

ALASKA LEGISLATIVE COMMITTEES 1965-1966

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No risk occurs unless a significant number of asbestos fibers are released from the materials and enter the building air supply. As a result, most concern relates to certain materials that release fibers in large quantities.

### Asbestos Exposure Levels in Buildings

While there is general agreement concerning the health risks to asbestos workers, the hazard posed by asbestos in buildings is less clear. Numerous studies, including those conducted by EPA, have determined that in many cases asbestos levels in buildings have been so low as to be indistinguishable from outside air. In some, measurements show levels that exceed outside air levels by small amounts, and in only a few, measurements have significantly exceeded outside levels. Even at the highest levels, exposure is substantially lower than OSHA standards and tens of thousands of times less than workplace exposures of the past. According to recent studies, the majority of exposures in buildings with substantial amounts of friable asbestos are less than 0.0001 f/cc with a few single readings as high as 0.01 f/cc.<sup>3</sup>

Independent experts believe that in most cases asbestos exposures can be properly controlled by a combination of improved custodial control, special maintenance procedures and minor patching and repairs. In those rare circumstances where these procedures cannot lower high airborne asbestos concentrations, other control techniques may be appropriate. These include encapsulation (use of penetrating sealants or coatings) and enclosure (construction of airtight enclosures around surfaces coated with asbestos-containing materials). Removal is the last resort. It is the most costly method in terms of meeting EPA and OSHA regulations, and, most importantly, often results in increased fiber release even when careful work practices are followed.

A number of expert governmental and scientific bodies have concluded the risk of disease from exposure to asbestos in buildings is not significant. These experts include Hans Weill, M.D. of Tulane University, Julian Peto of Oxford University, the Ontario Royal Commission on Asbestos and the United Kingdom Advisory Committee on Asbestos.<sup>4</sup> However, there is no consensus within the scientific community on this point nor on the issue of what the minimum standards ought to be. As noted earlier, OSHA standards for exposure provide some guidelines; however, these guidelines do not distinguish between exposure levels for normal healthy adults versus exposure levels for children or the elderly.

In September 1984, New Jersey's Asbestos Policy Committee concluded that the lifetime risk of cancer associated with nonoccupational exposures to asbestos is from 1,000 to 10,000 times less than the risk due to tobacco smoking alone.<sup>5</sup>

### Emerging Problems: Unnecessary Removals, Unregulated Contractors

Many experts believe that removing asbestos-containing materials in buildings often does more harm than good. Very recently, the New Jersey Department of the Public Advocate cautioned that improper removal places workers, building occupants, teachers and children at serious risk and that

containing asbestos. The survey also revealed that 67 percent of the schools have taken action to control asbestos in their buildings. While nearly all the country's schools have been inspected, the survey showed that 34 percent of the schools have complied with major requirements of the 1982 rule.

A comparable EPA survey of asbestos in public buildings found that friable, asbestos-containing materials may be present in 20 percent of 733,000 residential units, federal buildings and private structures. In the majority (563,000) of buildings, the products involved are pipe and boiler insulation; sprayed-on or troweled on materials may be in 192,000 structures. Both the CPSC and EPA are investigating the possible presence of asbestos-containing building materials in homes.

Many state health departments, local education agencies, employee and teacher unions, and the former manufacturers of asbestos-containing building materials all agree that the lack of uniform federal standards, particularly for hazard definition and worker protection, is the fatal flaw on EPA's asbestos-in-schools program. This situation prompted the Service Employees International Union (SEIU) of AFL-CIO to petition EPA to set standards under authority of the Toxic Substances Control Act. After a year of Agency inaction, SEIU pressed further by filing suit against EPA. The Agency promised the court and SEIU that it would announce by November 30, 1984 a decision on what, if any, rules or standards it will propose.

Without such standards, other federal and state agencies are jumping into the breach. In October, the New Jersey Asbestos Policy Committee issued its Interim Report to Governor Kean recommending an "action guideline" at 0.003 f/cc and a decision-making protocol for building owners. Rules are expected to be proposed in early 1985.<sup>7</sup>

The federal Centers for Disease Control (CDC) also issued recently a report criticizing EPA for its lack of "sufficient guidance." CDC also proposed an "action level" -- 0.01 f/cc or 3 times higher than the proposed New Jersey standard -- as a guideline for monitoring buildings with asbestos-containing materials and for making risk-management decisions.<sup>8</sup>

In 1984, Congress passed the Asbestos School Hazard Abatement Act to provide loan and grant money to school districts seeking to abate friable asbestos-containing materials in schools. The act appropriated \$50 million for fiscal 1984, authorized \$50 million for fiscal 1985 and \$100 million per year for five years thereafter. The law also requires EPA to promulgate comprehensive guidelines to classify and evaluate asbestos hazards and abatement options, as well as training and certification standards for contractors.

The legislation created a number of deadlines for state authorities. By November 20, 1984, the Governor of each state was to submit a plan to the EPA Administrator addressing procedures to maintain records on the presence, detection and abatement of asbestos. EPA will extend to March 1, 1984 the original February 11 deadline for states to submit to the Administrator and the Secretary of Education a priority list of schools that are candidates for abatement. Financial assistance applications must be received at the same time. By May 11, 1984 and annually thereafter, governors also must submit reports describing activities in connection with record maintenance plans. By June 11, 1985, EPA must approve or disapprove state financial assistance applications.

Notes

1. Commission of European Communities, Public Health Risks of Exposure to Asbestos (1977); Consumer Product Safety Commission, Chronic Hazard Advisory Panel on Asbestos (July 1983); National Academy of Sciences-National Research Council, Nonoccupational Health Risks of Asbestiform Fibers (1984); United Kingdom Advisory Committee, Asbestos (1979).
2. R.N. Sawyer and C.M. Spooner, "Sprayed Asbestos-Containing Materials in Buildings: A Guidance Document, Part 2," Environmental Protection Agency, EPA-450/2-78-014 (March 1978).
3. D.J. Pinchin, "Asbestos in Buildings," Royal Commission on Asbestos Study Series, No. 8 (1982); Report of the Royal Commission on Matters of Health and Safety Arising from the Use of Asbestos in Ontario (1984).
4. Testimony of Dr. Hans Weill before the Ontario Royal Commission on Asbestos, Vol. 9 (1981); Testimony of Julian Peto, Ibid., Vol 25A; Report of the Royal Commission.
5. J. Richard Goldstein, Asbestos Policy Committee's Interim Report to the Governor [of New Jersey] (September 1984).
6. New Jersey Department of the Public Advocate, "Asbestos in the Schools: An Interim Report," testimony for presentation to the State Asbestos Policy Committee (Aug. 29, 1984).
7. Goldstein, Interim Report.
8. R.S. Bernstein, "A Review of the Scientific Basis for EPA's School Asbestos Hazard Program with Recommendations to State Health Officials" (1984).

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STATE ACTIONS ON ASBESTOS IN BUILDINGS

	Legis- lation Adopted	State Fund- ing	State Assist- ance	Local Funding Option	Contractor Certifica- tion and Training	Encapsu- lation Allowed	EPA NC Cita- tion
Alabama			*5				*
Alaska			*				
Arizona							
Arkansas							*
California	*	*				*	*
Colorado							
Connecticut		*	*			*	
Delaware	*1						
Florida							
Georgia		*	*				*
Hawaii							
Idaho				*			
Illinois	*		*	*			*
Indiana							*
Iowa	*			*	*	*	
Kansas							*
Kentucky	*1		*				*
Louisiana	*7						
Maine			*				
Maryland	*		*		*		
Massachusetts		*	*				*
Michigan							
Minnesota	*	*		*		*	*
Mississippi							
Missouri							*
Montana							
Nebraska	*			*			
Nevada							
New Hampshire							*
New Jersey	*	*4,2	*		*		*
New Mexico			*				
New York	*	*	*		training	*	*
North Carolina		*2					*
North Dakota							
Ohio	*1						*
Oklahoma							
Oregon							*
Pennsylvania	*	*					*
Rhode Island							*
South Carolina	*3		*		*6		*
South Dakota							*
Tennessee	*1		*				
Texas							
Utah							
Vermont							
Virginia							*
Washington							*
West Virginia							
Wisconsin			*			*	*
Wyoming							*
Washington, D.C.	*1						*

# journal after the fact



## Asbestos: Decide your legal strategy now

If your schools contain hazardous asbestos—or if your board already has removed the harmful substance—your school system stands to benefit from a nationwide class action suit currently under way. Early this fall, a federal district court in Pennsylvania approved a suit against 55 asbestos manufacturers on behalf of all U.S. elementary and secondary schools that contain hazardous asbestos.

It's an unprecedented, massive legal effort marking the first time a nationwide class action suit has been approved for property damage arising from a question of product liability. Your school system automatically is included unless you decide to "opt out" and sue asbestos manufacturers on your own. Moreover, if your school system already has spent money to remove harmful asbestos materials, you will be able to use the class action to recover costs. And as other school systems incur removal expenses, your system, too, will be able to seek compensation.

Under a special exclusionary provision in the ruling, your school system may decide to "opt out" and sue asbestos manufacturers on your own for *actual* damages (cost of removal). If you wish to seek *punitive* damages from asbestos companies, however, you must remain in the class action suit. This provision is to ensure that one or more school systems that sue separately won't receive the lion's share of any awards for punitive damages.

The pivotal ruling, which came September 28, requires that all school systems be notified of the class action suit and of their option to be excluded. So in the next few weeks, watch for notification, probably by letter, explaining the terms of the

suit and specifying the date by which you must let the court know if you wish to be excluded.

Whether your schools should initiate their own suit against asbestos manufacturers depends on several considerations, such as the total cost of removing asbestos from your schools and whether your board can afford the litigation costs. Gwen Grégory, deputy legal counsel for the National School Boards Association, advises school board members to "sit down with your attorney right away and decide whether it's best to stay in the class action or opt out."

Staying in the suit could save your schools plenty in litigation costs. According to the presiding judge in the case, Judge James McGirr Kelly of the U.S. District Court for eastern Pennsylvania, "Instead of hundreds of thousands of school asbestos cases in separate forums, the litigation would be concentrated in a single forum, thereby economizing litigation expenses."

The court's decision to allow the class action has advantages for both small and large school systems. Wrote Judge Kelly: "Many of the larger school districts, such as Los Angeles and Chicago, have a significant interest in pursuing their own actions. However, many more thousands of districts will be benefited by being relieved of the onerous decision of bringing a complex action which could consume in costs more than the recovery anticipated."

Before the class action ruling, approximately 50 cases had been filed in state and federal courts on behalf of school systems attempting to recover asbestos removal costs from manufacturers. Only one had

proceeded to judgment: On April 9, 1984, the Lexington (South Carolina) schools won \$675,000 from U.S. Gypsum Co. for a damage claim of \$375,000 in asbestos removal costs. All other cases had been held up in the courts, awaiting Judge Kelly's decision in the mandatory class action.

For the four school systems (three in Pennsylvania and one in South Carolina) that initiated the class action—and potentially, for thousands of others—the ruling is a victory. "From a legal standpoint, it's a landmark decision," says Al Lewis, a partner in the Lancaster (Pennsylvania) law firm of Hartman, Underhill, and Brubaker, attorneys for the Pennsylvania school systems. "From a practical standpoint," he says, "[the class action] represents the only real opportunity for school boards to obtain something close to adequate reimbursement for the asbestos problem."

Some school systems objected to being included automatically in the class action. Attorneys representing the school systems of Anchorage, Los Angeles, Chicago, and Clifton, N.J., as well as some 50 other school systems and states represented by the National School Boards Association, view their option to be excluded from the suit as a victory.

"There's no question but that we can recover costs better on our own," explains Pat English, an attorney representing the Clifton schools. "Any large school district is in the same shape. And even the smaller districts, depending on the amount they would spend to remove asbestos, could come out ahead" by pursuing their own legal actions.

To qualify for a class action suit under

Rule 23 of the Federal Rules of Civil Procedure, the plaintiffs in the case had to meet four "threshold requirements": numerosity, commonality, typicality, and adequacy of representation. Judge Kelly found that attorneys for the four school systems indeed had established (1) that with an estimated 8,500 public school systems and private schools facing asbestos abatement problems, numerous indi-

vidual lawsuits against manufacturers would be impractical; (2) that the questions of law and fact, such as the health hazards posed by asbestos, are common to all school systems in the class; (3) that the claims made by the representative school systems are typical of claims that would be made by other school systems; and (4) that attorneys for the representative school systems fairly and adequately

would protect the interests of all school systems that wish to recover asbestos removal costs from manufacturers.

"In my view," wrote Judge Kelly, "the school asbestos litigation is uniquely suitable to class action treatment." The court and the public at large, he wrote, "are only too well aware of the staggering costs that the asbestos personal injury litigation has generated." □

## Here's curriculum help from the experts

Defining—and redefining—the core curriculum for your schools is an ambitious but appealing task: How do you determine whether your curriculum is up to par? How do you decide which courses are necessary and which are outdated? Are the courses your schools offer tough enough? Will they adequately prepare students for college? Or for life? Getting the chance to pose and answer such questions probably is part of the reason you sought a school board seat to begin with. But how does your board go about the process?

Here's help: The Association for Supervision and Curriculum Development (A.S.C.D.) has published the results of an ambitious curriculum study project. But this report is different from others you might have read. *Redefining General Education in the American High School* is the result of a two-year curriculum-study project involving 17 high schools across the U.S. (Fourteen of the schools are discussed in the report.) Sponsored and guided by A.S.C.D., these schools conducted comprehensive reviews of their

core curriculums and developed new definitions of more than 100 "common learnings" they think students should acquire. What's more, they undertook this Herculean task as a network—a support group, if you will.

The report from this project won't give you ready-made answers that you can plug into your community, but it offers its own kind of support for undertaking such a project in your school system. Between this book's covers, you'll find 14 case studies of schools representing various geographic regions and school system sizes. The network schools, according to the report, also represent many types of U.S. communities—affluent, middle class, and poor; large cities, small towns, and suburbs. In other words, you're likely to find several schools in the network that have a lot in common with those in your own system.

And if you're wondering how to start to review your school system's curriculum, the report offers a description of how network schools did it—how they appointed committee members, how they

invited teachers and community members to participate in the curriculum discussions, how the process of review unfolded. Results are included, too. Not surprisingly, given the push following *A Nation At Risk* to require more academic courses, most schools in the network stiffened their graduation requirements, adding more science and mathematics courses as well as more credits in English and social studies.

If the report poses any drawback, it's that—as the report itself points out—merely hearing about the network is "a pale substitute for being there." The motivation the network offered its members might be difficult to duplicate in your system, without the support of other schools going through the same challenge. Nevertheless, *Redefining General Education* is a fine place to start for any review of curriculum.

To purchase copies of the report, send \$8.50 per copy to A.S.C.D., 225 N. Washington St., Alexandria, Va. 22314. Taxes and mailing charges are included in the price. □

## A conditional hosanna for test scores

The good news in recent months is that average scores on the Scholastic Aptitude Test (S.A.T.) have nudged up four points over marks posted last year—the largest increase in S.A.T. scores since 1963. The bad news, of course, is that everyone and his mother wants to tell you what the increase means.

Most every explanation refers to the fundamental reforms that have taken place in public education since board members and administrators first grew alarmed at sliding scores and other signs of weakness in the public schools. Statis-

tics compiled by the federal and state governments tell us this reform cycle started well in advance of *A Nation At Risk*; since the early 1980s, in fact, U.S. high school students have been taking more academic classes, and kids of all ages generally have been buckling down to the difficult task of learning.

The rise in S.A.T. scores, then, is just one more indication local school boards successfully are attacking flabby curriculums, pushing for higher academic standards, and supporting legislative efforts to raise the level of public education in

the U.S. It hasn't been an easy crusade. Status quo in education is hard to combat; among our readers, any number of veterans have bent more than one lance trying to slay the dragon of mediocrity in our schools.

Before we spend too much time thumping our chests in triumph, though, a word of caution is in order. As College Board President George Hanford says, "In the context of the decline in scores from 1963 to 1980, it would be naive to conclude that national attention to the quality of American education . . . is no longer

ALASKA STATE DISTRICT COUNCIL OF LABORERS  
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January 28, 1985

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During testimony on SS HB-5, Friday, January 25, 1985, HESS Committee Hearing the question was raised of whether the Laborers' Training School would be willing to train non-union workers in the removal of asbestos. It is unfortunate that some perceive this as a union vs non-union issue and fail to see what it really is, an issue of safety of their workers, their families and the safety of the people who frequent the buildings where asbestos removal has or is taking place.

Safety training for the workers is a responsibility, albeit a cost item, of all contractors. Responsible contractors have a safety program for their work force and to incorporate an asbestos removal course into their existing program should be a priority and necessity if they are concerned about the health and welfare of their workers, families and those who frequent those buildings which involve asbestos abatement or removal.

Through the Alaska Laborers' Construction Industry Training Fund the participating Employers are signatory to a Trust Agreement establishing this fund between the Union and the Alaska Chapter, Associated General Contractors (AGC). It is a cost item for the union members and the participating contractors. When asbestos removal was found to be an extremely hazardous material the asbestos removal training course was implemented within the Training School.

Federal law mandates that the funds be directed only to the participating members.

It is my understanding that Les Lauinger of the Alaska Laborers' Training School will submit testimony regarding the availability of the guidelines, used in the Laborers' Asbestos Removal course, to all interested parties who wish to set up their own training program.

# Carpenter claims material in Fairbanks center unsafe

PNM 1/26/85

By SUSAN FISHER  
Staff Writer

A local carpenter refusing to work on the South Fairbanks Community Center because of asbestos materials says the city is inviting future hazards, but city and state officials disagree.

The new center, which was to be completed this month, is about a month behind schedule. It will be used for a child care center and community meetings.

At issue are thin wall boards containing asbestos and silica. The tiny particles from either can be hazardous if inhaled. Asbestos is a known cancer-causing substance if exposure is prolonged.

But the Fairbanks city engineer and two state labor officials say there are no hazards to workers installing the boards providing precautions are taken. Once in place, the materials will pose no hazards to people using the building, he said.

The \$1 million center at 24th and Tickert streets is being built with state and federal funds. On Feb. 11, the Fairbanks City Council will hold a public hearing on a bill giving a 20-year lease, for one dollar a year, to the interdenominational Ministry Alliance, which wants to operate the center.

The Rev. Lennell Cleaver, who chairs the alliance's building committee, said he personally made inquiries after hearing carpenter Ray Halderman's concerns, and he is satisfied there will be no hazards.

"The amount of particles that would escape is an amount that wouldn't hurt anything," Cleaver concludes from his conversations with various officials.

But Ray Halderman, a member of the Carpenters Union, says the city is inviting future risk in using the cement asbestos boards in the center's



**POSSIBLE DANGER**—Mert Meeker, project manager for Toombs Construction project on the South Fairbanks Community Center, points to the caution warning on a sheet of asbestos wallboard. He is in a room specially sealed off with plastic in order to cut the asbestos. (Staff photo by Charles Mason)

kitchen and bathroom areas. Halderman says he's been raising his concerns to officials the past two months, and he refuses to work at the site.

"They're seeming to say it's not a problem, but I say it's dumb putting this material in," he says, when there are cheaper and less hazardous materials available.

"The main problem is the danger of it being cut after it's installed," Halderman says.

City Engineer John Phillips disagrees. "We haven't been able to find anybody other than Mr. Halderman" who sees a hazard, Phillips says.

The cement asbestos boards were (See CARPENTER, Page 1)

## CARPENTER. . .

(Continued from page 1)

recommended by architect Roger Cotting, and are specified in the city's contract with Toombs Construction Co.

Phillips has called a number of agencies, including the federal Environmental Protection Agency. The only hazards appear to be during cutting and installation.

"We still have an open mind about this, but no one has recommended that we not use this material," Phillips said Friday.

Meanwhile, two officials with the Alaska Department of Labor's OSHA sections say the contractor's plans for protecting workers go beyond employer requirements. They do not see hazards for building users once construction is finished and the area is thoroughly vacuumed.

Halderman, though, wonders what will happen if someone unwittingly damages, cuts or puts a hole in the boards without knowing of the asbestos fibers and silica particles.

Phillips replies: "The lease agreement for the building contains a clause there will be no additions, alterations, etc. without obtaining the city engineer's written approval in advance."

Mert Meeker, Toombs Construction project manager, says Glasweld, manufactured in Pennsylvania, is specified in the contract.

The boards, about or eighth-inch thick, come in large sheets. Those are cut to size, and cuts are made for fixtures. Glasweld, contains 51 percent cement, 15 percent asbestos and 34 percent silica, said Meeker.

Among attractive qualities of this product are its resistance to fire, its durability, moisture resistance and easy maintenance. The boards are being installed over sheetrock at the new center.

Meeker expresses concern over the silica, and says the extra precautions, which Toombs will pay out of its own pocket, are as much due to the silica as the asbestos.

part in asbestos bill fill

Workers will wear disposable coveralls and use respirators to avoid inhaling particles. The work areas will be covered with Visqueen with an air chamber leading to them. Special filters will be placed on the vacuum system, Meeker said.

Toombs Construction and the city engineering office are relying on the free advice of a state OSHA consultant, Pat Patterson, who has been at the job site and made his recommendations.

