lack of supervision is evident if a child is alone or not competently attended for any period of time to the extent that his or her need for adequate care goes unnoticed or unmet, and the child is harmed or exposed to hazards which could lead to harm.

Parents have a responsibility to supervise their children or arrange for proper, competent supervision. Proper supervision means that the child's minimum needs for adequate food, clothing, shelter, health, and safety are met. The need for supervision varies with the age and developmental stage of the child.

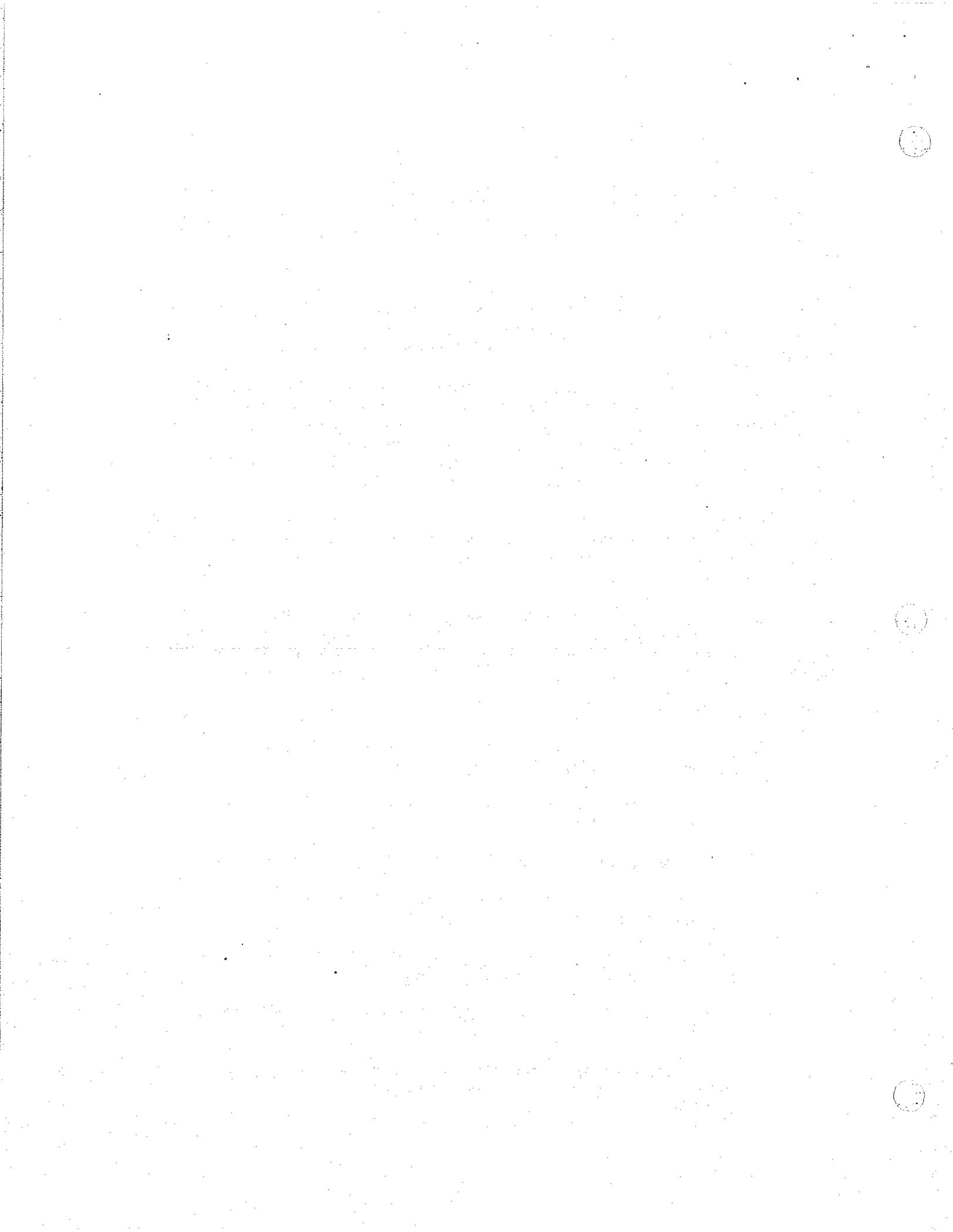
An infant (0 to 24 months) has some mobility but cannot meet any needs of his own and must be under the constant care of a competent, mature person; toddlers (age 2 to 4) need broader space to explore. Toddlers can walk, climb, have no sense of danger and must be closely watched to keep safe from harm. A pre-school child (age 4 to 6) can play independently but cannot be responsible to meet basic needs for adequate food, clothing, shelter, health, and safety.