Bill Blythe, an OSHA industrial hygienist, said installing this type of asbestos product is far less hazardous than, say, removal of older asbestos products, which can flake. It is those older products that are the subject of expensive removals in schools throughout the nation and Alaska.

This board, Blythe said, is "very well bonded."

Once the building is complete, users should not be exposed to hazards. "If people working on it or cutting on it or scraping things off of it, you may generate asbestos fiber, but it's hard to imagine there would be any exposure. The hazard comes from fibers in the air. Just because it's in the building doesn't mean it's in the air," said Blythe.

# nea NOW

## A WEEKLY NEWSLETTER

for National Education Association leaders

November 5, 1984

Washington, D.C.

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### LEGAL

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#### Supreme Court affects schools

■ A major issue of the 1984 political season has been the future of the United States Supreme Court. Five justices now serving on the high court are over 70 years of age. Who will replace them? Who will make the appointments? What future direction will the court take?

Each of those questions is important. But equally important are the cases *currently* before the Supreme Court. These cases may have a considerable impact on what happens inside our public schools.

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#### A heavy education agenda

■ Only four or five percent of the cases appealed to the Supreme Court are actually accepted by the court for review. The court may accept new cases throughout its session. This fall, the court has already agreed to hear arguments on a number of highly significant education-related cases:

● *Public funds to private schools.* The high court will decide if it is unconstitutional for the Grand Rapids, Michigan school system to pay public school teachers to teach private elementary and secondary school students on private school campuses. The Sixth Circuit Court of Appeals has ruled that such payments violate the establishment of religion clause of the First Amendment. If the Supreme Court overturns the appeals court decision, school districts would be free to use public funds to subsidize teachers in private schools.

In a related case, the Supreme Court has agreed to review a U.S. appeals court decision that held unconstitutional the use of public funds to provide Chapter 1 instruction in parochial schools.

● *School prayer.* The high court will review an appeals court ruling against an Alabama law that allowed teachers to start each day by announcing a moment of silent prayer. The high court has already upheld an earlier Alabama decision that declared a state-written prayer unconstitutional.

● *Student searches.* The Fourth Amendment protects against unlawful searches. The Supreme Court earlier this year heard arguments on a case from New Jersey that will determine if the Fourth Amendment applies to public school officials searching students. A decision is expected in January.

● *Due process.* The high court will hear a school employee case from Cleveland that will decide if a school system must provide reasons and a hearing prior to dismissal of an employee or if it's sufficient to provide reasons and a hearing after the employee has already been fired.

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#### NEA defends its members

■ These are just a few of the school and school employee-related cases expected to receive Supreme Court review this year.

In many, NEA will be filing "friend of the court" petitions on behalf of Association members. In still others, NEA will be bringing the actual appeal to protect members' rights.

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## CONGRESS

### A balance of power

■ There are still a few Association members who question why NEA is involved in politics.

The answer is simple: every education decision begins as a political decision. It's much easier to persuade the elected officials who make those political decisions to support public education when we're actively involved in the process of electing officials.

Nowhere is that fact more evident than in the United States Congress.

Over the past four years, public education has been under constant attack by an anti-education Administration. Budget cuts, proposals to eliminate or curtail programs, and anti-education regulations have all been used to try to end the federal government's traditional support of our public schools.

But these efforts to eliminate the federal role have—in large part—failed. Why? Because NEA members have helped elect "friends of education" to the House and Senate. We've been able to create a healthy pro-education force in Congress.

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### A record of progress

■ The fruits of NEA's political efforts were evident during the most recent session of Congress. Despite Administration attempts to cut support for public education, Congress was able to enact a host of pro-education, NEA-backed measures:

- the Emergency Math-Science Act. Provides federal financial resources directly to local school systems to improve instruction in math and science.
- magnet schools desegregation assistance. Provides money to expand the highly successful magnet school programs that offer quality educational opportunities to students regardless of race or ethnic background.
- the merit scholarship program for teachers. Makes it possible to train new teachers and retrain active teachers for critical shortage areas.
- Impact Aid reauthorization. Continues federal assistance to local school districts with large enrollments of children from federal and military families.
- bilingual education reauthorization. Continues federal support to provide quality education to non-English speaking students.
- adult education reauthorization. Continues federal programs designed to reduce illiteracy among the nation's adult population.
- vocational education reauthorization. Continues federal aid to quality vocational programs and expands funding to local school districts and programs for women and minorities.
- asbestos detection and removal. Provides \$600 million over five years to remove this deadly material from our schools.

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### More work lies ahead

The above are just a few of the over 35 major pieces of legislation that NEA and public education's supporters in the Congress were able to pass this year.

That success didn't come easy. But it began when local NEA members began the process of endorsing and working to elect "friends of education" for public office.

And it continued when thousands of NEA members participated in the Association's lobbying programs—with letters to their representatives and even face-to-face visits.

Lobbying success and political success: the two go hand in hand.

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## PUBLIC RELATIONS

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### Long term dividends

■ Are Association public relations programs and image campaigns really worth the time and effort?

Just ask NEA members in Grand Rapids, Michigan. They've seen how Association PR can pay off big.

Last spring, *NEA NOW* reported on the extensive efforts of the Grand Rapids Education Association to build community support during Teacher Day USA. The local program placed public service announcements on radio and television, printed messages on grocery sacks and restaurant place mats, and put on billboard displays.

Those efforts recently paid a dividend. Voters in Grand Rapids passed a two mill property tax increase for the next three years to fund local schools.

Voters had turned down the tax increase twice before. And failure to pass the increase the third time would have cost the system 170 teaching jobs—and closed three schools.

"I don't think there's any doubt that the turnaround is due in large part to the public relations efforts of GREA," says UniServ staffer Willie Suber. "We gained the public support our schools deserved. We even had a citizen's committee coordinating the millage increase campaign. There's a new respect for school employees in Grand Rapids. And it shows in new support for our schools."

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## POLITICAL ACTION

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### Court rules for Association

■ The Alabama Education Association and the Muscle Shoals Education Association have won an important lawsuit brought against the Association by the Muscle Shoals school system and the Alabama Right to Work Committee.

The suit was a result of AEA's successful efforts to amend the state law regulating political action committees. AEA's legislative efforts created a statewide system of reverse dues checkoff. Unless Association members indicate otherwise, \$6 is automatically deducted from an employee's paycheck as a contribution to their Association's political action committee.

The school system and the Right to Work Committee charged that the reverse dues system amounted to intimidation and an illegal expenditure of public funds.

Not so, said NEA General Counsel Bob Chanin and Alabama Lt. Governor Bill Baxley, who represented the Association in court.

And Circuit Judge Inge Johnson agreed. According to the court, the Association's dues structure and method for soliciting voluntary political contributions are private—not public—decisions. The court also agreed that there was ample evidence to prove that Association members understand the reverse check-off system and can exercise their right not to contribute.

"This is a tremendous victory for the education employees of our state," says AEA Executive Secretary Paul Hubbert. "With this ruling, the court has upheld the right of school employees to participate in the political process that is so directly involved in the decision making about their jobs."

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### Election results

■ Who will be making the political decisions for the next four years? Will the 99th Congress be pro-education? What state initiatives passed or failed, and what will the impact be on our schools?

Next week's *NEA NOW* will carry detailed results of the November 6 elections and try to answer those key questions for America's public school employees.

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**BULLETIN BOARD****Asbestos  
deadline  
extended**

■ A federal district court has extended the deadline for schools to file property damage claims against the Manville Corporation, once the nation's largest producer of asbestos, from October 31 to January 31.

If your school system has an asbestos problem, encourage school officials to pursue the claims procedure. Schools that win their claims will be able to recover the cost of asbestos abatement programs.

Many systems have been slow to file claims, and Manville has been slow in responding to requests for claims forms. That's why the 90-day extension was granted.

Claims forms may be obtained by writing: Manville Corp., P.O. Box 5723, Denver, CO 80217. Completed claims forms should be sent to United Merchants Information Services, Inc., P.O. Box 368, Teaneck, NJ 07666.

Your school system does not have to provide all the information requested by the proof of claim forms at the time the forms are filed. Forms may be amended later, even after the filing deadline.

**Staff position  
available**

■ The Mississippi Association of Educators is seeking applicants for the position of executive director. The deadline is November 30, with an anticipated employment date of February 1.

Letters of application with resumes should be sent to James S. Seibert, regional director, Southeast Regional Office, National Education Association, 1745 Phoenix Blvd., Suite 330, Atlanta, GA 30349.

**IN THIS ISSUE . . .**

- The United States Supreme Court agrees to hear cases that will have an impact on the nation's classrooms.
- NEA's political success means legislative success. A look at the 98th Congress makes the point.
- NEA members in Alabama fight for pay equity for support employees.

**Quote of The Week**

We're pleased to have been able to work effectively with members of Congress—Democrats and Republicans—to come up with a solid \$17.9 billion education package for the nation's public school children.

—NEA President Mary Hatwood Futrell,  
October 10, 1984.



**NEA HOTLINE 1-800-424-8086**

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**NEWSPAPER  
HANDLING**

ALASKA FEDERATION OF NATIVES, INC.  
1984 ANNUAL CONVENTION

RESOLUTION NO. 84-32

TITLE: ASBESTOS ABATEMENT IN ALASKA SCHOOLS

WHEREAS, Believing that friable asbestos, similar to that which was discovered in schools in the Anchorage School District, exists in numerous other schools in school districts throughout the State; and

WHEREAS, Knowing that an Asbestos Technical Panel, convened in Anchorage by the Anchorage School Board, reviewed thoroughly health hazards associated with asbestos in Anchorage schools; and as a result, recommended that friable asbestos be removed from Anchorage schools as an unacceptable health hazard; and

WHEREAS, Believing that many Alaskan school children in school districts other than Anchorage may be exposed to health hazards from asbestos that are preventable,

NOW THEREFORE BE IT RESOLVED that the Alaska Federation of Natives urges the Governor to form a special task force with representatives of the Department of Health and Social Services, Department of Labor, Department of Education, Department of Transportation and Public Facilities, Department of Environmental Conservation, appropriate federal agencies, parents of school children, and teachers to implement an asbestos abatement program in all Alaska schools, including those under Bureau of Indian Affairs jurisdiction, in accordance with recognized standard for asbestos abatement and

BE IT FURTHER RESOLVED that the Alaska Federation of Natives urges implementation of an asbestos abatement program which will include the following tasks:

1. Implement and insure completion of a comprehensive survey to identify and categorize asbestos in all Alaska schools.
2. Evaluate health hazards associated with any asbestos (friable asbestos and asbestos in other forms) discovered in the survey and make recommendations for appropriate medical surveillance of students, teachers and workers exposed to asbestos.

## Asbestos

### EVALUATION BASED ON TYPE OF FIBER REFUTED BY THREE FEDERAL HEALTH GROUPS

The Environmental Protection Agency's policy of regulating asbestos uniformly, rather than by the type of asbestos fiber, was endorsed recently by three federal health groups after the policy was challenged in a House Appropriations Committee report and by U.S. Geological Survey officials.

The House report and Geological Survey officials maintained that chrysotile or "white" asbestos is less of a health hazard than other forms of the substance, and should not be regulated as stringently.

That position, however, was disputed by the Centers for Disease Control, the National Toxicology Program, and the National Institute for Occupational Safety and Health. The groups said scientific evidence clearly links chrysotile asbestos exposure to increased incidences of human cancer.

Their opinions came in letters sent in response to an inquiry from Sen. Robert T. Stafford (R-Vt), chairman of the Senate Environment and Public Works Committee, and committee member Sen. James Abdnor (R-SD).

Stafford and Abdnor said they sought to clear up the confusion created by a Geological Survey mineralogist who briefed committee staff members on the human health risks associated with chrysotile asbestos fibers.

#### Support of Chrysotile Asbestos

The mineralogist, Malcolm Ross, cited a study of Canadian chrysotile asbestos miners that Ross said demonstrated that inhaled white asbestos does not present a significant health risk.

After receiving a similar briefing, the House Appropriations Committee said in its May 23 report on fiscal 1985 funding for HUD-Independent Agencies that EPA should study chrysotile asbestos before taking any further regulatory action restricting asbestos use.

The House report concluded "there is no conclusive evidence of measurable adverse health effects produced by the inhalation of 'white' asbestos at low nonoccupational exposure or from ingestion even at high concentrations."

EPA is seeking to control asbestos exposure in schools and other public buildings, and has included the substance among its top agency regulatory priorities for fiscal 1984 (Current Report, Feb. 24, p. 1678; Jan. 13, p. 1518).

Most of the asbestos used in this country is the chrysotile variety, according to the House report.

#### Health Groups' Responses

Citing a number of health effects studies, the Centers for Disease Control said current data "have shown that chrysotile asbestos is carcinogenic and fibrogenic."

CDC officials said that conclusions by the Geological Survey that white asbestos is not as hazardous as other forms of the substance were "made using many statistical manipulations that are highly inappropriate." The USGS also failed to "consider the period of time from first exposure to disease manifestation," which can be up over 30 years, according to CDC.

David Rall, director of the National Toxicology Program, said that, while early reports on Canadian miners "suggested that chrysotile was less carcinogenic than other forms of asbestos," recent studies have shown "that chrysotile causes lung cancer and there is a linear dose response relationship between chrysotile fiber concentration and lung cancer.

Further, there has been an increased incidence of mesothelioma related to chrysotile exposure."

Richard Lemen, director of NIOSH's Division of Standards Development and Technology Transfer, said that chrysotile asbestos "is as potent as the other types of asbestos." Lemen said current epidemiological studies demonstrate white asbestos' "ability to induce non-malignant respiratory disease and cancer in humans."

#### Premanufacture Notification

### CONSENT ORDER LIMITS USE, EXPOSURE OF THREE CHEMICALS, ALLOWS MANUFACTURE

Workplace exposure controls, use limitations, and record-keeping requirements for three premanufacture review chemicals were approved by the proposed manufacturer and the Environmental Protection Agency in a consent order which allows the firm to make the substances.

According to the Toxic Substances Control Act agreement, the controls are needed on PMN 84-105, 84-106, and 84-107 because the chemicals are similar to a substance shown to cause kidney, liver, and lung damage in test animals. Dermal, oral, and inhalation exposure was anticipated for the substances.

Exempted from the controls, however, is manufacture of the chemicals in small quantities for research and development purposes and manufacture solely for export.

Under the consent order, the company agreed to limit airborne concentrations of the chemicals, require respirators when the concentrations reach a certain level, require workers to use protective clothing and impervious gloves, and maintain records on the safety precautions. Exposure protection information must be distributed to all employees who might be exposed to the substances.

The agreement, developed under TSCA Section 5(e), also limits uses of the chemicals. PMN 84-105 was approved for use as a monomer, and 84-106 and 84-107 as intermediates.

Section 5(e) of the act allows the agency to limit or ban premanufacture review chemicals on which insufficient data are available. In this case, the company agreed to follow the exposure and use controls in return for being allowed to produce the substances.

#### Confidentiality Claims

Claimed as confidential business information on the premanufacture notices were the manufacturer's name and identification of the substances, exact use, and environmental release or disposal information. Generic names provided for the chemicals identified PMN 84-105 as halogenated alkene and 84-106 and 84-107 as halogenated alkanes.

Toxicity data indicated that 84-106 was a severe skin and eye irritant in animal studies and 84-105 and 84-107 were moderate skin and eye irritants, according to the consent agreement. The agreement was signed June 13 by John Moore, assistant EPA administrator for pesticides and toxic substances, and by the firm June 5.

The agency indicated that the substances have the potential for bioaccumulation, but noted that no significant releases are expected under the conditions of manufacture and use and no environmental effects are anticipated.

While not requiring further study of the three chemicals, the agency indicated it might modify or eliminate the exposure and use controls if certain recommended tests showed the substances are safe. Subchronic inhalation studies were recommended for all substances; a teratogenicity study was recommended for PMN 84-106.



# FIELDNOTES

From The Arizona  
Bureau Of Geology And Mineral Technology

Volume 13 No 1

Earth Sciences and Mineral Resources in Arizona

Spring 1983

## ASBESTOS

### *Toward A Perspective*

by H. Wesley Peirce, Principal Geologist  
and  
Meliton M. Garcia, Industrial Hygienist

Director's Comment: Asbestos has achieved international notoriety largely because of its reported carcinogenic (cancer-causing) tendencies. A dilemma exists because of a conflict between two issues: 1) negative effects related to public health, and 2) positive public benefits derived from asbestos use. Although positions have already been taken on this subject by many, it is our belief that enough uncertainties exist to encourage further research and discussion. The purpose of this article is to put current knowledge into perspective and to encourage additional analysis. [W.P.C.]

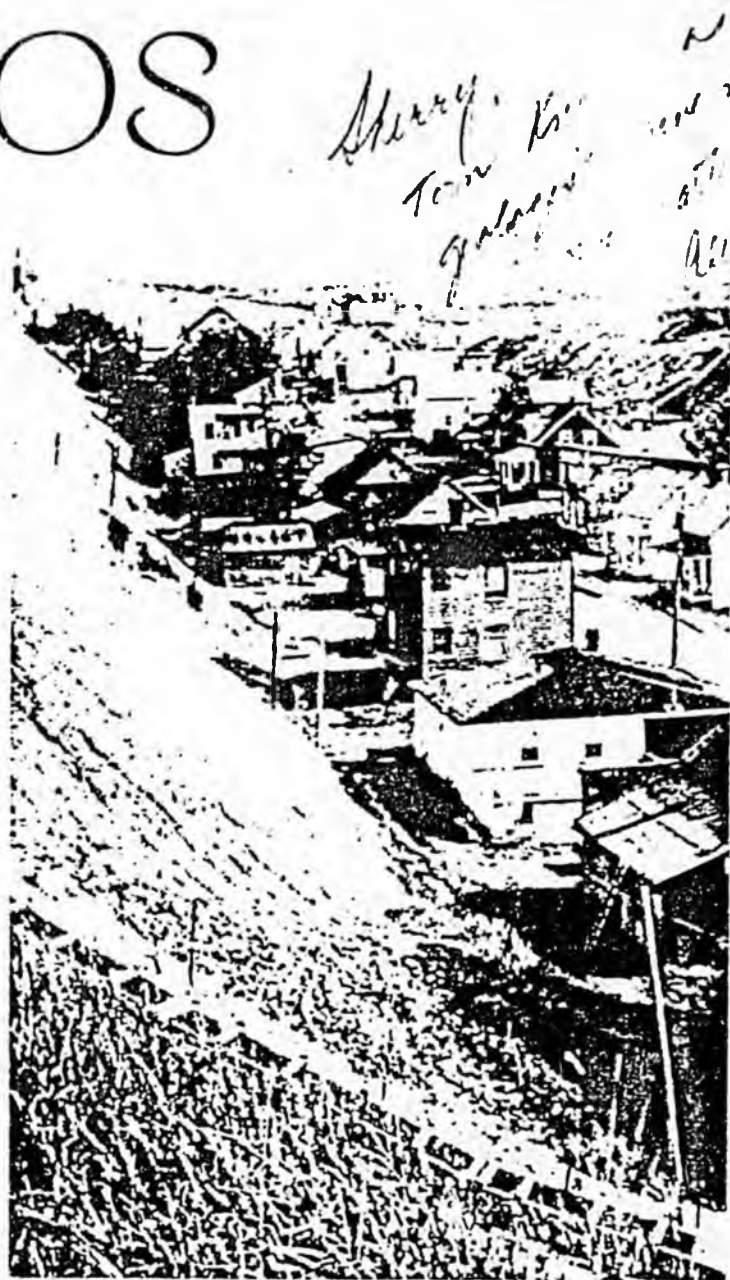
### INTRODUCTION

Like the word "snakes", asbestos is not a scientific word. Both are lumping terms encompassing a group of similar, yet different species. Although such terms serve a useful purpose for general identification, they do not acknowledge component parts and, therefore, perpetuate misunderstanding of specific characteristics. Are all snakes identical? Are all fibrous (asbestiform) minerals under the label "asbestos" likely to be identical? Where data exist, is the cause of good science served by not differentiating species and their respective attributes? "No" seems the logical response to each of these queries.

A summary follows of: 1) the nature of the problems related to the use of asbestos, 2) the world-wide geologic distribution of economic deposits of asbestos minerals, 3) the scope and significance of the asbestos industry, 4) highlights of asbestos in Arizona, and 5) health-related considerations. The term "asbestos" will be used in this article to denote the family of commercially exploited mineral fibers.

### NATURE OF THE PROBLEM

As civilizations increase in complexity, the number of technical issues projected into the arena of public debate and reaction, especially in democratic societies, also increases. In those technical issues that are delivered to the body politic through the news media (a dominant form of public education), rhetoric may quickly overrun the information base or selectively use data to focus on a specific idea or perceived problem. In such cases, choosing between legitimate con-



Part of a Quebec, Canada mining town nestled among waste piles resulting from the mining and milling of chrysotile asbestos. Photo from *Resources Quebec*, 1980, v. 4, no. 1, p. 18.

cern and overreaction, though difficult at best, seems an essential pursuit, if truth is to be sought rather than emotional response.

The projection of asbestos into the forefront of public awareness over the past decade stems from two conflicting factors: 1) asbestos, a naturally occurring group of earth materials used in a myriad of industrial and domestic products,

constitutes the base for an extensive, international mining, milling, and manufacturing industry, and 2) asbestos, under certain circumstances, is a contributing factor in the cause of cancer and other diseases. Thus, there is a diversity of interest in asbestos.

The lack of agreement on what constitutes an asbestos material is a continuing problem. Much disagreement exists over the definition of asbestos, especially as it pertains to occupational health and safety regulations. Definitions vary depending upon those concerned—medical interests, occupational health and safety enforcement agents, mineralogists, lawyers, industrial users, economists, etc. The occupational health and safety standards derive their definition from governmental agencies (U.S. Department of Health and Human Services, NIOSH-OSHA Work Group, 1980).\*

The question before the world's health and regulatory establishments is the extent to which the hazards of asbestos outweigh the benefits. On this subject, the Office of Technical Assessment stated in 1981: "Because the Federal Government does not accept a threshold level for carcinogens, a strict interpretation of these laws would require that risk be entirely eliminated." Obviously, this kind of interpretation creates a dilemma of large proportions. To what extent, as a practical matter, should such laws be enforced? Is there no room for flexibility? Actually, some flexibility is provided to regulatory agencies by Congress through the use of expressions like "unreasonable risks". However, who is to judge what constitutes a reasonable risk? The ideal is to balance risks, costs, and benefits, at the same time being sensitive to equity considerations (i.e., risks may be disproportionately borne by some in order to provide benefits for others).

Can a condition of reasonable risk be attained without debilitating the entire asbestos industry for all time? The answer to this question is encouraged by epidemiological data coming to light which indicate that chrysotile, the principal mineral of the asbestos industry, does not present the degree of risk that attends some of the other commercial fibrous materials.

### MINERALOGY AND USAGE

Although there are many naturally occurring elongated minerals that are referred to variously as fibrous, asbestiform, acicular, filiform or prismatic, few occur in deposits suitable for commercial exploitation. Commercial asbestos is generally considered to occur naturally in six forms (see

\*At present, a widely used definition of asbestos in the United States is included in the proposed regulations and guidelines of "Occupational Exposure To Asbestos", published in the Federal Register by the Occupational Safety and Health Administration (OSHA). In this notice, the naturally occurring amphibole minerals (amosite, crocidolite, anthophyllite, tremolite, and actinolite) and the serpentine mineral (chrysotile) are classified as asbestos if the individual crystal fragments have the following dimensions: length greater than 5 micrometers (microns), maximum diameter less than 5 micrometers, and length-to-diameter ratio of 3 or greater. Any product containing any of these minerals in this size range is also defined as asbestos. 1 meter = 1,000,000 microns; 5 microns = .0002 inches.

A joint National Institute for Occupational Safety and Health and OSHA committee published the following in 1980: "Definition of Asbestos. Having considered the many factors involved in specifying which substances should be regulated as asbestos, the committee recommends the following definition: *Asbestos is defined to be chrysotile, crocidolite, and fibrous cumingtonite-grunite, including ansosite, fibrous tremolite, fibrous actinolite, and fibrous anthophyllite. The fibrosity of the above minerals is ascertained on a microscopic level with fibers defined to be particles with an aspect ratio of 3 to 1 or larger.*"

footnote on page 2). It is important to recognize that these six commercial fibrous minerals are not identical in crystal structure, chemical composition, abundance, geologic occurrence, degree of exploitation, etc. Furthermore, human epidemiological data (i.e., incidence, occurrence, and control of disease in a population) suggest that they also are not identical in their disease-causing potential. These commercial fiber types not only differ between species, but also somewhat within species as well. Differences exist in fiber dimension, flexibility, tensile strength, resistance to heat, electrical conductance, specific gravity, and other properties (Shride, 1969).

Each mineral locality tends to have its own set of fiber characteristics suitable for certain, but not all, possible uses. In other words, all occurrences of the same mineral species are not necessarily suitable for identical uses. As examples, fiber length is a major factor in grading asbestos for commercial purposes—the longer lengths being more valuable, with the soft fibers worth more than harsh fibers. The longer fibers are valuable because they can be spun or woven into fabrics. Most of the spinning fibers are chrysotile asbestos. Amosite fibers are shorter and are used for various felted insulation products. Lighter weight products can be made with amosite for use in aircraft and ships. Crocidolite has high tensile strength and is acid resistant. Spun or woven crocidolite fibers are used in making fiber cement pipe because they allow free and rapid filtration of fluids that speeds up manufacturing processes (Bowles, 1959).

### OCCURRENCE

Major sources of amphibole fibers have been the amosite and crocidolite deposits of South Africa, the crocidolite of western Australia, and the anthophyllite of East Finland (Ross, 1981). Minor occurrences of amphibole-type fibers in the U.S. that have had some production include anthophyllite in Georgia, North Carolina, Idaho, Maryland, and Massachusetts. Tremolite has been mined only in a small way from deposits in South Africa and Maryland. Commercial mining of actinolite is practically unknown. Today, mining of amphibole asbestos is essentially confined to South Africa.

By far, the most important commercial mineral fiber comes from the serpentine type known as *chrysotile*. The two most important world sources of this fiber are the Ural Mountains of Russia and the Appalachian Mountains portion of Quebec, Canada (Table 1), and northern Vermont, U.S.A.

Fiber Type	Continent/Source	Amount Produced
Chrysotile (5,317,000 MT)	Europe	2,775,000
	North America	1,713,000
	Africa	377,000
	Asia	293,000
	South America	101,000
	Australia	58,000
Crocidolite (210,000 MT)	Republic of So. Africa	210,000
Amosite (71,000 MT)	Republic of So. Africa	71,000
	World Total	5,598,000 MT

Table 1. Estimated world asbestos production by fiber type (metric tons), 1978 (data from U.S. Bureau of Mines).

Sixty years ago Arizona led the nation in the production of chrysotile. At that time Arizona chrysotile, formed about 1.2 billion years ago, contained about half as much iron as did the known Canadian (Quebec) chrysotile, a valuable asset

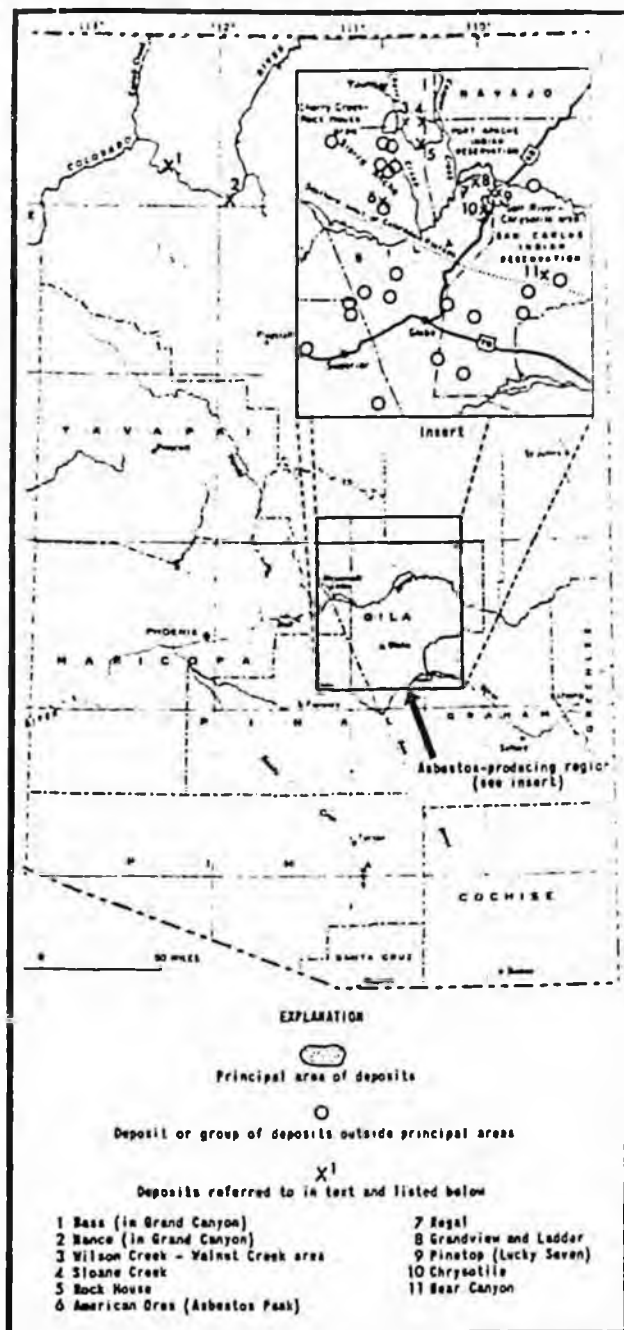


Figure 1. Map of major chrysotile asbestos occurrences in Arizona (from Arizona Bureau of Mines Bulletin 180).

for certain electrical applications. As recently as the 1950s, Arizona chrysotile was the only domestic source of low-iron chrysotile spinning fiber (used in covering electric cables) that met Navy asbestos specifications (Stewart, 1955). The filter market has been the principal outlet for high-grade Arizona chrysotile.

Chrysotile fiber is reported to have been seen in 1869 in the Grand Canyon by members of the Powell expedition (Wilson, 1928). Claims were filed about the year 1900 and a small amount of fiber was mined in 1903. The first of the more famous Gila County occurrences was recognized in 1872. However, additional discoveries were made and the first claims filed in 1913 (Stewart, 1955). In 1914 the Johns-Manville Company acquired the claims and soon became the leading producer in Arizona. Because of this early success, prospecting increased and hundreds of locations were made along the Salt River, Cherry Creek, and in the Sierra Ancha region

of east-central Arizona. After World War I, the highest price for the best grade crude chrysotile reached \$3,000 per ton, resulting in much early prospecting. In response to this early interest, the Arizona Bureau of Mines published a bulletin called *Asbestos* (Allen and Butler, 1921). Because of a continuing demand for information, another bulletin about Arizona asbestos followed (Wilson, 1928). Major Arizona occurrences of chrysotile asbestos are shown in Figure 1.

### PRODUCTION

Although asbestos had been mined as far back as Roman times, the modern industry did not start until the late 1800s. By 1890 the asbestos industry was going strong, with hundreds of commercial applications for fibrous material. Northern Italy was the first region to come into production. However, by 1900 the large South African crocidolite deposits had been opened and the Russian deposits in the Ural Mountains were being mined in large quantity. A few years later, mining of amosite deposits of South Africa was initiated. By 1980 about 100 million MT (metric tons) of asbestos fiber had been mined throughout the world. More than 90 percent of this was chrysotile and about 5 percent amosite and crocidolite (Ross, 1982). The remaining few percent is attributed to the other amphibole fibers, principally anthophyllite.

Amosite from South Africa, crocidolite from Australia, and anthophyllite from East Finland all come from rocks about two billion years in age. South African fiber production presently amounts to about 200,000 MT per year. The production of Australian crocidolite was terminated in 1966 after 138,000 MT had been shipped. The anthophyllite deposits of East Finland were operated continuously between 1918 and 1975, when mining terminated for economic reasons; approximately 350,000 MT of fiber was produced, 230,000 MT of which was exported.

The Quebec chrysotile deposits were discovered in 1877. By 1900 Quebec had already supplied 150,000 MT of fiber; by 1980 nearly 40 million MT had been mined—approximately 40 percent of the world's total mineral fiber production (Ross, 1981). Russia is the world's largest producer of chrysotile today, the Ural area contributing about 2.4 million MT per year.

Other exploited chrysotile deposits are located in the Italian Alps (160,000 MT per year), Cyprus (40,000 MT per year), South Africa (113,000 MT in 1978), Swaziland (48,000 MT in 1978), Zimbabwe (210,000 MT in 1978), and in the Coalinga area of California. Although the California deposits include large near-surface reserves, mining has lagged because of short fiber length and environmental controls (Ross, 1981).

In 1978 Russia produced 2,582,000 MT of chrysotile fiber, 46.1 percent of the world's total fiber output. Canada produced 1,620,000 MT of chrysotile fiber, 28.9 percent of the world total. Thus, in 1978, 75 percent of the world's asbestos production came from just these two regions. In contrast, the U.S. produced 93,000 MT of fiber (chrysotile), less than 1.7 percent of the total. South African amosite and crocidolite production amounted to 281,000 MT or 5 percent of the world fiber output. The remaining 18.3 percent, all chrysotile, is attributed to 15 other countries, the largest share assigned equally (3.7 percent) to China and Zimbabwe. Only three firms, operating in Vermont and California, are now producing asbestos (chrysotile) in the U.S. Table 1 shows the estimated world production for 1978.

Shride (1969) states that chrysotile asbestos was mined from about 160 deposits in Arizona and that perhaps another 60-70 occurrences are known. In terms of production, Arizona asbestos has, overall, been a small contributor. Shride estimates that total production through 1966 of at least 82,000 MT was valued at about \$17 million at the time of sale. Today, the Arizona asbestos industry is inoperative.

### CONSUMPTION

The following excerpts about the asbestos industry, as it once was, are taken from Bowles (1959):

Asbestos furnishes a major raw material for a great variety of essential products, the manufacture of which constitutes a vast industry . . . the United States has developed the greatest asbestos-products industry in the world . . . Domestic mines furnish (in the form of chrysotile fiber) only 6-8 percent of all grades and an even smaller percentage of the important strategic grades.

The procurement of necessary supplies is a problem of world-wide scope and in every war emergency asbestos assumes top priority among strategic minerals. It is of paramount importance, therefore, that a thorough knowledge should be gained of the composition and properties of asbestos, its uses and requirements for each use, grades and specifications, the degree of essentiality of each application, the nature and extent of sources of supply throughout the world, mine and mill capacity, reserves, transportation, facilities, political and commercial control, world requirements by countries, import and export data, allocation of supplies, fiber beneficiation, possibilities of synthetic asbestos manufacture, use of substitute materials, past war controls, war history, and various other problems that may appear.

The U.S.S.R. has supplanted the United States as the largest consumer of asbestos fiber (Clifton, 1979). U.S. consumption for the years 1977-1982 is shown in Figure 2. Whereas the use of asbestos in developing countries is expanding, Figure 2 indicates a continuous decline in U.S. asbestos consumption since 1977. Clifton (1983) states that the 1982 domestic consumption of about 250,000 MT (over 90 percent supplied by Canada) is the lowest since 1940. He estimates that about 400 firms, centered in the eastern states, are manufacturing asbestos products. In 1982 U.S. commercial uses of fiber included asbestos-cement pipe (37 percent), flooring products (20 percent), friction products (14 percent), roofing products (9 percent), packing and gaskets (6 percent), asbestos-cement sheet (6 percent), and other uses (8 percent). Clifton also suggests that certain domestic market segments may have been permanently lost to substitutes. Although no wholly satisfactory substitutes are available for asbestos in many applications, such as friction needs, much research is underway to evaluate possible alternatives.

### HEALTH HAZARDS

That asbestos fibers, under certain conditions of exposure, may cause disabling diseases in humans appears to be well established. Three principal diseases have been attributed to excessive exposure to asbestos fibers: 1) asbestosis, a fibrosis of the lung tissue which reduces the elasticity and function of the lungs, 2) lung cancer, and 3) mesothelioma, a rare cancer of the pleural and peritoneal membranes. Nearly all of the asbestos-related diseases have occurred in occupa-

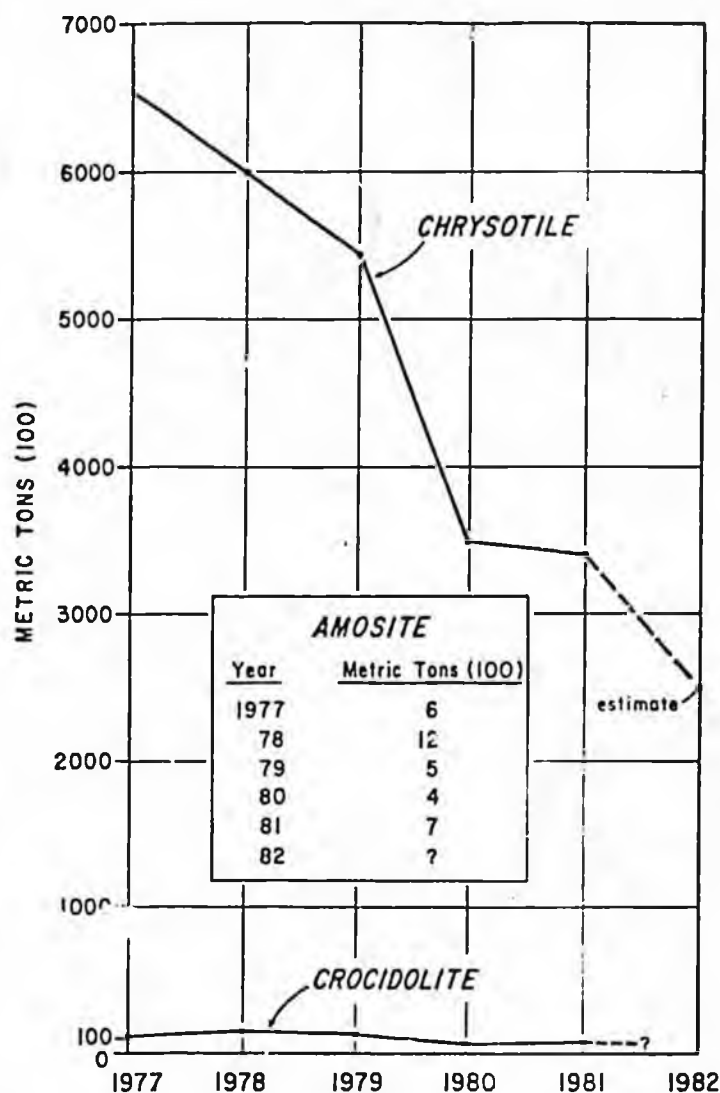


Figure 2. U.S. asbestos consumption by fiber type (100 metric tons), 1977-1982.

tional groups—those concerned with mining and milling of asbestos, the manufacture of asbestos-containing products, and the application and removal of insulation materials containing asbestos fibers. However, some non-occupational asbestos-related disease has been documented and is summarized later.

During the turn of the century when the use of asbestos fibers was increasing due to rapid expansion of product lines, the control of dust created by certain operations was not perfected. It is known that in some textile manufacturing operations, such as carding, spinning, and weaving of asbestos fibers, dust concentrations were so high that a person could not see beyond an arm's length. After many years of this type of exposure, some employees developed a pulmonary disease that was named asbestosis. Upon recognition of this affliction, dust control measures were initiated that significantly reduced the incidence of asbestosis.

The first suggestion of a causal relationship of exposure to asbestos fibers and lung cancer was proposed in the mid-1930s (Lynch and Smith, 1935). It was also recognized that there was a long time lag between first exposure and onset of disease. As with asbestosis, the control of exposure resulted in a marked decrease in the incidence of lung cancer.

The association of exposure to asbestos fibers and mesothelioma was not given serious consideration until after

1960 when 33 cases of mesothelial malignancies were reported in a crocidolite mining population in South Africa (Wagner and others, 1960). This disease appeared many years after initial exposure.

Generally, asbestos-related diseases appear in asbestos workers only after many years have elapsed since first exposure. A significant increase in the lung cancer death rate appears 10-14 years after first exposure and peaks at 30-35 years. The mesothelioma death rate becomes significant 20 years after first exposure, but continues to climb even after 45 years have elapsed. The asbestosis death rate becomes significant 15-20 years after first exposure and apparently peaks at 40-45 years (Selikoff and others, 1980). It is to be emphasized that these cited, generalized statistics are based upon studies of workers who were exposed daily to various fiber types as part of their work environment. The significance of exposure levels of the different fiber types, over time, needs to be addressed if precision and a guiding perspective are to be gained.

#### Risk

The determination of asbestos risk can be approached in two ways: 1) tests on animals, and 2) observations on humans exposed to asbestos dusts in mines and mills, and various plants and workplaces where these particular fibers are involved. The argument is made that animal studies are essential because the time required to study humans renders most direct studies impractical. The only reliable study of humans involves case histories with statistical data assemblages. A result is said to be positive when it reveals an excess of mortality that is caused by the agent under study. (An excess is that amount beyond what is statistically expected in a population not exposed to the risk.) Positive epidemiological results are taken by agencies as strong evidence of carcinogenicity, whereas a positive bioassay (animal test) is taken as evidence that a substance is a *potential* human carcinogen. Apparently, agencies specify stringent requirements with which to weigh negative epidemiological data against positive animal information.

Carcinogenicity of asbestos fibers has been studied by exposing laboratory animals to fibers by the following methods: intratracheal injection, intraperitoneal injection, intrapleural injection, ingestion, and inhalation. With the exception of inhalation, and ingestion to some extent, the foregoing routes of exposure are not likely in humans. In addition, the quantity of asbestos required to produce these effects in laboratory animals, by any of these routes of exposure, is high relative to dosages experienced by humans in occupational environments.

A report dealing with airborne asbestos was prepared by the Committee on Biological Effects of Atmospheric Pollutants (National Research Council, 1971), and information derived from their assessment of animal studies may be worth noting:

Asbestotic pulmonary fibrosis has been produced experimentally in various species of animals, including rats, guinea pigs, hamsters, rabbits and monkeys. In many of the studies, the disease resembled early asbestotic development in man . . . Diffuse fibrosis has also been produced, but to do so it was necessary to use very high concentrations of asbestos dust and long periods of exposure or observation after exposure . . . Lung cancer from chrysotile dust has been produced experimentally in rats and in mouse lung implants.