School-aged children (age 6 to 12 years) may not be ready for the responsibility of being on their own even for short periods of time. A child who cannot be responsible for meeting his or her own needs cannot be a competent caretaker for other children.

Each situation in which there is an allegation of lack of supervision must be carefully assessed to determine the basic needs of the child(ren), the child's capacity to meet those needs on his own, and the role of the parent or other person legally responsible in insuring that the child's needs are adequately met.

IMMEDIATE CONSIDERATIONS

- What is the condition of the child(ren)? Has the child been harmed or is he in imminent danger of harm?
- What is the age of the child and what capacity does he have to care for himself?
- What basic needs of the child have gone unnoticed or unmet?
- At what time of day did the child's needs go unnoticed or unmet and how long did the situation last?
- What was the parent's explanation for this situation? Good note taking is essential. Use direct quotes.
- What degree of planning for adequate child care has the parent shown?
- Is the caretaker mature and competent to provide a minimum degree of care, given the age and circumstances of the child(ren)?



ABANDONMENT

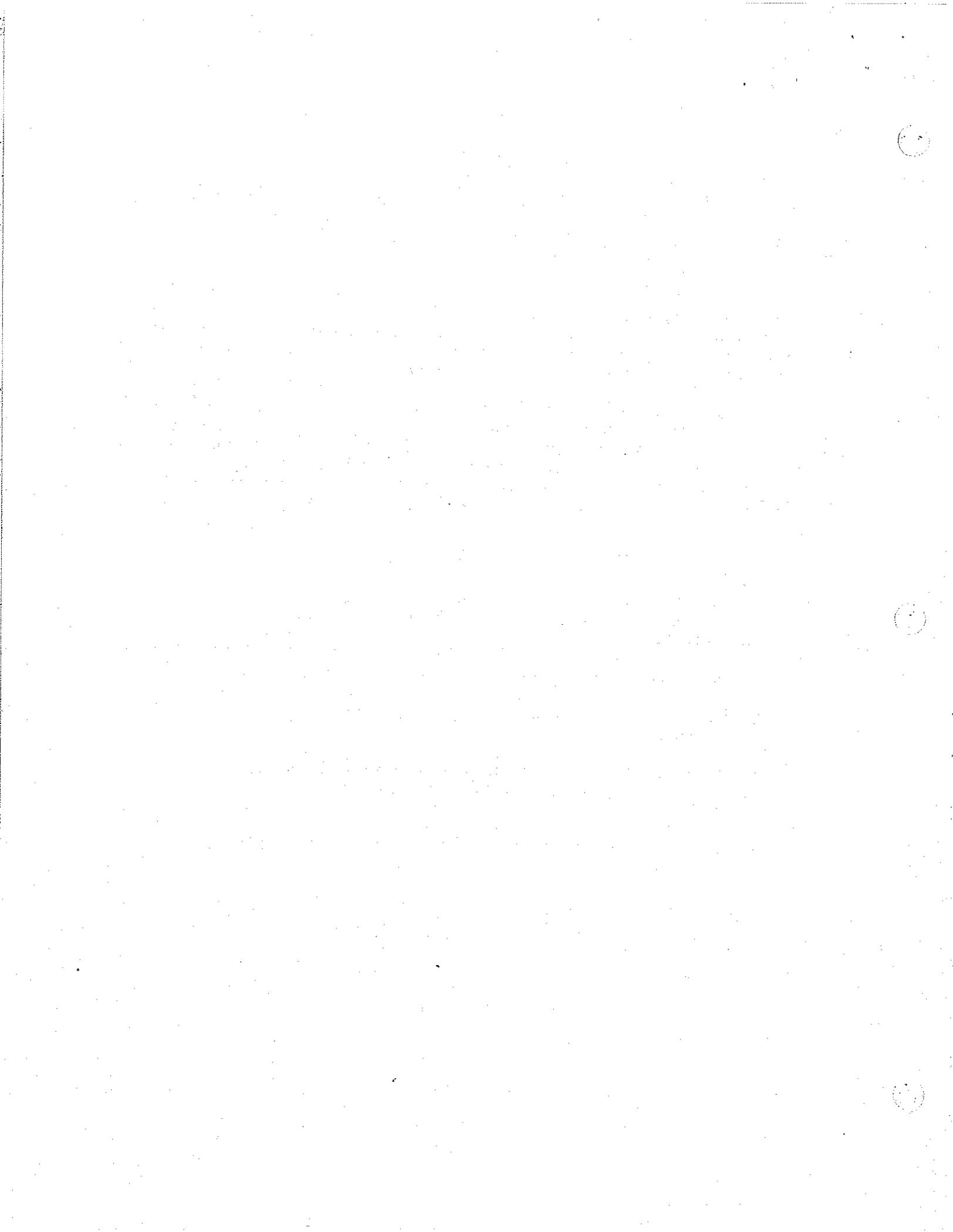
Abandonment means that the parent or other person legally responsible for the care of a child under 18 years shows by his or her actions an intent to forgo parental rights and obligations. (Section 1012 of the Family Court Act and Section 384-b(5) of the Social Services Law)