Other investigators who used different methods for introducing the dust did not find lung cancer in animals they studied . . . Rats whose lung clearance had been artificially impaired had twice the lung cancer rate of animals with normal clearance . . . cancer of the pleural surface (mesothelioma) has been reported in rats and hamsters that received intrapleural injections of the three most common types of asbestos. The amounts of asbestos dust introduced into the thoracic cavity were very large, and translation of results to human inhalation of asbestos is uncertain.

As already indicated, disease incidence increases significantly among various asbestos trades workers. Most of these are men who most likely handled several types of asbestos fibers during their working careers. In contrast, miners and millers tend to be exposed to only one form of fiber. This latter category, then, provides some opportunity to isolate the effects of individual fiber forms on health. More about this later.

Lungs of persons in urban and rural non-occupational settings have been shown to contain "asbestos" fibers. Many of these fibers, or bodies, are probably derived from the burning of leaves and from plant products, such as paper, wood, and coal, man-made fibers, talc used generously as a body dusting powder (which may contain tremolite), graphite, hornblende, diatomaceous earth and carborundum (National Research Council, 1971; Cooper, 1967). That thousands or even millions of fibers are present in most human lungs has been recognized since the turn of the century. Although many urban areas contain measurable asbestos fiber counts in the ambient air, epidemiological study indicates that there are no unusual health problems attributed to breathing chrysotile fiber in a non-occupational setting (Ross, 1982).

In many epidemiological studies, "asbestos" is the common denominator and specific fiber types are not considered. Some feel strongly that such lumping serves to mask the probability that the various fibers differ in their disease-causing tendencies in humans (Ross, 1982; Rutstein, 1982). This distinction, if valid, should be viewed with the knowledge that chrysotile fiber is the overwhelming contributor to asbestos production the world over, besides being the only fiber mined commercially in the U.S. However, amosite and crocidolite, though normally minor contributors, were heavily used in certain war-related industries during World War II.

Malcom Ross (1982), a physical chemist and geologist-mineralogist with the U.S. Geological Survey, has reviewed and analyzed asbestos-related data from 110 published sources from around the world. His primary interest was to survey asbestos-related disease in all aspects of the industry and assess *non-occupational* risks of fibrous minerals. Following are some of Ross' conclusions:

1) Non-occupational exposure to chrysotile asbestos, despite its wide dissemination in urban environments throughout the world, has been shown by epidemiological studies to be of no recognized health significance. If chrysotile asbestos were hazardous to health, the women of Thetford Mines, Quebec (where over 20 million MT of chrysotile asbestos has been mined), would be dying of asbestos-related diseases; yet this has not occurred (see cover photo). The health studies completed in Canada suggest that populations

can safely breathe air and drink water that contain significant amounts of chrysotile fiber.

2) Crocidolite asbestos shows an entirely different fiber-dose disease-response relationship from that observed for chrysotile asbestos. Health studies of those exposed only to crocidolite show that it is much more hazardous than chrysotile, perhaps 100-200 times more hazardous with respect to mesothelioma. The danger of crocidolite dust is particularly emphasized by the many mesothelioma deaths occurring among the residents of the crocidolite mining districts of the Cape Province, South Africa, where the exposure occurred in a non-occupational setting. Such mortality is practically unknown among residents of the chrysotile mining localities of Quebec. Control of crocidolite dust, particularly in mines and mills, presents a considerable engineering problem in that dust levels at or below the 1969 British Standard of 0.2 fibers/cm<sup>3</sup> (1 cm<sup>3</sup> = one cubic centimeter or one milliliter) virtually cannot be achieved (Simpson, 1979, p.74).

3) The hazards of amosite asbestos are more difficult to assess. The amosite factory employees of Paterson, New Jersey, who worked under very dusty conditions during World War II, have experienced excess mortality due to lung cancer, asbestosis, and mesothelioma. In contrast to these factory workers, amosite miners, and millers elsewhere in the world, at least with regard to mesothelioma, do not appear to be at much risk. This suggests that dust controls are possible which can greatly reduce or prevent the occurrences of asbestos-related diseases in amosite workers.

4) The fear caused by statements and implications to the effect that "one fiber can kill" and by the apparently exaggerated predictions of the amount of asbestos-related mortality expected in the next 20 or 30 years, has generated much political pressure to remove asbestos from our environment and to greatly reduce or even stop its use. An example of this is the concerted effort in several industrial nations, including the United States, to remove asbestos from schools, public buildings, homes, ships, appliances, etc. This is being done, even though most asbestos in the U.S. is of the chrysotile variety, and even though asbestos dust levels in schools, public buildings, and city streets are much lower than dust levels found in chrysotile mining communities where no asbestos-related disease has been reported in the non-occupationally exposed residents. The impetus for these costly removals and appliance recalls (hair dryers, for example) apparently comes from capitalizing on the "one fiber can kill" concept. Not only is this program costly—it could be dangerous if the removal of crocidolite asbestos is not accomplished with great care. In most cases, asbestos coatings and insulation, where necessary, can be repaired at no risk and at a fraction of the cost of complete removal.

Rutstein (1982) comments on relative health hazards of the various fiber types:

Outside the U.S., particularly in Great Britain, it is widely believed that crocidolite is much more dangerous than chrysotile, and, further, that much of the data suggesting that asbestos is harmful is based on the effects of crocidolite, and perhaps, amosite, but not on the much more widespread chrysotile . . . Let us now

consider why there was an asbestos scare. Irving Selikoff of the Mount Sinai School of Medicine continues to lead in advocating the dangers of asbestos. His classic studies (1973) of the asbestos-insulation workers of New Jersey show quite clearly that they were indeed much more susceptible to asbestosis and various cancers. Lung cancer was prevalent, especially if the workers smoked cigarettes. Most of the asbestos workers in Selikoff's studies were probably exposed to more than just the chrysotile variety of asbestos. Crocidolite was particularly favored for insulation on ships. However, the interpretation of the epidemiological data did not stress distinguishing between health effects attributable to different mineral species, but only to "asbestos".

Why should these fiber types act differently? Perhaps because they have contrasting physical and chemical attributes. For instance, chrysotile fibers curl into spirals, whereas the amphiboles (crocidolite and amosite) develop straighter, more needle-like fibers, and appear to penetrate more deeply into the terminal air sacs of the lungs (Figure 3). Chrysotile is a magnesium silicate, amosite is an iron-magnesium silicate, and crocidolite is a sodium-iron-magnesium silicate. Their solubilities and resistance to chemicals are known to differ.

Recently, the authors attended a talk (January 21, 1983) about asbestos-related disease, presented by Margaret Becklake, M.D. (McGill University, Canada) at the University of Arizona medical center. She restated her belief that chrysotile eventually dissolves in the lungs and therefore does not continue to accumulate like the amphibole fibers do. Previously, she had reported the following (Becklake, 1982):

Subsequent studies have also strengthened the evidence that fibers dissolve out of the lungs over time, the loss occurring preferentially in chrysotile fibers. Thus, though chrysotile accounts for the bulk of commercial use and hence human exposure, it is the amphiboles that constitute the core of the majority of asbestos bodies found in human lungs, even in those known to have had occupational exposure to chrysotile (Warnock, 1979; 1980; 1981) . . . All these findings strengthen the evidence that chrysotile is cleared more readily from the lungs than other fibers . . .

Perhaps the best available information on chrysotile fiber exposure-risk levels comes from studies in Canada, the source of much of the chrysotile fiber used in the U.S. As an example, Ross (1982) reports:

Epidemiological studies of the chrysotile asbestos miners and millers of Quebec, undertaken by medical researchers in Canada, show that for 3,105 men exposed for more than 20 years to chrysotile dust averaging 20 fibers/cm<sup>3</sup>, the total mortality was less than expected (620 observed deaths, compared to 659 expected deaths). Risk to lung cancer was slightly increased—48 deaths observed and 42 deaths expected. Exposures to 20 fibers/cm<sup>3</sup> are an order of magnitude greater than those experienced now (generally less than 2 fibers/cm<sup>3</sup>); thus chrysotile miners working a lifetime under these present dust levels should not be expected to suffer any measurable excess cancer.

How much is 20 fibers/cm<sup>3</sup>? According to Rutstein, at an allowable limit of 2 fibers/cm<sup>3</sup> of air (over an 8-hour industrial environment workday), the average worker could easily inhale 7 million fibers per day. Thus, he too questions the incon-



Figure 3. Crocidolite (straight fibers) from South Africa and chrysotile (wavy fibers) from Globe, Arizona, viewed through a scanning electron microscope. The thinner fibers are less than .0004 inches thick. Photos courtesy of the U.S. Geological Survey.

sistency revealed in permitting the inhalation of several million fibers on the one hand and promoting the "one fiber can kill" concept on the other hand.

Clifton (1983) reports that the United Kingdom Health and Safety Commission decided to implement tighter controls over asbestos exposure. The new limits, which were effective January 1, 1983, are: chrysotile, one fiber per milliliter of air (1 f/ml); amosite, 0.5 f/ml; and crocidolite, 0.2 f/ml. [chrysotile was lowered by 1 f/ml and the others are unchanged.]

What is known of the asbestos-related mortality rate in the U.S. and what are the estimates for the future? If one looks over the data, it becomes obvious that firm numbers do not exist. Ross points out that former Secretary of the U.S. Department of Health, Education and Welfare, Joseph A. Califano, reported figures in a 1978 speech that translate into 76,000 cancer deaths per year due to asbestos. The data came from medical scientists associated with the National Institutes of Health. In 1980, Dr. Irving Selikoff stated at a press conference that 20,000 U.S. asbestos workers would die each

year for the next 40 years of "excess disease". Subsequently, in 1981 Dr. Selikoff, through a press release to the Associated Press, stated that 10,000 American workers are dying each year because of asbestos exposure. He did not supply a data source for these estimates.

Ross asks if any of these numbers are correct. Using existing statistics from Vital Statistics of the United States dealing with mortality factors, asbestosis deaths in the nation for the period 1967-1977 are seen to average 41 per year. However, Ross cites data indicating that deaths due to this cause are underreported, therefore adjusts the average figure to 88. Using this number in combination with asbestos-related epidemiological statistics, Ross estimates the likely annual mortality due to lung cancer and mesothelioma. Combining these, his estimates for total annual asbestos-related mortality range from 522-587. Furthermore, he thinks that asbestos-related mortality will peak between 1980 and 1985, 35 to 40 years after the large World War II shipyard employment.

In regard to the estimation of risk in human non-occupational exposure to asbestos, the National Research Council's

Committee on Biological Effects of Atmospheric Pollutants (1971) wrote:

The most important question in the case of persons with non-occupational exposures to asbestos is whether there is an increased risk of malignancies. Industrial experience indicates that there is no likelihood of significant asbestosis in non-occupational exposure. The major potential for risk appears to lie in those with indirect occupational contacts, household contacts, or residence in the immediate neighborhood of asbestos sources; and even there, the actual risk is poorly defined. But the fact that there appears to be a gradient of effect in such groups suggests that there are levels of inhaled asbestos without detectable risk. It is not known what range of respirable airborne asbestos fibers will ultimately be found to have no measurable effects on health. At present, there is no evidence that the small numbers of fibers found in most members of the general population affect health or longevity.

More recently, in response to a question concerning non-occupational exposure to chrysotile asbestos in Canada (see cover photo), Dr. Becklake stated the following (personal communication, 1983): "A mortality study has been carried out referring to residents of the asbestos mining towns of Quebec. No significant excess general mortality was shown in women. The excess in men was thought to be related to occupational exposure." Asked if society should ban all forms of asbestos use, Dr. Becklake commented, "We humans live with many dangerous materials and are able to control others; why not this one?"

Globe, Arizona, has been in the news periodically, most recently because of its association with EPA's Superfund. A mobile home park is situated on land, parts of which were once dedicated to the processing of chrysotile asbestos. At question is the health risk. A dilemma prevails because there are no factual scientific data that clearly define the relationship between all possible exposure levels of chrysotile asbestos and risk. As already pointed out, high occupational exposure levels can be risky, whereas there is no evidence of significant risk at levels frequently characterized as *non-occupational*. However, how should the possible exposure levels at the mobile home park be characterized? Might they be high, low or intermediate, depending upon several variables? Is living there likely to be more or less hazardous than living in the chrysotile mining and milling centers of Quebec, Canada? Because of a paucity of accurate, scientific data, and in spite of efforts to gather more, answers to such questions remain largely subjective and somewhat arbitrary. Although this is the nature of the problem that confronts the various state and federal agencies, decisions must nevertheless be made. In the absence of definitive, scientific health-risk data, decisions on final actions will inevitably be based upon economic-political considerations.

#### Substitutes

In a report of the Advisory Committee on Asbestos, Health and Safety Commission of Great Britain, the following statement is made regarding substitutes for asbestos (Simpson, 1979, v.1, p.69):

As a general principle we take the view that control of any useful but hazardous material is preferable to the ultimate sanction of prohibition. It is very easy to say that a dangerous substance or process should be banned and to hope that that will solve the problem. In

our view, this is a gross over-simplification of a complex equation of interlinked factors. It ignores the possibility that prohibition of a particular substance may directly result in an increase in health or safety risks, for example from fire, which the use of that substance currently prevents or reduces. It also ignores the implications of statutorily enforcing substitution by materials or substances that presently appear to be suitable but may at a later date be found to constitute a risk to health. The social and economic consequences of the possible closure of factories using the original material or process need be taken into account.

Until recently, the U.S. has been the largest producer of asbestos products, mostly from imported fiber. The three principal natural fibers that enter into commerce—crocidolite, amosite, and chrysotile—have physical and chemical characteristics that are difficult to duplicate by substitution. As a consequence, substitutes tend to perform in an inferior way. The costs (including health and safety), imposed on society because of inferior performance, are not yet known.

#### CONCLUSIONS

The mining, milling, processing, and fabrication of a family of naturally occurring fibrous asbestos minerals, especially chrysotile, is world-wide in scope. The overall benefits of asbestos products to society at large are incalculable. Because of adverse publicity, the "hazards" of asbestos seem to preclude benefits derived from its use.

The specter of disease, especially cancer, has been attached by some to the exploitation, processing, use, and even general occurrence of asbestos. How serious is the asbestos-related disease threat? Judging from the data cited in this perspective-seeking report, the hazard seems to depend principally on two points: 1) the specific mineral, and 2) exposure level.

The nature of the asbestos problem is recognized and it is believed that present technology is capable of controlling occupational chrysotile exposures to levels that are not anticipated to result in excess disease. Studies of the non-occupational health risk of chrysotile suggest no detectable excess disease; therefore, the prevailing generalization "that any non-zero exposure to chrysotile can cause serious medical problems should be questioned.

These data, though not finally definitive, nevertheless support the contention that failure to discriminate between the various fiber types and exposure levels is scientifically and practically inappropriate. Thus chrysotile may have become the victim of "guilt by association", having been lumped with the more dangerous minerals, crocidolite and amosite, under the general term, "asbestos".

#### REFERENCES

- Allen, M.A., and Butler, G.M., 1921, Asbestos: University of Arizona and Arizona Bureau of Mines Bulletin 113, 31 p.
- Becklake, Margaret, 1982, Asbestos-related diseases of the lungs and pleura: American Review of Respiratory Diseases, v. 126, no. 2, p. 187-194.
- \_\_\_\_\_, 1983, personal communication: on non-occupational exposure to chrysotile, February.
- Bowles, O., 1959, Asbestos—a materials survey: U.S. Bureau of Mines, IC 7880, p. 1-94.

Clifton, R.A., 1979, Asbestos, in *Mineral Commodity Profiles*: U.S. Bureau of Mines, 19 p.

\_\_\_\_\_, 1983, Asbestos, in *Mineral Commodity Summaries*: U.S. Bureau of Mines, p. 12-13.

Cooper, W.C., 1967, Asbestos as a hazard to health: *Arch. Environmental Health*, v. 15, September, p. 285-290.

Lynch, K.M., and Smith, W.A., 1935, Pulmonary asbestosis III; carcinoma of lung in asbestos-silicosis: *American Journal of Cancer*, v. 24, p. 56-64.

National Research Council, 1971, *Airborne asbestos; a report prepared by the Committee on Biological Effects of Atmospheric Pollutants*: National Academy of Sciences and National Academy of Engineering, Washington DC, p. 33.

Office of Technology Assessment, 1981, *Assessment of technologies for determining cancer risks from the environment—summary*: U.S. Congress (OTA, Washington DC 20510), 27 p.

Ross, Malcom, 1981, The geological occurrences and health hazards of amphiboles and serpentine asbestos, in Veblen, D.R., ed., *Amphiboles and Other Hydrous Pyriboles—Mineralogy*: Mineralogical Society of America, Washington DC, v. 9A, p. 279-323.

\_\_\_\_\_, 1982, A survey of asbestos-related disease in trades and mining occupations and in factory and mining communities as a means of predicting human risks of non-occupational exposure to fibrous minerals: U.S. Geological Survey Open-File Report 82-745, 41 p.

Putstein, M.S., 1982, Asbestos—friend, foe or fraud: *Geotimes*, v. 72, no. 4, p. 23.

Selikoff, I.J., Hammond, E.C., and Seidman, H., 1973, Cancer risk of insulation workers in the United States, in *Biological Effects of Asbestos*: IARC Scientific Publication No. 8, World Health Organization, Lyon, p. 209-216.

\_\_\_\_\_, 1980, Latency of asbestos disease among insulation workers in the United States and Canada: *Cancer*, v. 46, p. 2736-2740.

Shride, A.F., 1969, Asbestos, in *Mineral and Water Resources in Arizona*: Arizona Bureau of Mines Bulletin 180, p. 303-311.

Simpson, W., 1979, Asbestos, vol. 1: Final report of the advisory committee; vol. 2: Papers commissioned by the committee: Health and Safety Commission, Great Britain, 203 p.

Stewart, L.A., 1955, Chrysotile-asbestos deposits of Arizona: U.S. Bureau of Mines, IC 7706, 124 p.

U.S. Department of Health and Human Services, 1980, *Workplace exposure to asbestos; review and recommendations* (NIOSH-OSHA Work Group), pub. no. 81-103, 39 p.

Wagner, J.C., Sleggs, C.A., and Marchand, P., 1960, Diffuse pleural mesothelioma and asbestos exposure in the northwestern Cape Province: *British Journal of Industrial Medicine*, v. 17, p. 260-271.

Warnock, C.A., 1979, Analysis of the cores of asbestos bodies from members of the general population: patients with probably low-degree asbestos exposure to asbestos: *American Review of Respiratory Disease*, v. 120, p. 731-786.

\_\_\_\_\_, 1980, Asbestos fibers in the general population: *American Review of Respiratory Disease*, v. 122, p. 669-678.

\_\_\_\_\_, 1981, Asbestos and other ferruginous bodies; their formation and clinical significance: *American Journal of Pathology*, v. 102, p. 447-456.

Wilson, E.D., 1928, Asbestos deposits of Arizona: University of Arizona and Arizona Bureau of Mines Bulletin 126, 97 p.

## ERRATA

Two figures in the Technical Report prepared by Reynolds and Keith, *Geochemistry and Mineral Potential of Peraluminous Granitoids* (December 1982, v. 12, no. 4, p. 5), were mislabeled. Figures 1 and 3, reprinted below, have been corrected. The positions of the labels "alkaline" and "subalkaline" have been reversed, as shown here.

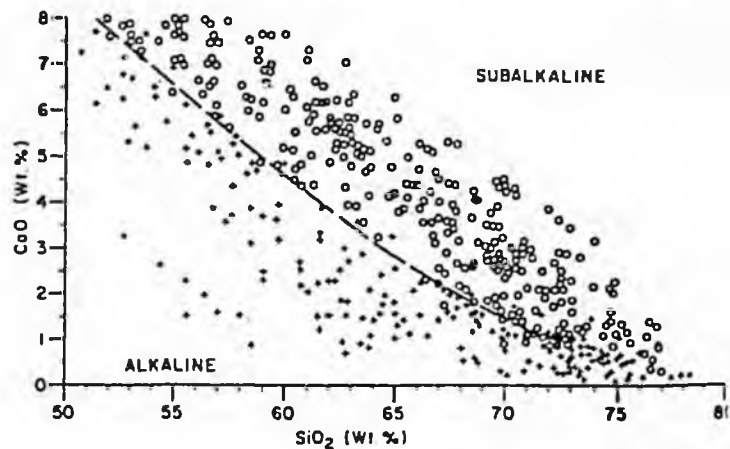


Figure 1.  $\text{SiO}_2$  versus CaO variation diagram for metaluminous-suite igneous rocks of known alkalinity. Dots represent calc-alkalic and calcic rocks; crosses indicate alkali-calcic and alkalic rocks (classifications according to Peacock, 1931).

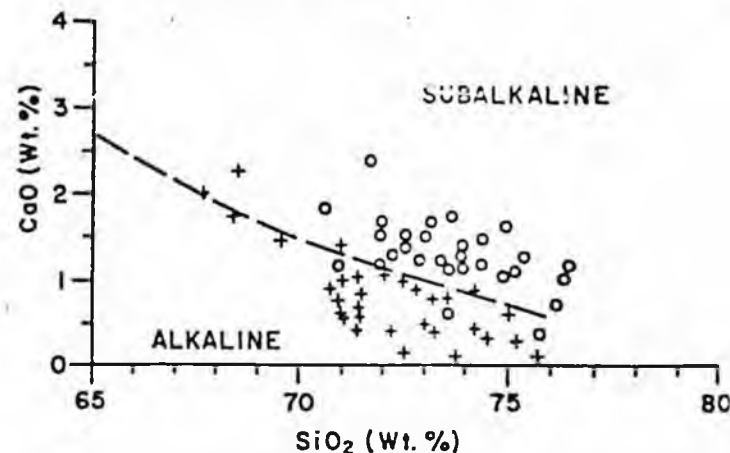


Figure 3.  $\text{SiO}_2$  versus CaO variation diagram for peraluminous granitoids of Arizona (o) and the Hercynian belt of Europe (+).

## NEW PUBLICATIONS

*Roadside Geology of Arizona*, by Halka Chronic; Mountain Press Publishing Co. (Box 2399, Missoula, MT 59806; 406/728-1900), 1983, 314 p. Aspects of Arizona's geology and diverse landscapes that can be seen from the highways are presented in this "guidebook" as an introduction to those with little or no geologic training. \$9.95

*Checklist of Arizona Minerals*, by Raymond W. Grant, Mineralogical Society of America (PO Box 902, Phoenix, AZ 85001), 1982, 78 p. Describes physical properties of 640 known minerals in Arizona; lists the state's minerals according to Dana's system. (\$6 + shipping) \$7.00

Introduced: 1/16/85  
Referred: Health, Education & Social  
Services, Labor & Commerce and Finance

Funding Information

General Fund	\$26,300,000
Other Funds	-0-
	<u>\$26,300,000</u>

1 IN THE HOUSE

BY GRUENBERG AND KOPONEN

2 HOUSE BILL NO. 57

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act making special appropriations for an asbestos  
7 health hazard abatement program; and providing for an  
8 effective date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 \* Section 1. The sum of \$300,000 is appropriated from the general fund  
11 to the Department of Labor to implement the asbestos health hazard abate-  
12 ment program.

13 \* Sec. 2. The sum of \$26,000,000 is appropriated from the general fund  
14 to the Department of Education for administration of the asbestos health  
15 hazard abatement program and for grants to abate asbestos health hazards in  
16 schools in school districts and regional educational attendance areas.

17 \* Sec. 3. The unexpended and unobligated portions of the appropriations  
18 made by this Act lapse into the general fund June 30, 1987.

19 \* Sec. 4. This Act takes effect on the effective date of an Act estab-  
20 lishing an asbestos health hazard abatement program.

## HUMAN RIGHTS



Oregon City, Oreg., teacher Elaine Krause uses puppets to help her first graders at Mount Pleasant Elementary become more aware of sexual abuse. Krause's concern with sexual abuse grew out of her experience as a volunteer at a local rape crisis center, where she found many of the sexually abused were children.

## Combating an Ugly National Problem

This year alone, 500,000 American children will be the victims of abuse.

Experts estimate that every two minutes, somewhere in the United States a child is abused: physically, sexually, emotionally, or by neglect. One out of three girls will be sexually abused in some way by the time they're

18. So will one out of eight boys.

These children are in our classrooms daily. In 14 percent of all reported cases of child abuse, it's a teacher who notifies authorities. All states now mandate that teachers report evidence of child abuse.

Recognizing a growing need, NEA has launched a multimedia

training program designed to help Association members, school systems, parents, and community groups cope with the problems of abused children—and stem the tide of future abuse.

The NEA program has 19 separate components, including—

- ▶ A handbook and three filmstrips to help school people recognize the signs of child abuse and neglect, talk to and teach an abused child, and work with abusive parents.

- ▶ Comprehensive state-by-state data on how and where to report suspected child abuse.

- ▶ Leaflets to help parents and children recognize and prevent abuse.

- ▶ Audio tapes with information on how to find support groups and services, how to talk with the child abuse victim, and how to set up school-based child abuse prevention programs.

- ▶ Reproducible materials for six one-hour professional development workshops on child abuse.

The total package is available for \$274 from the NEA Professional Library, P.O. Box 509, West Haven, CT 06516. Local and state Associations may purchase it at half price—\$137. To get the special price you must include the stock no: 0812-X-40.

—Nancy Young



Left: Unveiling new child abuse prevention kit, NEA President Mary Hatwood Futrell tells reporters, "Child abuse and neglect have been swept under the rug for too long."

Right: Materials in NEA's new multimedia kit are designed to bring communities—school employees, administrators, parents, and other concerned citizens—together to tackle one of the nation's ugliest problems.



## Children's Trust Funds Help Prevent Abuse

Federal assistance for child abuse prevention programs has pretty much dried up, and these programs tend to get low priority in most state budgets. But with the growing interest in stopping abuse and neglect before it gets started, one creative funding alternative has been catching on across the country: the children's trust fund (CTF).

Developed by Lansing, Mich., pediatrician Ray E. Helfer, M.D., former vice-president of the National Committee for the Prevention of Child Abuse and Neglect, this concept calls for states to raise the cost of marriage licenses, birth certificates, or divorce decrees, and then funnel these fees to appropriate groups that provide child abuse prevention services.

Monies may also be raised

through tax refund checkoff. Advisory boards made up of health professionals, laypeople, or both supervise distribution of the grants.

So far 17 states have developed such trust funds, including Alabama, Illinois, Iowa, Kansas, Louisiana, Michigan, Missouri, North and South Carolina, South Dakota, Virginia, Washington, West Virginia, and Wisconsin. Annual "takes" range from \$50,000 in Rhode Island to \$4 million in California.

Bills to create similar trusts are pending in the New Jersey and Hawaii legislatures, and the North Dakota Education Association is part of a coalition to establish one.

The prevention programs financed by these trust funds seek to avoid a breakdown in the parent-child relationship.

They can be either *primary* (directed to all members of the community before abuse occurs, including education for parenthood, support groups for new parents, play groups for toddlers, and abuse awareness programs for schoolchildren) or *secondary* (directed at parents thought to be at risk for abusing or neglecting their children, including hotlines, crisis nurseries, parenting classes for adolescent mothers, and special support services for mothers who have difficulty bonding with their newborns).

Sen. Chris Dodd (D-Conn.) is now preparing federal legislation to encourage states to establish children's trust funds. To be called the Children's Challenge Grant bill, it should be taken up by the new Congress that convenes in January.

—N.Y.

## WASHINGTON WATCH

The 98th Congress adjourned in early October, its members returning home to campaign for reelection. All 435 seats in the House of Representatives are up for grabs, as well as 33 seats in the Senate. NEA's Political Action Committee (NEA-PAC) has endorsed pro-education candidates in more than 300 congressional races.

Before leaving town, the full House of Representatives voted (311 to 89) to consider the American Defense Education Act, which has been NEA's top legislative priority in this Congress. Aimed at revitalizing public education for the remainder of the 20th century, the ADEA would provide invaluable federal resources directly to school districts to support locally designed education improvement programs.

However, the Senate's unwillingness to consider the bill meant that the ADEA couldn't become law this year, even if it passed the House. So NEA and pro-ADEA House leaders decided not to force a House vote on the bill—especially since ultraconservative opponents were planning to waste the House's time on a series of anti-public education amendments.

The ADEA is scheduled for early consideration in the new Congress that convenes in January.



A contingent from this summer's U.S. Olympics team paid a visit to Capitol Hill in the waning days of the 98th Congress to show support for the Civil Rights Act of 1984—a bill designed to overturn the *Grove City* decision handed down last February by the Supreme Court, which limited the scope of Title IX and could undermine the nation's other civil rights laws.

Volleyball star Flo Hyman (left, with Sen. Ted Kennedy), runner Mary Decker, and other Olympics stars hailed Title IX, the landmark 1972 law barring sex discrimination in education institutions, as making the difference between them and the lesser-known women athletes.

The Education Department, bowing to pressure from Phyllis Schlafly's Eagle Forum and other ultraconservative groups, has issued final regulations for enforcing the 1978 "child privacy" law authored by Sen. Orrin G. Hatch (R-Utah)—a law that gives license to the federal government to harass schools and teachers over such courses as sex and drug education, civics, government, and almost any kind of instruction that involves discussion or inquiry methods.

NEA and other major education groups had filed comments last spring protesting the vagueness of key terms in the draft regulations and asking the Department to rewrite or drop them. But the final regs, released this fall, are basically unchanged. They set up a new Family Educational Rights and Privacy Office within the Education Department to "investigate, process, and review" parental complaints that a teacher or school is violating the Hatch amendment.

The U.S. Supreme Court heard arguments in early October in the case of *State of New Jersey v. T.L.O.*, with a ruling expected in December or January. For the first time, the high Court will be deciding whether the constitutional guarantee of freedom from unreasonable searches restricts school officials in searching students' personal effects—and if so, to what extent.

NEA filed a friend-of-the-court brief asking the justices to rule that the Fourth Amendment, while affording students less protection from searches than adults have outside the school setting, does require a "reasonable suspicion" that any search will produce evidence that a crime has been committed or a school rule violated.

NEA lobbied successfully for passage of a bill to make it difficult to remove disabled people from the Social Security rolls. The measure, HR 3755, was developed in response to the Reagan Administration's policy of "accelerated review" of disability cases—a process that stopped benefit payments for 490,000 recipients while the status of their cases was under review. Family hardship and disruptions—even a number of suicides—have been attributed to the Administration's harsh policy.

The Association is also working for a change in federal tax laws that would restore tax-exempt status to educational assistance provided by employers (including school districts) as a fringe benefit. The exemption expired last December, and NEA has joined a national coalition seeking its reinstatement.

the past decade create a new set of problems. Known as closed environments, these buildings have central ventilation systems that recirculate air—with little venting or fresh air intake. Employees and students in these schools report a wide range of health problems—including headaches, dizziness, nausea, fatigue, respiratory problems, and flu-like illnesses—symptomatic of chemical poisoning.

The buildings contain such a wide variety of potential health hazards that it's often extremely difficult to determine the source of problems in any one school. Central ventilation systems can malfunction, not allowing sufficient fresh air into the building. Or the fumes from a toxic substance in one location can be circulated throughout the school.

Four years ago, students and staff at Oakland (Calif.) High School developed symptoms of chemical poisoning shortly after the brand new building opened. Formaldehyde gas and other toxic substances were vaporizing from bookshelves, particle board, and carpeting in the closed-environment school. Exhaust fans had to be installed, and some areas of the school coated with a plastic sealant.

At the closed-environment Willamina (Oregon) Elementary/Middle School, local Association president Sally Davis reports, "The faculty has been complaining of frequent sinus infections and headaches, itching eyes, and extended flu-like illnesses ever since the building opened several years ago." Formaldehyde and carbon dioxide levels have been tested without finding the cause of health problems at Willamina. Davis, who teaches in the school, faces a common problem. "It's so difficult to prove anything," she says, "or to know the cause of our health complaints."

Many of America's public schools are built on or near landfills that contain toxic wastes. They are also located near nuclear plants, factories that emit dangerous pollutants, or freeways where automobile exhaust fumes cause dangerously high concentrations of lead. Our schools, in short, are subject to all hazards present in the towns, cities, and suburbs in which they're located.

Pollutants from the surrounding envi-



Workmen wearing protective clothing and respirators carry bags of asbestos-contaminated materials from a school in New Jersey. Asbestos is just one of the toxic hazards in America's schools.

ronment recently complicated a case of toxic detection work at Indian Brook Elementary School in Plymouth, Mass. (see box on page 4).

Indian Brook is located between two landfills known to contain illegally dumped hazardous wastes. It's also near a nuclear power plant that vents radio-

active gases. When staff and students at the school reported a series of health problems, it took extensive testing of the school's air, soil, and water to determine that outside pollutants were not contaminating the school environment.

Toxic hazards in schools are a danger to all. Chemical fumes can threaten employees and students who never enter the chemistry lab; a duplicating machine's methanol fumes can be circulated throughout the school. The janitor

who sweeps up clay dust at the end of the day is no more aware than the art teacher or student that the dust he inhales may contain asbestos or silica.

Wherever they're found, toxic hazards pose two types of health risks. An acute exposure will result in immediate and visible symptoms. The more insidious danger is from chronic exposure. Day after day, year after year, both teachers and support staff come into contact with hazardous substances. The damage goes unnoticed until, years later, a cancer or other serious health problem develops—its cause rarely known.

Health hazards can be controlled. In many cases, a toxic substance can be replaced by a nonpoisonous material. When a material with a toxic ingredient is crucial either to the learning process or to upkeep of the school, it should be handled with the same precautions industrial workers demand from their employers.

The federal Occupational Safety and Health Act doesn't cover public school employees. Since it's up to the legislatures to pass laws extending occupational safety and health protections to school personnel, the situation varies from state to state.

It is left to school employees to ensure that their schools are not hazardous to their health. Local Associations can form health and safety committees to become the toxic watchdogs for their schools.

Resources—people and publications—are available to provide valuable guidance on everything from ordering art and chemistry materials to choosing pesticides and cleaning solvents to investigating ventilation problems.

Making schools safe takes work. But our health—even our lives—and those of our students may depend on our efforts.

—Heidi Steffens

## RESOURCES

**Material Safety Data Sheets (MSDS).** Beginning in November 1985, OSHA will require manufacturers to provide these sheets for hazardous workplace substances. They list toxic ingredients, health hazards, precautions, etc. Reputable manufacturers already have MSDSs and will provide them on request.

**Center for Occupational Hazards.** Publishes wide range of inexpensive materials on art hazards and has MSDSs for many materials. While focus is on art, Center does a lot of work with schools and has information on many different toxic hazards. Will also refer you to other sources. For a publications list—or to request specific information—send self-addressed, stamped business envelope to 5 Beekman St., New York, NY 10038.

**Safe Art Materials List.** The Art and Craft Materials Institute publishes a list of art products certified as safe. Free. Send self-addressed, stamped business envelope to 715 Boylston St., Boston, MA 02116.

**Manual of Safety and Health Hazards in the School Science Laboratory (\$5.75).** Safety in the School Science Laboratory (in-service training manual—\$6.25). School Science Laboratories: A Guide to Some Hazardous Substances (emphasis on safe storage of chemicals—free with purchase of either manual). All are available—prepaid—from Council of State Science Supervisors, Rte. 2, Box 637, Lancaster, VA 22503. Guide to Hazardous Substances also available, free, from Consumer Product Safety Commission, EX-0/412, Washington, DC 20207, and National Science Teachers Association, 1742 Connecticut Ave., N.W., Washington, DC 20009. NSTA also sells Safety in the Elementary Science Classroom for \$5 plus postage and handling.

## New Jersey Local Identifies Asbestos Hazard

Questions about the safety of asbestos removal in some 200 New Jersey schools created a crisis as schools prepared to open this September. Less than a week before the scheduled beginning of the school year, a state official's report charged that unsafe asbestos removal over the summer may have endangered summer workers and could pose a future threat to students and employees.

The New Jersey Education Association, on September 25, sued over 200 school boards and asbestos-related firms, demanding that they set up a trust fund to pay for regular checkups for school employees exposed to asbestos.

At least one New Jersey school district, however, is not affected by the crisis. In East Windsor, the NJEA support staff affiliate and the local parents group had successfully fought to have asbestos removed the previous year.

"We knew where the asbestos was,"



Officers of the support and teachers Associations in front of one of the East Windsor, N.J., schools where they won asbestos removal. From left: Marilyn Nemeth, Bill Sweeney, Flo Riccio, and Bob Patten.

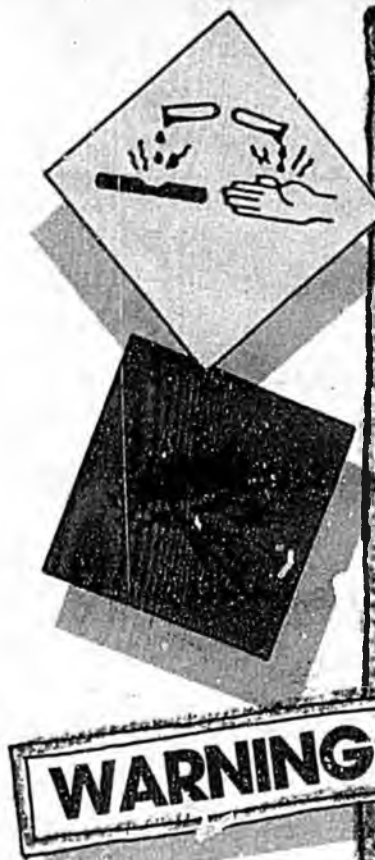
recalls East Windsor Regional Supportive Staff Association President Bill Sweeney. "It was in every school."

"The school board claimed the asbestos wasn't dangerous," Sweeney adds. But the parents and the Association kept insisting on action. When they finally forced the board to test all asbestos-containing materials in the schools, friable asbestos was found.

Removal began in the summer of 1983. Sweeney, who has been trained in asbestos removal, emphasizes that this process requires extreme caution.

"EPA guidelines must be strictly followed," he says. "Sloppy removal work actually increases the danger—not only for the workers, but for all employees and students in the school."

—H.S.



# IS YOUR SCHOOL SAFE?



## YOUR SCHOOL MAY BE HAZARDOUS TO THE HEALTH OF STAFF AND STUDENTS ALIKE.

**M**aybe you think you're safe—that occupational exposure to toxic hazards is limited to places like steel mills, petroleum refineries, and chemical plants. Schools, after all, are where children learn. No manufacturing takes place; there are no dangerous chemicals, no poisonous emissions. Schools are "safe." Ten years ago few would have disputed that comfortable assumption. The absence of noxious fumes and billowing smokestacks provided a sense of security. No longer. We now recognize that unseen toxic hazards inhabit our schools.

Asbestos provided the first warning of toxic danger. For more than three decades, asbestos was the material of choice for fireproofing, soundproofing, and insulation in schools. Then scientists and public officials began to worry. A proven—and potent—cancer-causing agent, asbestos is virtually indestructible. But the materials that bind it together are not. These materials can become friable (easily crumbled) and release asbestos fibers into the air. Slowly the recognition grew that asbestos is a time bomb ticking away in our nation's schools. In 1980 Congress passed legislation requiring school districts to inspect all buildings and notify parents and employees if friable asbestos was found. But the government does not require friable asbestos to be either sealed off or removed. Last August, Congress passed the School Hazard Abatement Act of 1984, authorizing the Environmental Protection Agency (EPA) to spend up to \$600 million over the next seven years on grants and loans to school districts for asbestos removal. Initially the EPA told Congress it would not use the funds but would leave the cost of asbestos cleanup—estimated

at one to two billion dollars nationwide—to local districts. After pressure by NEA and other concerned groups, the Reagan EPA reversed itself, announcing last month that the funds would be used. The EPA estimates that 15 million children and 1.4 million employees study and work in schools containing friable asbestos. Asbestos is only the tip of the toxic iceberg. The potential health hazards in schools are many, and students as well as school employees are potentially at risk. Teachers, custodians, clerical workers, paraprofessionals, mechanics, and administrators—no school employee is immune from occupational health hazards. Toxic hazards can be found in art rooms, science labs, and vocational shops. Most duplicating fluids contain methanol, a powerful solvent that can cause

serious health damage. There are toxic ingredients in many of the cleaning solvents and pesticides used in schools. Even the sites on which schools are built and the air that circulates through them can pose health dangers. Some hazards, like asbestos, take considerable detective work and expertise to track down—and a lot of money to correct. Others are more easily identified and removed. They are dangers that—with awareness, some work, and cooperation—employees and parents can eliminate. Art classrooms may be the most dangerous rooms in school. A major reason for the danger is lack of awareness that many art materials—including those designed for young children—contain substances that can cause cancer or damage to the reproductive, nervous, and respiratory systems, the heart, and other vital organs.

## Ventilation Problems at Indian Brook

**T**eachers and students at Indian Brook Elementary School in Plymouth, Mass., began noticing health problems during the 1981-82 school year, more than four years after the new closed-environment school opened. "Teachers and students were reporting frequent headaches, dizziness, nausea, and respiratory problems," recalls Mary LeSueur, a biology teacher and activist in the Education Association of Plymouth and Carver. An unusually high number of childhood cancers were reported among students in the school. "Then we started counting," Offner reports. "We realized that out of 20 teacher pregnancies since 1979, there were four babies born with serious birth defects, three miscarriages, and one stillbirth. Something was terribly wrong." Finding out what was wrong took investigations by three federal agencies, three state agencies, and one private lab.

"It was a very emotional period," says Mary LeSueur, president of the local Association. "We really weren't sure what was causing the problems." The experts finally determined that due to a malfunction in the school's central ventilation system, no fresh air was entering the closed building. In addition, an unvented duplicating machine in the teacher's lounge was releasing methanol fumes that were circulating throughout the school. After the duplicating machine was moved and vented, and the building's fresh air intake adjusted, the complaints of headaches, dizziness, and nausea stopped. The problem pregnancies remain unexplained. "The most important thing," Susan Offner reflects, "is that other people learn of the problems we faced—and that they are alert for health problems in their own closed-environment schools." —H.S.