The assessment of abandonment depends on gathering and analyzing the facts and related history to determine whether there is credible evidence that the parent or other person legally responsible intends to give up parental responsibility totally and completely. The intent of the parent as shown by his or her actions is the key variable in assessing whether abandonment has occurred.

In cases in which an allegation of abandonment arises where a parent or other person legally responsible has left a child in someone else's care, the following should be considered: whether expectations for the duration of child care were reasonable, whether parental failure to return or communicate was due to acts of the caregiver which prevented or discouraged parental contact, and whether the parent's failure to return or communicate occurs despite parental ability to return or communicate.

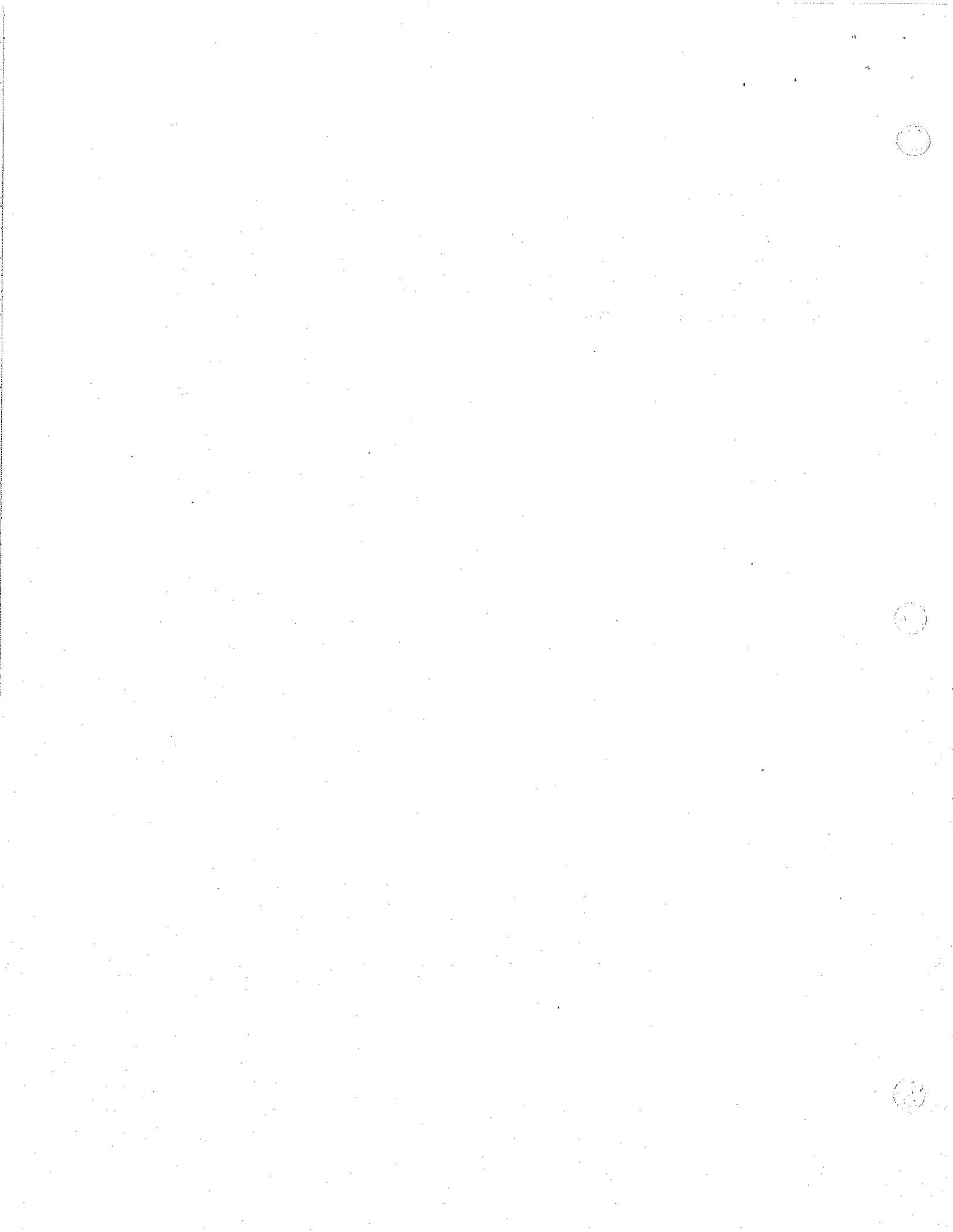
IMMEDIATE CONSIDERATIONS

- What actions were taken by the parent which indicate that the parent wanted to give up responsibility and obligations for the child?
- What reasons did the parent give for taking these actions?
- Did the parent have an ability to return to or communicate with the child?
- Was the parent or other person legally responsible prevented or discouraged from returning to or communicating with the child?
- Did the parent fail to return or communicate despite an ability to do so?



OTHER