"Art materials aren't adequately labeled," explains Lou Spelich, an NEA-New York member in Albany who has taught art for 30 years. "We have to find the hazards," he adds, "because children—and especially teachers—are at risk." From paints and magic markers to glues, clays, glazes, and ballpoint inks—the list of art materials containing ingredients that can cause long-term, serious health damage is astounding. As with any toxic substance, these materials pose a danger when inhaled, absorbed through the skin, or ingested by a person who licks his or her fingers, eats, chews gum, or smokes in their presence. Safety has been a concern for many years in both science laboratories and vocational education workshops. But only recently has it been recognized that many commonly used materials pose serious health risks for students and employees alike. A 1981 survey by the Consumer Product Safety Commission concluded that school science labs routinely contain "312 stock chemicals including 27 recognized or suspected carcinogens and 11 suspected teratogens" (chemicals that cause birth defects). Other health threats—such as damage to the lungs, liver, and kidneys—come from acids, organic solvents, and other chemical substances that are not cancer agents. Many of the specimens used for dissection in biology labs are pickled in formaldehyde, a proven carcinogen in animals and a suspected one in humans. In many schools, vocational shops now resemble mini-industrial workplaces, filled with sophisticated machinery and equipment, and posing health hazards similar to those found in the workplaces themselves. Dangers run the gamut: poisonous gases released during welding, carbon monoxide fumes in auto shops, toxic chemicals in cosmetology classes. The many energy-efficient, "air-tight" school buildings constructed during

## CAMPAIGN NOTES

# Members Rally Behind Mondale/Ferraro



One blustery day last winter in Keene, N.H., Walter (Fritz) Mondale took out a few moments from the grueling primary campaign to discuss with a handful of Association members their role in the 1984 Presidential election.

Teachers now play a critical role in Presidential campaigns, Mondale noted, because they have the skills to be politically effective.

"You can be disproportionately influential—if you'll use your influence," Mondale stressed.

That challenge wasn't lost on NEA members. By September 1984, NEA President Mary Hatwood Futrell announced the Association's formal endorsement of Walter Mondale and Geraldine Ferraro. Two weeks later she set forth details of the Mondale/Ferraro '84 Member-to-Member Campaign—and mailed each local Association president a comprehensive political action how-to kit.

By early October, the resourcefulness and commitment of individual members and their state and local Associations were readily apparent. Here are some glimpses of that grassroots activism at work in several states:



"Political involvement gets my adrenaline going," claims Association activist Pati Gant, a government, history, and English teacher at Lewis & Clark High School in Spokane, Wash.

She values campaign work for its peo-



*Left: Helping out with Ohio's member-to-member canvass are Ravenna Education Association members Beatrice VanAtta (left) and Becky Clemente. Upper right: Len Codispoti (left) discusses campaign strategy with Cuyahoga Falls Education Association colleagues Bill Emmitt (center) and John Perkins (right). Lower right: New Jersey's Essex County Education Association volunteers Laverne Cooper (left) and Sally Tallmadge polish off a campaign mailing.*

ple-to-people involvement. Gant put her personal skills to good use co-hosting an October 7 Mondale/Ferraro fundraiser for 60 school employees and helping to supervise her Association's phone bank.

Believing her colleagues may be influenced by her convictions, she wears a Mondale/Ferraro pin to school each day.

"When people ask me why I wear it, I remind them what Reagan's meant to our schools and children," Gant says.



After leaders of Florida's Pinellas Classroom Teachers Association (PCTA) committed themselves to surveying all 4,000 of their members to determine candidate preferences, they set a goal of



reaching 300 to 400 teachers a night.

"Then we stood back for a minute and wondered where we'd get the volunteers to do this massive job," recalls fifth grade teacher Don Anders, chair of the local's political action committee.

But true to form, volunteers came forth, and PCTA's eight phone lines got a good workout for several weeks. The data the volunteers gathered served as an invaluable guide to later campaign work.



Ann Graham's American history and world geography students at Northwest High School in Jackson County, Mich., may have temporarily lost a teacher—but the Mondale campaign



gained a seasoned campaign volunteer.

On full-time release to serve as the Michigan Education Association's Mondale/Ferraro campaign coordinator, Graham helped spearhead a series of nine regional meetings to enlist local Association leaders in the campaigns of pro-education candidates.

Local leaders then returned to their schools to discuss why Mondale and Ferraro and other Association-backed candidates deserve support.

"The issues this year demanded face-to-face meetings," notes Graham. "So we're taking our message into every school building in the state."



When retired San Jose, Calif., English teacher Shirley McCarthy says she's a fulltime volunteer for the Mondale campaign, she means *fulltime*.

"When I volunteer for work on a campaign," she explains, "I usually work from 9 a.m. to 10 p.m., seven days a week."

McCarthy, formerly legislative chair of the San Jose Teachers Association, is doing a bit of everything, campaign-wise, from walking precincts for Mondale to writing letters to the editor.

"I consider it absolutely vital to be involved this year," McCarthy says. "When I think about what the Reagan Administration has meant for the environment, education, the disadvantaged, and women's rights, I just can't stand back."

—Vicky Lytle

## EDUCATING FRITZ

# Mondale's 5th Grade Teacher Remembers the Way It Was

When Fritz Mondale was in fifth grade in Elnore, Minn., his penmanship was so poor that his teacher, Millie Millner, asked him to redo an assignment to make it more legible.

"Someday," Mondale sighed, "I'm going to have a secretary to retype my work."

But it wasn't just his formless scrawl that etched itself in Millner's memory. "He always had a big grin on his face," recalls Millner, "and he was constantly helping people."

There was the time one winter when young Fritz, having befriended the sons of a Russian immigrant family,

approached Millner. "Did you know that the Riefers don't have any coal?" he whispered. Millner put out the word, and by nightfall the Riefers had coal.

At the start of the year, Fritz found out that his teacher was recovering from an appendectomy. He assembled a group of his friends to take turns transporting her books back and forth to the library in their little red wagon.

After retiring in 1967, Millner always wondered whether her increasingly famous former student would remember her. It wasn't until 1980, when the Vice-President scheduled a trip near her Pocatello, Idaho, home that



*Retired teacher Millie Millner and one of her favorite students get reacquainted as her husband records the event.*

she proposed a reunion. He accepted warmly.

As they talked about those long-ago school days, the Vice-President looked his former teacher in the eye and told her how important she had been to him.

"And you know what he remembered about my class?" recounts Millner. "He said he would always remember I had taught him 'You can be anything you want to be.'"

—V.L.



# RECORDS CERTIFICATION



I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

James C. Smith  
Signature of Camera Operator

7/25/89  
Date

HB

6

7

COMMITTEE REPORT

HOUSE

Judiciary

( 7 )

FURTHER: Finance

1/16/85

Date: 26 March 1985

The Committee on Health, Education and Social Services has had HB 67

"An Act relating to hearsay evidence in prosecutions for certain sexual offenses; and amending Rules 803 and 804, Alaska Rules of Evidence, and Rule 6(r), Alaska Rules of Criminal Procedure."

under consideration and recommends:

- do pass  do not pass
- do pass with attached amendments(s)
- replace with CS for HB 67 (HESS)  same title  
 new title
- and recommends do pass
- AND attaches a "Letter of Intent"  New Fiscal Note
- reports it back without recommendation  Zero Fiscal Note Attached
- referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

[Signature]

[Signature]

[Signature]

[Signature]

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[Signature]  
CHAIRMAN

[Signature]  
Co-Chair

SECTIONAL ANALYSIS - DRAFT CS FOR HB 67 - AN ACT RELATING TO THE  
ADMISSION OF HEARSAY EVIDENCE BEFORE GRAND JURIES BY WITNESSES UNDER THE  
AGE OF 12; AND AMENDING RULE 6(r), ALASKA RULES OF CRIMINAL PROCEDURE

NOTE: This bill applies only to grand juries and is not related solely to sexual offenses (as the original bill provided), and the age was changed from 10 to 12.

SECTION 1 Provides that hearsay evidence of any child under the age of 12 would be admissible before the grand jury, as long as the circumstances indicate its reliability and the child testifies at the hearing or the testimony is corroborated if the child is unavailable.

Subsection 2 (B) was amended to provide that the grand jury would be informed of the reasons for the child's unavailability.

The factors determining "unavailable" in (b) 2 were amended in the following manner:

Declaration of incompetency by the judge was removed and substituted with (C) "likely to suffer substantial psychological, emotional or physical harm if required to testify" from the original HB 88.

The language in Subsection (b) (2) (B) was altered to match existing language in Rule 15 (e) (4).

Subsection (c) on page 2 was retained from the original HB 67.

Subsection (d) on page 2 was added by the subcommittee to provide that a closed hearing would be held in superior court to determine the admissibility of hearsay evidence.

SECTION 2 Amends Rule 6(r), Alaska Rules of Criminal Procedure.

POSITION PAPER

HOUSE BILL 67

For an Act entitled "An act relating to hearsay evidence in prosecution for certain sexual offenses; and amending Rules 803 and 804, Alaska Rules of Evidence, and Rule 6(r), Alaska Rules of Criminal Procedure."

This bill would allow admission at grand jury proceedings and at trial of hearsay statements of children under 10 years of age relating to sexual offenses. The bill would provide a means for admitting evidence from children at grand jury and trial proceedings while protecting those children from additional emotional trauma. The bill would also increase the likelihood of successful prosecution of sexual offenses committed against children.

The department is extremely pleased that the Legislature has addressed the problem and offered a solution to reduce child sexual abuse in Alaska. The department supports admitting certain hearsay evidence by children at grand jury proceedings but not at trial. The admittance at trial of child's hearsay statement may raise a major constitutional question. A person's constitutional right to confront a witness would have to be weighed against the state's interest to protect a child. Presently this issue is on appeal in Washington.

Furthermore, the department supports the language in the Governor's Child Protection packet, House Bill 88, section 5, new section 12.40.055(a) which allows hearsay from children up to age 16. Hearsay will often be a statement the child has made to a trusted friend, teacher or to the non-offending parent regarding being a victim of sexual abuse. However, an older child will often recant. Older children recognize the consequences and conflicts of testifying against an offender especially if a parent is the offender. The older child is more accessible to the pressure of the non-offending parent's desire to have the child recant. House Bill 88 would allow the hearsay statement to be used to refresh the victim's memory. It would also allow the prosecutor the opportunity to present to the grand jury, for their consideration, the sexual abuse statements made by the victim to another party.

A hearsay exception allows the hearsay statements to be used to strengthen the child's grand jury testimony or to counter accusations that the child fabricated a sexual abuse story. A child up to the age of 16 should be allowed the same safeguards.

Position Paper  
House Bill 67  
Page 2

House Bill 88 includes incest and indecent exposure as situations where the hearsay exception would apply. The department supports that position.

Finally, the department would like House Bill 67 new section 57.40.110(a) up to (1), be written exactly as House Bill 88. The language in the latter would be easier to understand by the public.

RECOMMENDED: Michael L. Price  
Michael L. Price, Director  
Division of Family  
and Youth Services

DATE: 2-4-85

APPROVED: John R. Pugh  
John R. Pugh, Commissioner  
Department of Health  
and Social Services

DATE: 2/5/85

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

REQUEST

Bill/Resolution No.: HB No. 67  
 Title: An Act relating to 'eresay evidence  
 Sponsor: Rep. Phillips  
 Requestor: \_\_\_\_\_  
 Date of Request: 2/4/85

FISCAL DETAIL

Agency Affected: Health and Social Services  
 Program Category Affected: Social Services  
 BRU, Program or Subprogram(s) Affected: Social Services BRU

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CAPITAL</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>REVENUE</b>	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUNDS						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME	-0-	-0-				
PART-TIME	-0-	-0-				
TEMPORARY	-0-	-0-				

ANALYSIS: Attach a separate page if necessary

N/A

Prepared By: Michael L. Price *Michael A. Price* Phone: 465-3170  
 Division: Family and Youth Services Date: 2/4/85

Approved by Commissioner: Jan R. G. Date: 2/5/85 *JCC*  
 Agency: Health & Social Services

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget

# Woman asks abuse victims not be forced to testify

Bill aimed at protecting children from psychological damage in grand jury proceedings

By DEAN FOSDICK  
The Associated Press

JUNEAU -- Traumatized children who are the victims of sexual abuse should not be made to testify before grand juries although they would be required to undergo cross-examination during trials, a Senate committee was told.

Beth Kerttula, a lawyer and aide to Sen. Jay Kerttula, D-Palmer, told members of the Senate Health, Education and Social Services Committee on Thursday that hearsay evi-

dence from sexually abused children should be allowed in grand jury proceedings.

"It would apply only in cases where the child is traumatized," she testified. "And it's only aimed at grand jury proceedings. It doesn't go any farther than that."

Kerttula told the committee he was proposing several changes in his bill, one of which would drop the age of children allowed to submit hearsay evidence from 16 to 13.

"The younger the child, the more

likely trauma will occur," Kerttula said.

Two similar bills are weaving their way through the legislature. One, introduced by Gov. Bill Sheffield, specifies age 16. Another, by Rep. Randy Phillips, R-Eagle River, specifies age 10.

"The younger the child, the more potential for trauma and the less chance for fabrication," said Gayle Horetski, an assistant attorney general. "On the other hand, you have to balance that off on individual

children. Some are more fragile than others."

While Horetski wouldn't recommend an optimum age, she did say prosecutors "wouldn't want to go under 10 in any circumstances."

Hearsay evidence would not replace the use of videotapes in such cases, she said in response to a question from Sen. Joe Josephson, D-Anchorage.

"Videotaping is preferred," Horetski said. "But in Bush areas, authorities often don't have videotaping

equipment. And ... a child may make a telling statement when videotaping equipment isn't available.

"You don't have a tape around when a kid is talking to a school nurse," she said. "Although it's a good tool, it may not be appropriate to narrow it to that."

"I don't want it (bill) to erode grand jury proceedings," Josephson said. "I'm worried about that."

The committee deferred action on the bill Thursday, pending the introduction of Kerttula's amendments.

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y. STATE CAPITOL  
JUNEAU, ALASKA 99811  
907 465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

December 5, 1984

SUBJECT: Hearsay evidence in sexual  
abuse prosecutions  
(Work Order No. 14-0131)

TO: Representative Randy Phillips

FROM: Michael F. Ford *M.F.*  
Legislative Counsel

As you know, last year the legislature considered a similar bill to the one you have requested, concerning prosecution of sexual abuse crimes and the use of hearsay evidence. At that time, the possibility that the constitution would prohibit use of such evidence was raised. This memo addresses section two of this bill, relating to introduction of hearsay evidence at trial. The first section of the bill deals only with grand jury proceedings, and does not raise a constitutional question.

This bill is based on Washington Criminal Code sec. 9A.44.120. I have been informed by the Department of Law that the Washington statute has been challenged a number of times and upheld in the trial courts, but it has yet to be ruled on by the state's highest court. Therefore the Washington law is of little help in determining the validity of this bill.

In prosecutions for sexual abuse of a minor in any degree, this bill allows the prosecutor to introduce at trial, "hearsay evidence of a statement made by a child under the age of 10 describing an act of sexual contact with the child" if certain criteria are met (AS 2.45.049). Before the hearsay evidence may be introduced, the court must determine that the circumstances of the child's statement indicate its reliability, and the child must either testify at the proceeding, or be unavailable as a witness. If the evidence is admitted on the basis that the child is

unavailable, there must be some further evidence introduced to corroborate the child's statement.

Existing Rules of Evidence provide that hearsay is inadmissible, but provide for certain exceptions (Rules of Evidence 803 and 804). The apparent purpose of the bill is to make it easier to prosecute sexual abuse cases by allowing in evidence that the jury would otherwise not be permitted to consider. For example, under present law, if a child tells a teacher that the child's parent is sexually abusing the child, but the child refuses or is emotionally unable to repeat the story at the parent's sexual abuse trial, the teacher would not be permitted to repeat the child's story at the trial because it would be hearsay and does not fall under one of the existing exceptions. The bill would allow the teacher to testify if (1) the court determines that the child's statement appears reliable, and (2) the child either testifies (on some other matter) or is unavailable and there is some further evidence that the child's statement is true.

The sixth amendment to the United States Constitution and Article I, sec. 11 of the Alaska Constitution both provide that a defendant in a criminal trial may not be denied the right "to be confronted with the witnesses against him." This bill is in potential conflict with this constitutional right because it permits the statements of a child to be used against a criminal defendant without giving the defendant the opportunity to cross-examine the child.

The Alaska Supreme Court has summarized the right to confrontation as follows:

This right of confrontation protects two vital interests of the defendant. First, it guarantees him the opportunity to cross-examine the witnesses against him so as to test their sincerity, memory, ability to perceive and relate, and the factual basis of their statements. Second, it enables the defendant to demonstrate to the jury the witness' demeanor when confronted by the defendant so that the inherent veracity of the witness is displayed in the crucible of the courtroom.  
(Footnotes omitted).

Lemon v. State, 514 P.2d 1151, 1153 (Alaska 1973). The Court in Lemon analyzed the United States Supreme Court decisions on the right to confrontation as it relates to the introduction of hearsay evidence and concluded that

Representative Randy Phillips  
December 5, 1984  
Page 3

...while the demeanor interest of the right of confrontation is not a crucial element, the right to effective cross-examination is essential unless the testimony falls within certain established exceptions to the hearsay rule. (Footnote omitted).

Lemon, supra, at 1154. The Court ruled that Lemon had been denied the right of confrontation because of the admission of a hearsay statement against him that did not fall within the established exceptions to the hearsay rule.

This bill does contain certain protections for the defendant, but these may not be enough to survive a constitutional challenge. Since the bill permits the prosecution to use hearsay evidence that does not fall within one of the established exceptions to the hearsay rule against the defendant, the Lemon case seems to prohibit it. Even if the criteria for the admission of the hearsay evidence contained in the bill are met, a court could still find that the defendant has been denied the right to confrontation. Although the question is an open one, there is a strong possibility that the bill could be found unconstitutional if challenged.

If you have further questions, please contact me.

MF7:ojb  
J9/095

DEPARTMENT OF PUBLIC SAFETY

POSITION PAPER

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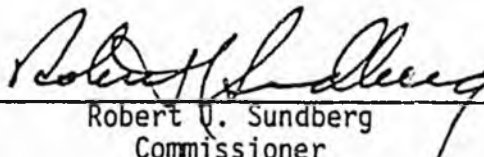
HB 565

"An Act relating to hearsay evidence in prosecutions for sexual abuse of a minor and amending Rules 803 and 804, Alaska Rules of Evidence."

The Council on Domestic Violence and Sexual Assault supports the admission of hearsay evidence in child sexual assault trials. Many victims of child sexual assault are too young to withstand the rigors of a trial or to be effective witnesses. Yet their disclosure of sexual assault to police officers and other professionals in less threatening circumstances should be available to juries for consideration.

Children often block out their very negative experiences and cannot remember specifics of the experience, particularly under the pressures of a trial. These children deserve the protection of the criminal justice system as much as older, more articulate individuals.

Although the admittance of hearsay evidence is not traditional in court, there are many exceptions to the rule. This circumstance, child sexual assault, warrants another exception.

  
Robert U. Sundberg  
Commissioner

*Robert U. Sundberg*

# ALASKA NETWORK ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT

110 SEWARD #13 JUNEAU ALASKA 99801  
(907)585-3550

## POSITION PAPER

HB 565: An Act relating to hearsay evidence in prosecutions for sexual abuse of a minor; and amending Rules 803 and 804, Alaska Rules of Evidence

The Alaska Network on Domestic Violence and Sexual Assault, a non-profit corporation representing 20 programs statewide that provide services to victims of domestic violence and sexual assault, supports HB565, which would facilitate the prosecution of cases of child sexual assault.

As you may be aware, the Network several years ago supported legislation that permitted the videotaping of testimony of young victims (aged 16 and under) of sexual assault in order to spare them the added trauma of testifying in open court. Since its passage, that legislation has worked successfully in cases of sexual assault involving children ages 5 and over, but has had little impact on the successful prosecution of sexual assault involving very young children.

Because there has been a dramatic increase in the number of cases of child sexual assault reported to the Division of Family and Youth Services, there is a real need to address the issue of prosecution of these crimes.

A very young victim of sexual assault will often tell the non-offending parent or day care worker about the assault, but they most often will not repeatedly relate the details of the incident. Consequently, it is the parent or day care worker who reports the crime to the Division of Family and Youth Services, a sexual assault program, or a law enforcement agency.

However, because prosecutors generally do not feel that a very young child is a reliable witness and because there is rarely a witness to the crime, the testimony of the adult person to whom the child disclosed the incident is the most reliable testimony available. Since that testimony is considered hearsay evidence and is not admissible in court, these cases are not being prosecuted but are, in fact, being dropped.

Washington State has enacted legislation similar to the bill that has been introduced. It is the Network's position that an exception to the hearsay rule is more than justified in order to facilitate prosecution of these cases.

In order to protect child victims from further harm, the Network urges your support for and passage of this bill.

**Sec. 12.45.047. Videotaping of testimony by young victims of sexual offenses.** (a) Upon application by the prosecuting attorney and notice to the defendant, the court shall permit the state to videotape the testimony of a child who is the alleged victim of a violation of AS 11.41.410 — 11.41.455 and who is 16 years of age or younger at the time the court issues the order permitting the videotaping.

(b) The trial judge shall preside at the videotaping proceeding and shall rule on all questions as if at trial. The defendant shall be afforded all rights applicable to defendants during trial, including the right to an attorney and the right to confront and cross-examine the witness. The trial judge shall determine those persons other than the prosecuting attorney, the defendant, and the defendant's attorney who may attend the videotaping proceeding.

(c) Videotaped evidence taken in accordance with this section is admissible in evidence in the criminal trial of a defendant charged with a violation of AS 11.41.410 — 11.41.455. (§ 2 ch 67 SLA 1982)

**Editor's notes.** — For provisions setting forth the policy of the state, the purposes of the enacting legislation, and legislative findings, see § 1, ch. 67, SLA 1982 in the 1982 Temporary and Special Acts and Resolves.

Section 3, ch. 67, SLA 1982, provides:

**Sec. 12.45.048. Exclusion of public from trial during testimony by young victim of sexual offense.** (a) After notice to the defendant, the state may apply to the court for an order excluding the public from the courtroom during the testimony of a child who is the alleged victim of a violation of AS 11.41.410 — 11.41.455. The order shall be granted if the court finds that the child is 16 years of age or younger at the time of the trial.

(b) If the public is excluded from the trial under (a) of this section, the testimony given during the time the public is excluded shall be available to the public upon request within a reasonable time sufficient to allow preparation of a tape recording or transcript of the testimony.

(c) In this section "public" means all persons except

- (1) the judge presiding over the trial;
- (2) the members of the jury;
- (3) the defendant and the attorney and an investigator for the defendant;
- (4) the prosecuting attorney and an investigating officer for the state;
- (5) the parents or legal guardians of the child;

"AS 12.45.047 added by sec. 2 of this Act has the effect of changing Rule 804, Rules of Evidence, by adding the videotaped evidence of a young victim of a violation of AS 11.41.410 — 11.41.455 to the list of exceptions to the hearsay rule."

(6) a guardian ad litem;  
 (7) in the discretion of the court, any person who has developed a significant relationship with the child and who has provided substantial support for the child;  
 (8) court personnel.  
 (§ 2 ch 67 SLA 1982)

**Editor's notes.** — In setting forth the policy of the state, the purposes of the enacting legislation, and legislative findings, see § 1, ch. 67, SLA 1982 in the 1982 Temporary and Special Acts and Resolves.

**Sec. 12.45.060. Discovery of evidence.**

Based on Jencks Act, 18 U.S.C. § 3500, et seq. Putnam v. State, Sup. Ct. (File No. 3475), 629 P.2d 35 (1980).

Criminal R. 16 and 17 are inconsistent. — Criminal R. 16 governs discovery during trial, while Criminal R. 17 governs discovery during pretrial. The same evidence may be discoverable under both the rule and are not so overlapping as to be inconsistent. Putnam v. State, Sup. Ct. Op. No. 2251 (File No. 3475) (1980).

**Duty of state to preserve evidence.** — The duty of preservation to preserve any evidence discoverable by the defendant attaches once any arm of the state has gathered and taken possession in question. Putnam v. State, Sup. Ct. Op. No. 2251 (File No. 3475) (1980).

When sanctions are applied to a defendant where the defendant has been found to have been negligent in the state's good faith failure to preserve evidence, sanctions will be appropriate. Where the defendant has suffered prejudice, sanctions will generally be warranted. Putnam v. State, Sup. Ct. Op. No. 2251 (File No. 3475) (1980).

DEPARTMENT OF PUBLIC SAFETY

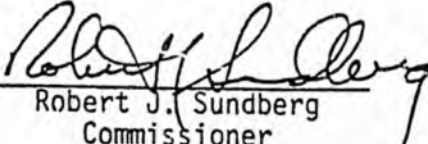
POSITION PAPER - HB 565

Support

February 7, 1984

HB 565 - "An Act relating to hearsay evidence..."

Passage of this legislation will make prosecution of cases involving sexual abuse of a minor less difficult and may reduce the emotional distress to the victim.

  
Robert J. Sundberg  
Commissioner

STATE OF ALASKA 1984 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

**REQUEST**

Bill/Resolution No.: HB 565  
 Title: "An act relating to  
 hearsay evidence..."  
 Sponsor: Representative Lacher  
 Requestor: House HESS  
 Date of Request: 2-14-84

**FISCAL DETAIL**

Agency Affected: Public Safety  
 Program Category Affected: Administration of Justice  
 BRU, Program or Subprogram(s) Affected: Alaska State Troopers

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
<b>OPERATING</b>						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>CAPITAL</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>REVENUE</b>						

**FUNDING: (Thousands of Dollars)**

GENERAL FUND	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

**SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:**

**ANALYSIS:** Attach a separate page for analysis

Prepared By: Francis C. Allan *F.C.A.* *FB* Phone: 269-5691  
 Division: Alaska State Troopers Date: 02/07/84  
 Approved by Commissioner: Robert J. Sundberg *RJS* Date: 2/14/84  
 Agency: Public Safety

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

# Alaska State Legislature

REPRESENTATIVE  
BARBARA LACHER  
PO BOX 478  
PALMER, ALASKA 99645  
(907) 376-4215



WHILE IN JUNEAU  
POUCH V  
JUNEAU, ALASKA 99811  
(907) 465-4894

## House of Representatives

March 28, 1984

Lucy Berliner  
325 Ninth Avenue  
Seattle, WA 98104

Dear Lucy,

Enclosed is a copy of the Health, Education, and Social Services Committee Substitute for HB 565, relating to hearsay evidence in prosecutions for certain sexual offenses. The bill has not yet passed out of the HESS Committee, however it is scheduled for hearing again on Friday, March 30, and we are hoping to see it moved to Judiciary at that time.

Per our conversation of March 1, I believe that your testimony to the Judiciary Committee would be most beneficial. I am certain that questions pertaining to the constitutionality of this legislation will be brought forth at that time, and your comments regarding the Washington State hearsay law could probably shed some light on that subject. A copy of HB 565 has also been sent to Mary Kay Barbieri at UPS Law School, and we would hope to be able to hook you both up by telephone to offer testimony if the Judiciary chairman chooses to hear this bill. I will let you know if a hearing is scheduled.

I would be very appreciative if you could review our proposed legislation and offer comments, if any, on how the bill could be modified or improved. Please feel free to call collect (907-465-4894) if you wish to discuss your opinion, or need further information.

Sincerely,

Ann Plunkett  
Legislative Aide

# Alaska State Legislature

REPRESENTATIVE  
BARBARA LACHER  
PO BOX 478  
PALMER, ALASKA 99645  
(907) 376-4215



WHILE IN JUNEAU  
POUCH V  
JUNEAU, ALASKA 99811  
(907) 465-4894

## House of Representatives

March 28, 1984

Mary Kay Barbieri  
UPS Law School  
949 Market Suite 366  
Tacoma, AK 98402

Dear Mary Kay,

Enclosed is a copy of the Health, Education, and Social Services Committee Substitute for HB 565, relating to hearsay evidence in prosecutions for certain sexual offenses. The bill has not yet passed out of the HESS Committee, however it is scheduled for hearing again on Friday, March 30, and we are hoping to see it moved to Judiciary at that time.

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Sincerely,

Ann Plunkett  
Legislative Aide

INTENT OF LEGISLATION

HB 565 - "An Act relating to hearsay evidence in prosecutions for sexual abuse of a minor; and amending Rules 803 and 804, Alaska Rules of Evidence."

This legislation will allow hearsay evidence of statements made by children under the age of 10 relating to sexual abuse of that child if:

- 1) The court determines that the circumstances indicate the statement would be reliable, and
- 2) The child either testifies in person or, if the child is unavailable as a witness, there is additional evidence to corroborate the statement.

We have been advised by troopers that they have videotapes of children 2½ or 3 years old where the sexual abuse is articulated clearly. However, they are unable to proceed with the grand jury indictment because these very young children often block out the experience before they are questioned in court. The sworn statement of the professional who interviewed the child, along with the videotapes, would be admissable under this act.

**Sec. 12.45.047. Videotaping of testimony by young victims of sexual offenses.** (a) Upon application by the prosecuting attorney and notice to the defendant, the court shall permit the state to videotape the testimony of a child who is the alleged victim of a violation of AS 11.41.410 — 11.41.455 and who is 16 years of age or younger at the time the court issues the order permitting the videotaping.

(b) The trial judge shall preside at the videotaping proceeding and shall rule on all questions as if at trial. The defendant shall be afforded all rights applicable to defendants during trial, including the right to an attorney and the right to confront and cross-examine the witness. The trial judge shall determine those persons other than the prosecuting attorney, the defendant, and the defendant's attorney who may attend the videotaping proceeding.

(c) Videotaped evidence taken in accordance with this section is admissible in evidence in the criminal trial of a defendant charged with a violation of AS 11.41.410 — 11.41.455. (§ 2 ch 67 SLA 1982)

**Editor's notes.** — For provisions setting forth the policy of the state, the purposes of the enacting legislation, and legislative findings, see § 1, ch. 67, SLA 1982 in the 1982 Temporary and Special Acts and Resolves.

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"AS 12.45.047 added by sec. 2 of this Act has the effect of changing Rule 804, Rules of Evidence, by adding the videotaped evidence of a young victim of a violation of AS 11.41.410 — 11.41.455 to the list of exceptions to the hearsay rule."

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(c) In this section "public" means all persons except

- (1) the judge presiding over the trial;
- (2) the members of the jury;
- (3) the defendant and the attorney and an investigator for the defendant;
- (4) the prosecuting attorney and an investigating officer for the state;
- (5) the parents or legal guardians of the child;

(6) a guardian ad litem  
 (7) in the discretion  
 developed a significant  
 tional support for the  
 (8) court personnel.  
 mony. (§ 2 ch 67 SLA

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**Sec. 12.45.060. Di**

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**When sanctions apply**  
 cases where the defendant is said to have been state's good faith failure evidence, sanctions will appropriate. Where defendant has suffered prejudice generally be warranted. Sup. Ct. Op. No. 2251 P.2d 35 (1980).

(1)

*un  
immediately*

SEXUAL ABUSE OF MINORS HAS RECENTLY COME TO THE FOREFRONT IN ALASKA. THERE IS AN INCREASED AWARENESS ON THE PART OF CHILDREN, PARENTS, FRIENDS, AND PROFESSIONALS THAT SEXUAL ABUSE IS WRONG AND CHILDREN SHOULD TELL SOMEONE. HOWEVER, TOO MANY CASES ARE STILL GOING UNREPORTED BECAUSE MANY CHILDREN DO NOT UNDERSTAND THEY CAN TALK ABOUT IT AND RECEIVE HELP. MANY ADULTS MINIMIZE THE PROBLEM AND WANT TO DENY IT IS HAPPENING. NATIONAL STATISTICS INDICATE THAT ONE OUT OF EVERY FOUR GIRLS AND ONE OUT OF EVERY EIGHT BOYS WILL BE SEXUALLY ABUSED BEFORE THEIR EIGHTEENTH BIRTHDAY.

STATS

ACCORDING TO POLICE STATISTICS, FROM 1980 TO 1982, REPORTED SEXUAL ASSAULTS AGAINST MINORS INCREASED BY 106 PERCENT STATEWIDE; FROM 142 INCIDENTS IN 1980, TO 201 INCIDENTS IN 1981, TO 293 IN 1982. PRELIMINARY FIGURES FOR 1983 INDICATE THAT REPORTED SEXUAL ASSAULTS ARE CONTINUING TO INCREASE; IN THE FIRST SIX MONTHS OF 1983, THE STATE TROOPERS HAD ALREADY RECEIVED 71 PERCENT AS MANY REPORTS OF SEXUAL ASSAULTS AGAINST MINORS AS THEY HAD RECEIVED IN ALL OF THE PREVIOUS YEAR. IT SHOULD BE NOTED THAT THESE STATISTICS EXCLUDE SEXUAL ASSAULTS REPORTED TO THE ANCHORAGE POLICE DEPARTMENT.

*REPORTS*

*The Records*

THE DIVISION OF FAMILY AND YOUTH SERVICES' RECORDS SHOW A TWO TO THREE-FOLD INCREASE IN CASES IN WHICH THE PRIMARY PROBLEM OF THE CLIENT WAS CONFIRMED OR SUSPECTED TO BE SEXUAL ABUSE OF A MINOR. ACTIVE CASES INVOLVING SUSPECTED SEXUAL ASSAULT INCREASED FROM 142 IN 1980 TO 529 IN 1983!

2

PROSECUTION THE RECORD FOR PROSECUTION OF THIS CRIME IS NO MORE ENCOURAGING. ACCORDING TO THE CHIEF PROSECUTOR'S OFFICE IN THE DEPARTMENT OF LAW, CRIMINAL JUSTICE DIVISION, OF THE 252 CASES SCREENED IN 1983, THE CHIEF PROSECUTOR DECLINED TO PURSUE 85 CASES BECAUSE HE FELT THE STATE'S EVIDENCE WAS INSUFFICIENT. IN ADDITION TO THE CASES THAT THE STATE DECLINES TO PROSECUTE, SOME CASES MAY BE DISMISSED AFTER THEY ARE FILED WITH THE COURTS. IN 1983, 190 CASES INVOLVING SEXUAL ASSAULT OF A MINOR WERE DISPOSED OF IN ALASKA COURTS. OF THESE 190, 117 DEFENDANTS PLEADED GUILTY AND ANOTHER 27 DEFENDANTS WERE CONVICTED IN COURT OR JURY TRIALS.

THERE ARE SEVERAL DIFFERENT POSITIONS FROM WHICH TO ATTACK THE PROBLEM OF SEXUAL ABUSE OF MINORS. FIRST, WE MUST FOCUS ATTENTION ON PREVENTION AND EDUCATION WITH THE GENERAL POPULACE. SECOND, ~~ADEQUATE TREATMENT PROGRAMS~~ MUST BE AVAILABLE FOR VICTIMS, FOR NON-OFFENDING FAMILY MEMBERS, AND FOR PERPETRATORS. FINALLY, CHANGES MUST BE MADE WITHIN THE CRIMINAL JUSTICE SYSTEM TO FACILITATE THE PROSECUTION AND PUNISHMENT FOR THIS CRIME.

HB 565

HB 565 IS INTENDED TO PROVIDE THIS VERY FACILITATION BY ALLOWING HEARSAY EVIDENCE IN PROSECUTIONS FOR SEXUAL ABUSE OF A MINOR. ALTHOUGH WE RECOGNIZE THAT IT WILL NOT BE A PANACEA FOR THIS OVERWHELMING PROBLEM, IT WILL, IN SOME CASES, PROVIDE THE NEEDED RELIABLE ~~CORROBORATION~~ <sup>Tool</sup> TO BRING PERPETRATORS TO JUSTICE.

# Alaska State Legislature

REPRESENTATIVE  
BARBARA LACHER  
PO BOX 478  
PALMER, ALASKA 99645  
907) 376-4215



WHILE IN JUNEAU  
POUCH V  
JUNEAU ALASKA 99811  
907) 465-4894

## House of Representatives

February 6, 1984

Norman C. Gorsuch  
Attorney General  
Room 412  
Capitol Bldg.  
Juneau, AK 99811

Dear Mr. Gorsuch,

Enclosed you will find a copy of legislation I am sponsoring relating to hearsay evidence in prosecutions for sexual abuse of a minor.

I would appreciate your comments regarding the possible effects of this legislation, e.g. assistance it might provide in the prosecution of offenders, or potential misuse of the hearsay law. Also, could you please explain the procedures involved when allowing this sort of testimony?

Your prompt attention to this matter will be most appreciated. Please contact my office if you require any further information.

Sincerely,

A handwritten signature in cursive script, appearing to read "Barbara Lacher".

Barbara Lacher  
Representative  
District 16

BL/acp

Per Mark Wood, Assistant D.A., Fairbanks:

Alaska Rules of Evidence 601 is amended to read as follows:

. . . Notwithstanding (2) above, young children between the ages of 2 and 7 who are otherwise competent under these rules shall be allowed to testify as witness and victims in child abuse or child sexual abuse proceedings. The trier of fact may consider their capacity to understand the duty of a witness to tell the truth in deciding what weight to give a child's testimony.



TROOPER PAUL BARTLETT  
E DETACHMENT



STATE OF ALASKA  
OFFICE OF THE GOVERNOR

ALASKA WOMEN'S COMMISSION  
3601 C STREET - SUITE 742  
ANCHORAGE, ALASKA 99503

March 21, 1984

Representative Barbara Lacher  
State Capitol  
Pouch V  
Juneau, Alaska 99811

Dear Representative Lacher:

The Alaska Women's Commission is committed to supporting all efforts made at preventing and aiding the victims of domestic violence, sexual assault and child abuse. We wish to take this opportunity to thank you for sponsoring the following bills this session that address these issues:

HB 568, HB 567, HB 566 and HB 565

We appreciate your continued concern for the welfare of Alaska's women and children. If the Women's Commission can be of any assistance in supporting your efforts, please don't hesitate to contact us.

Sincerely,

A handwritten signature in cursive script that reads "Kathy Marshall".

Kathy Marshall  
Executive Director

*File with Seal*

"INNOVATIONS IN PROSECUTION OF CHILD SEXUAL ABUSE CASES"

By Lucy Berliner and Josephine Bulkley

American Bar Association  
National Legal Resource Center For Child Advocacy and Protection

1981

Sexual Assault Center  
Harborview Medical Center  
325-Ninth Avenue  
Seattle, Washington 98104  
(206) 223-3047

## I. Program Description

The Seattle/King County community has a comprehensive response to child sexual abuse which provides coordinated, specialized handling of all aspects of the problem. Specialized individuals or units exist within all the legally mandated agencies including law enforcement, Child Protective Services, prosecuting attorney and Probation and Parole. The core system members of the network are the Sex Crime Units of the King County Department of Public Safety and Seattle Police Department, the Sexual Abuse Unit of Seattle Child Protective Services, and the Sexual Assault Unit of the King County Prosecutor's Office. The Sexual Assault Center and Rape Relief offer specialized victim services including medical care, counseling and advocacy. Private mental health professionals or agencies provide specialized evaluation and outpatient treatment services to both adult and juvenile sexual offenders. An inpatient treatment facility exists within the State Department of Corrections to which an offender can be sentenced. A loose-knit network of community mental health professionals provides other sexual abuse treatment services including individual and family treatment, groups and specialized play and art therapy for abused children.

The Sexual Assault Center is located at Harborview Medical Center, a former county hospital administered as a University of Washington teaching hospital. From the inception of the program in 1973, there was a steady increase in child victims which led to the LEAA funded grant, "The Sexually Abused Child as a Victim/Witness" awarded in 1977. The premise of the project was that the criminal justice system should accommodate the special needs of child victims of sexual abuse, which would increase successful prosecution and minimize additional trauma to the child. This approach required the cooperation of all parties to reduce the negative aspects of system intervention and therefore enhance victim cooperation and successful outcome. The grant provided a structured opportunity to set about creating a specialized network response which addressed both the clinical and legal aspects of child sexual abuse.

Sexual Assault Center and various system components supported concerned colleagues within each system in establishing specialized units. Regular meetings among network members provided a forum for identifying areas of concern which could be addressed to result in the best possible response for victims, offenders and the community.

Specialists offer training and consultation to each other, to related community agencies and to the community at large. The approach is presented as a team approach which includes education to prevent possible abuse and to insure supportive and appropriate response to the child victim at disclosure. Information is shared about the legal requirements for reporting and available community resources.

The network developed from shared beliefs among individuals working within the systems who learned, through experience, that the special nature of child sexual abuse demanded a coordinated approach. Genuinely respectful, friendly personal relationships exist between members of the different systems. The evolution of the specialized units has been more or less difficult to accomplish. In some cases, a number of unrelated factors converged to allow a change in approach, such as the transfer or promotion of certain personnel, or a political election. Because it is so obviously beneficial there has been little argument with the idea, and the greater resistance has been to changing process and procedure. There is a high level of community awareness, pride and support for the services of the network.

## II. Philosophical Assumptions

The underlying assumption of the Seattle/King County network is that a sexual offense against a child is both a crime and causes and is caused by psychosocial or behavioral disorder. It is believed that any sexual contact between an adult or a significantly older person and a child, or where sex is forced, is wrong. Children are naturally dependent and never in an equal position in a relationship with an adult, and cannot give informed consent. The adult or older person is always considered morally and legally responsible. However, some of these individuals who commit sexual offenses appear to be a treatable group who can be made safe to be at large in the community. The goal is that further children not be victimized and it is both the most effective and the humane solution to insure that treatment be made available to those who can benefit. This does not mean that punishment is not also an acceptable consequence for breaking the law. Punishment and treatment are the dual responses to those who have a behavioral disorder which appears as criminal conduct. Since children are the victims of the behavior disorder all efforts of the response must be directed at achieving safety and support for the victim. The intervention process should not exacerbate the trauma and can be a therapeutic experience. When the offender is cooperative, admits to having a problem and agrees to court recommended and supervised treatment with a qualified specialist, there's a good possibility of remaining in the community on probation status. Some offenders fail in community treatment or are too out of control but can be treated in an inpatient setting. For those who continue to deny the offense or who are determined to be not amenable to treatment, prison is the only available alternative.

## III. Legal Authority

The program operates under the RCW Criminal Code of the State of Washington and the Administrative Code regulating matters of custody and relating to the Child Abuse Reporting Act. These are two different legal systems. The criminal statutes include Rape, 1st, 2nd and 3rd degree, Statutory Rape, 1st, 2nd and 3rd degree, Indecent Liberties, and Incest, all felonies, and Communicating with a Minor for Immoral Purposes, a Gross Misdemeanor. A conviction for Rape in the 1st degree, or Statutory Rape in the 1st degree requires a mandatory commitment to the State Department of Corrections, either to prison or to the inpatient sex offender treatment program at Western State Hospital.