The allegation categories of child abuse and maltreatment contained in this paper are not all-inclusive. Any other act(s) or omission(s) of a parent or other person legally responsible which harm(s) or create(s) or allow(s) to be created a substantial risk of harm to the child by other than accidental means or which demonstrate(s) a failure to exercise a minimum degree of care to protect the child constitute(s) child abuse or maltreatment.



IX. BIBLIOGRAPHY

1. Besharov, Douglas J., Practice Commentary, N.Y. Fam. Ct Act Section 1012 (McKinney), New York: West Publishing Co., (1981).
2. Fontana, Vincent J., Somewhere a Child is Crying; Maltreatment-Causes and Prevention, New York: Macmillan, 1973.
3. Hally Carolyn and Polansky, Norman, Child Neglect: Mobilizing Services, Washington: U.S. Government Printing Office, 1980.
4. Jenkins, James L. et al. Child Protective Services: A Guide for Workers, Washington: U.S. Government Printing Office, 1979.
5. Kempe, C. Henry and Helfer, Ray E., Helping the Battered Child and His Family, Philadelphia: J.B. Lippincott Co., 1972.
6. Landau, Hortense et al. Child Protection: The Role of the Courts Washington: U.S. Government Printing Office, 1980.
7. Martin, Harold P., Treatment for Abused and Neglected Children, Washington: U.S. Government Printing Office, 1980.
8. McNeese, Margaret C. and Hebel, John, "The Abused Child," Clinical Symposia, Summit, New Jersey: CIBA Pharmaceutical Company, 1977.
9. Vaughn V.C. et al. Nelson Text Book of Pediatrics, Philadelphia: W.B. Saunders Co., 1979.