The Department of Social and Health Services, the state social service agency, has legally mandated authority to investigate reported child abuse which includes sexual abuse by a caretaker, or where the caretaker neglects to take appropriate action and fails to protect the child. The Child Protective Service performs the investigation and must report substantiated cases to the Central Registry. A caseworker can file a dependency Petition in the Juvenile Court to secure temporary custody of the child and authorize state intervention in the family. Child Protective Services has the responsibility for out of home placement. The state Attorney General's Office represents the state in dependency matters. There is also a Family Court with jurisdiction

network of victim groups located in Youth Service Bureaus around the county, trained and supervised by Sexual Assault Center personnel. In addition, the Sexual Assault Center occasionally receives donations from the community, or from convicted offenders, and will have to begin a partial fee for service system soon. Offenders are generally expected to pay the cost of treatment which can be reimbursed by third party payers. The inpatient treatment is a part of the state social service system and is subsidized by the state.

The increased rate of reporting and higher case loads at both the Child Protective Service and in the criminal justice system, has led to some increased assignment of personnel, but state hiring freezes and the general economic situation inhibits further expansion of personnel.

## VI. Eligibility Requirement

Any situation of sexual assault is eligible for services by some or all components of the community network. All cases where the offender is a caretaker or where the child is not safe at home must be reported to Child Protective Service and investigated. Whenever a crime has been committed, where the victim is willing or able to participate in the criminal justice system, the legal requirements for competency are met and it is within the statute of limitations, involvement in the criminal justice system is encouraged. Any victim of sexual assault can receive services at the Sexual Assault Center regardless of participation in the criminal justice system. Offender specialists evaluate referred offenders and will only accept into treatment those who can be safely treated in the community. The recommendation of the specialist carries a significant weight in dispositional hearings or at sentencing. The network is concerned with insuring that the offender receives the proper treatment in a supervised setting and that the victim receives appropriate treatment with knowledgeable professionals.

## VII. Program Components and Procedures

A. Not all incest cases have protective service or criminal justice involvement. If the parents are currently divorced or divorce following disclosure, or if the abuse happened a long time ago, or in another jurisdiction, the Child Protective Service may not become involved or may be involved only briefly because no further contact occurs between the offender and the victim. Child Protective Service involvement is primarily with families who do not believe or support the child and the environment is unsafe, or in cases where reunification is planned following treatment and supervision must be maintained until that time. In the cases where the offender is residing with the victim, separation following disclosure is expected in almost all cases. The offender is encouraged or pressured to leave so the children can remain with the family. If the family does not believe or support the child or where the child wishes to leave, out of home placement is arranged. The Department of Social and Health Services maintains a specialized group foster home for sexually abused children. The Child Protective Service is required to report all criminal cases to law enforcement although

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## III. Legal Authority

The program operates under the RCW Criminal Code of the State of Washington and the Administrative Code regulating matters of custody and relating to the Child Abuse Reporting Act. These are two different legal systems. The criminal statutes include Rape, 1st, 2nd and 3rd degree, Statutory Rape, 1st, 2nd and 3rd degree, Indecent Liberties, and Incest, all felonies, and Communicating with a Minor for Immoral Purposes, a Gross Misdemeanor. A conviction for Rape in the 1st degree, or Statutory Rape in the 1st degree requires a mandatory commitment to the State Department of Corrections, either to prison or to the inpatient sex offender treatment program at Western State Hospital.

The Department of Social and Health Services, the state social service agency, has legally mandated authority to investigate reported child abuse which includes sexual abuse by a caretaker, or where the caretaker neglects to take appropriate action and fails to protect the child. The Child Protective Service performs the investigation and must report substantiated cases to the Central Registry. A caseworker can file a Dependency Petition in the Juvenile Court to secure temporary custody of the child and authorize state intervention in the family. Child Protective Services has the responsibility for out of home placement. The state Attorney General's Office represents the state in dependency matters. There is also a Family Court with jurisdiction

over custody arrangements or modifications.

There are procedures and protocols developed both within and among the various network components. The Sexual Assault Center maintains a protocol for medical intervention in the Emergency Room, and there is a joint agreement on collection and transfer of evidence with law enforcement agencies. There is a protocol for Child Protective Service and Sexual Assault Center case cooperation, and there is a protocol and referral form between Child Protective Services and law enforcement. The Prosecuting Attorney's Office has standards for filing cases and case management procedures in the Special Assault Unit which handles all cases of child sexual abuse. These agreements have all been developed by the members of the different agencies. What originally began as informal agreements have gradually been transformed into policy between agencies. There are also certain identified individuals, usually line supervisor level personnel, who are identified with the formal network and become the liaison for their systems. There are two regular meetings, one a systems meeting, conducted at the Prosecuting Attorney's Office, the second a case management meeting, conducted at the Child Protective Services.

#### IV. Staffing

Each program element is staffed and funded separately. The LEAA Victim Witness grant at the Sexual Assault Center and the Treatment/Training Institute from the National Center for Child Abuse and Neglect have included contracts for time or personnel with the criminal justice system or with Child Protective Services. Sexual Assault Center operates under the University of Washington State Personnel System. Child Protective Services is part of the Department of Social and Health Services Personnel System, law enforcement hiring and promotion is through the local department, while the Prosecuting Attorney is authorized through county funding. Each agency operates under personnel guidelines for that particular system. The offender specialists are generally private practitioners operating on a fee for service basis. The Sexual Assault Center is staffed by a team of social workers and physicians. The Child Protective Services offices have either a specialized unit handling sex abuse cases, or individuals who have a specialized case load. They are usually Master's level social workers. The major police departments have sex crime units with specially trained detectives assigned. The smaller departments have certain detectives who have experience in child sexual abuse cases and do the follow-up investigation. The Prosecuting Attorney's Office has a Special Assault Unit which handles all sexual assault and child abuse cases from the filing to disposition. Prosecuting Attorneys may rotate into this unit.

#### V. Funding Sources

The Sexual Assault Center is supported by a combination of city of Seattle monies, federal grants and matching support from the University of Washington and the hospital. The Center currently has a regional Treatment/Training Institute from the National Center on Child Abuse and Neglect and is finishing up a National Rape Center research grant. In 1980, the Center had a one year county-funded project to establish a

network of victim groups located in Youth Service Bureaus around the county, trained and supervised by Sexual Assault Center personnel. In addition, the Sexual Assault Center occasionally receives donations from the community, or from convicted offenders, and will have to begin a partial fee for service system soon. Offenders are generally expected to pay the cost of treatment which can be reimbursed by third party payers. The inpatient treatment is a part of the state social service system and is subsidized by the state.

The increased rate of reporting and higher case loads at both the Child Protective Service and in the criminal justice system, has led to some increased assignment of personnel, but state hiring freezes and the general economic situation inhibits further expansion of personnel.

#### VI. Eligibility Requirement

Any situation of sexual assault is eligible for services by some or all components of the community network. All cases where the offender is a caretaker or where the child is not safe at home must be reported to Child Protective Service and investigated. Whenever a crime has been committed, where the victim is willing or able to participate in the criminal justice system, the legal requirements for competency are met and it is within the statute of limitations, involvement in the criminal justice system is encouraged. Any victim of sexual assault can receive services at the Sexual Assault Center regardless of participation in the criminal justice system. Offender specialists evaluate referred offenders and will only accept into treatment those who can be safely treated in the community. The recommendation of the specialist carries a significant weight in dispositional hearings or at sentencing. The network is concerned with insuring that the offender receives the proper treatment in a supervised setting and that the victim receives appropriate treatment with knowledgeable professionals.

#### VII. Program Components and Procedures

A. Not all incest cases have protective service or criminal justice involvement. If the parents are currently divorced or divorce following disclosure, or if the abuse happened a long time ago, or in another jurisdiction, the Child Protective Service may not become involved or may be involved only briefly because no further contact occurs between the offender and the victim. Child Protective Service involvement is primarily with families who do not believe or support the child and the environment is unsafe, or in cases where reunification is planned following treatment and supervision must be maintained until that time. In the cases where the offender is residing with the victim, separation following disclosure is expected in almost all cases. The offender is encouraged or pressured to leave so the children can remain with the family. If the family does not believe or support the child or where the child wishes to leave, out of home placement is arranged. The Department of Social and Health Services maintains a specialized group foster home for sexually abused children. The Child Protective Service is required to report all criminal cases to law enforcement although

this alone does not constitute an official report. A protective service worker may make an informal agreement with the family regarding separation, treatment plan for the victim, offender and family, and agreement to abide by certain conditions, such as no contact, or the worker may file a Petition in court for temporary custody and court imposed conditions. The family can agree to the Petition or may have a Fact Finding hearing which determines Dependency and if granted, the court establishes the conditions. It must be reviewed every six months.

Not all victims are able or willing to participate in criminal prosecution. No one is forced to in order to receive services. For those who do report there are special procedures for the handling of cases involving child victims. In general, the case is initially referred by Childrens Protective Services, the Sexual Assault Center, or other community agencies directly to the detective units. The detective then arranges a joint interview with the Prosecuting Attorney on the Special Assault Unit which is conducted with a support person present. The interview may occur in a special interviewing room for children with a one-way mirror in the Prosecuting Attorney's Office. Following the interview, additional information or evidence is collected by the detective, the suspect is interviewed, and when the case is ready, the Prosecutor makes a decision about whether to file charges and what charges to file. In borderline cases consultation with the Sexual Assault Center worker, Child Protective Service worker or the law enforcement personnel may happen. Once charges are filed, the defendant is arraigned and usually released in the community on bail or personal recognizance with the condition of no contact with the victim. There are negotiations between the Defense Attorney and the Prosecutor regarding plea possibilities. There are established filing standards and disposition recommendations within the Prosecutor's Office relating to type of offense and previous record. In most cases the offender pleads guilty and only about a quarter of cases go to trial. In general if the offender is willing to plead guilty and is determined to be amenable to treatment by a qualified specialist the Prosecutor will support the recommendation in addition to a recommendation for jail time on work release if eligible. At the sentencing there are usually recommendations in front of the judge from the Defense Attorney, from the Prosecuting Attorney, a Pre-sentence Probation report, and input from those working with the victim, the family or from treatment agencies. The judge makes the final decision and there are forty Superior Court judges in King County. The various components of the network do not always agree about the best disposition and each may make an individual recommendation.

#### B. Defense Counsel

All charged persons have legal counsel or have a lawyer appointed. All constitutional rights are recognized, although there is pressure from most systems to arrive at a plea rather than have the child testify. The child has many advocates in the process who try to limit defense contact with victims or attempts to harass, intimidate, confuse or manipulate victims. The Defense Counsel has the legal right to interview a victim prior to the trial, but it usually takes place in the presence of the Prosecuting Attorney. State law gives victims the legal right to have an advocate present during any part of the process.

### C. Conditions of Sentence

Offenders either plead guilty or are convicted by jury or judge and then sentenced by Superior Court judges. He or she makes a final decision based on the various recommendations, as well as personal views on the proper legal response to the problem of child sexual abuse. Where there is little disagreement between the Prosecutor and Defense Attorney, which is frequently the case, the judge usually supports the recommendation. In some cases there are strong differences and the judge makes the final determination. Most cases are resolved by plea and of those that go to trial, about half result in convictions. In intra-family sexual abuse cases a small percent are sent to prison, another group go to the inpatient treatment program and the majority remain in the community on probation with deferred sentences for first offenders or suspended sentences and certain conditions on the probation status. The conditions often will include such things as a requirement to remain in treatment with an authorized specialist, some time in jail, generally on work release, payment of court costs, limitation on contact with the victim or other minor children, no use of alcohol, participation in other community treatment programs and sometimes payment for the cost of treatment for the victim.

### D. Length of Time in Program

The length of the sentence is determined by statutory maximum and minimums, prosecutorial standards, and particular characteristics of the case. Treatment is usually ordered until termination is agreed upon by the therapist, or with the permission of the probation officer. Outpatient treatment generally takes one to two years and inpatient treatment at the state facility has a minimum of two years on inpatient status and about three to five years total including outpatient follow-up. Changes in contact orders, treatment requirements or the return of the offender into the family is usually jointly determined by the victim specialist, the offender specialist and the Probation Officer.

## VIII. A. Treatment Services

### 1. Initial Crisis Services

Sexual Assault Center provides twenty four hour, seven day a week medical and psychosocial intervention at Harborview Medical Center. Assessment, individual and family therapy and advocacy is available. Social workers may refer to Child Protective Service, criminal justice system or other community agencies for concrete services such as public assistance, emergency shelter or ongoing treatment. The Sexual Assault Center social worker offers to provide case management during the initial crisis establishing the structure and making a treatment plan.

### 2. Ongoing

The Sexual Assault Center offers some individual and family services on an ongoing basis. There are groups for teenage victims, for

mothers of victims and for adult women victimized as children.

There is a network of groups to which a child may be referred on a geographic basis as part of the treatment package. There are several groups for mothers located around the county. In addition in community agencies and among private practitioners there are individuals who have identified themselves as having special training and an interest in working with some aspect of the problem of child sexual abuse. Some therapists provide play and art therapy for abused children. Others do family counseling once the sexual offense problem has been addressed. It is not uncommon for a family to have contact with a number of different agencies providing different services for different members of the family.

### 3. Offender Treatment

A number of agencies and individual practitioners provide specialized evaluation and treatment services. Most have a behavioral cognitive orientation to treatment. Individual and/or group are offered, depending on the particular agency. Community treatment generally addresses both the physiological aspect of decreasing deviant arousal and increasing normal arousal patterns and dealing with the behavior and attitude changes which are required to admit guilt and act in a responsible way with children and other people. After the sexual offending problem has been addressed marital therapy or family therapy may be conducted by the offender specialist and/or in conjunction with the Sexual Assault Center.

### 4.

Treatment Services continue to be offered by all treatment resources as long as it is indicated by the nature of the problem. In many cases there may be a delayed reaction and child victims often return for service years following disclosure.

### B. Duration of Treatment

Offenders are in treatment about one to two years on the average in the community. Children and other non-offending family members can be in treatment any length of time although it is generally somewhat less time than is required for offenders. Attendance in group often occurs for a longer period than individual treatment. The victim groups and women's groups are open-ended and receive new members on an on-going basis.

### C. Additional Treatment Issues

Failure to abide by conditions results in notification of the supervising agency, Probation and Parole or Juvenile Court, can result in revocation and commitment to the State Department of Corrections. All offenders sign the release of information to allow flow of information between Child Protective Services, the victim treatment agency and the offender therapist.

#### D. Termination

The offender therapist determines when the offender is ready to terminate treatment. Criteria are defined by the therapist. Supervision continues until the offender completes his sentence although the treatment may end prior to the end of the probationary period. An offender may progress to an unsupervised status on probation after completing treatment. In general if the individual intends to return to the family supervision continues until and during the re-entry period.

#### IX. Consequences of Violation

If an offender fails to cooperate with treatment, or makes no progress, the treatment agency may recommend revocation to the Probation Department. A reoffense constitutes an automatic revocation hearing where a judge makes a determination on the disposition based on reports from treatment personnel. Revocation depends generally on the degree of cooperation of the offender and the seriousness of any infraction.

#### X. Statistics

Since there is no single program in the community each agency maintains separate statistics. In 1981 the the Sexual Assault Center served 1,838 patients of which 1,031 were children sixteen and under. Of the adult patients approximately 28% were women who had been abused as children. Of the children served, 52% were incest victims. Of these incest situations, 85% were girls and 15% were boys; 72% of the family offenders were parents or parental figures (41% of all offenders against children). Those incest offenders who were not parents were usually an older brother, an uncle or a grandparent. In more than one-half of all child cases, the children were victims of multiple incidents of sexual abuse. 85% were assaulted by known offenders. About 80% were girls and 20% were boys. All but 19% of the cases were reported to either law enforcement, Children's Protective Services or some combination, although all cases did not occur in the King County jurisdiction.

Child Protective Services receives approximately 400 complaints of child abuse a month and about 20% are for child sexual abuse. Law enforcement does not compile crime statistics by relationship to offender or by age of victim, so there are no specific numbers available. There are 26 separate jurisdictions in King County although the primary jurisdictions are the Sheriff's office and the city police department. The Prosecuting Attorney filed charges in 215 cases involving child victims in 1980 and 120 were intrafamily cases. Of incest cases, 73% pled guilty, and of those that went to trial about 60% were convicted. Of convicted offenders the disposition was: 10% ordered to prison, 16% to Western State Hospital and the remaining 74% were in the community on supervised probation.

The numbers of cases handled by all systems increases continually. It is estimated that reports will be up 40% at the Sexual Assault Center.

In 1980 the Prosecuting Attorney increased prosecution of child cases by 200%.

There is no existing system for reliably determining recidivism which is generally defined as a reoffense or rearrest within two years. Community therapists estimate an 80 to 90% control rate for specialized behavioral treatment. Western State Hospital inpatient treatment program has a recidivism rate of approximately 20% for participants who successfully complete the program. Since true recidivism can only be determined reliably by victim reports there is no accurate way to know the rate of recidivism.

PROSECUTION OF THE OFFENDER IN CASES OF SEXUAL ASSAULT  
AGAINST CHILDREN +

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## PROSECUTION OF THE OFFENDER IN CASES OF CHILD SEXUAL ASSAULT AGAINST CHILDREN

### Introduction

As the rate of reporting of sex crimes has increased, so has discussions about the prosecution of the offender. Both within and without the criminal justice system there is a division about whether or not prosecution of the offender is necessarily a desirable avenue to pursue. Some proponents of prosecution maintain that it is the only way to insure that the offender will not commit additional sex offenses. Opponents often argue that criminal prosecution and its inherently punitive response not only to sex offenders but also to the victims can only have adverse effects which may far exceed the effects of the original crime.

These arguments become especially vehement when the offender is charged with a sex crime against a child victim. In addition, cases involving a child victim of sexual assault are unpopular with criminal justice system personnel. This unpopularity seems to be based on a number of factors, including the commonly held assumption that young children make poor witnesses; that the cases are often difficult to build; and the child and his/her family are emotional and difficult to deal. The prosecution of cases involving child victims of sexual assault appear to involve a series of contradictory

assumptions about the nature and benefits of criminal prosecution and the problems of child victims and their families. Disagreements are encouraged by a lack of information about prosecution of these cases and in some circumstances a lack of alternatives to current criminal justice procedures.

The report which follows will describe a set of procedures instituted in a county prosecuting attorney's office for the handling of cases involving a child victim of sexual assault. It will also present data regarding the prosecution of cases from a one year period.

These procedures were developed and data was collected as part of an LEAA contract with the Sexual Assault Center at Harborview Medical Center, Seattle, Washington. This contract entitled "The Sexually Abused Child as a Victim/Witness" has the objective of cooperating with criminal justice system personnel in developing new procedures for accommodating the child victim/witness.

#### The Sexual Assault Center

The Sexual Assault Center offers a range of services to child victims of sexual assault and their families. These services include: emergency medical care, examinations and treatments, crisis counseling, advocacy with the criminal justice system and social agencies, and on-going counseling to resolve emotional reactions of the child and non-

offending parent to the assault.

As part of the LEAA contract, social work staff of the Sexual Assault Center have participated in formal training sessions with criminal justice system personnel and attend a weekly meeting with police, prosecuting attorney, and child protective service representatives to develop new procedures for handling child sex assault cases. Training has included the following topics: medical/legal evidence, interviewing techniques with young children, the nature of psychological reactions in children and their families, and the psychology of the offender.

In addition to these formal interactions between social work staff and criminal justice personnel, there are a series of cooperative exchanges around specific cases involving child victims. Social workers are familiar with the requirements and nature of reporting and prosecution of sexual assault cases and are able to assist the child victim and her/his family in making an informed decision about whether or not to proceed with prosecution.<sup>1</sup> As a basic philosophy the Sexual Assault Center is supportive of prosecution believing that it is a fundamental element in insuring the protection of the child and that the offender may be more likely to accept responsibility for his act and receive services to help him avoid further acts.

Criminal justice system personnel frequently refer victims and their families to the Sexual Assault Center for medical examinations and/or supportive counseling or advocacy services to assist them with their emotional reactions to the assault, its aftermath, and to maintain their cooperation with the prosecution process.

New Procedures for Accommodating Child Victims

Children face and present special problems in criminal proceedings. Many are so young that they do not completely understand the nature of the process in which they are a central figure. Statistics for 583 children seen at the Sexual Assault Center during the period from October 1977 to June 1979 indicate that 18.1% are six years of age or younger. A full 40.0% are below the age of ten. Young children do not possess the cognitive or language skills to be able to fix incidents in chronological time nor to recount different incidents in detail distinguishing between each in terms of specific events and actions. They also lack the skills to express feelings in words. In cases in which the offender is a family member (47%) or non-related but known to the child (42%), the child is likely to have ambivalent feelings about the offender and may be concerned about the effects of the child's involvement with the criminal justice system on the offender.

Accommodations within criminal justice procedures are necessary to lessen the trauma experienced by the child as a result of the

sexual abuse and their involvement with the criminal justice process. Accommodations resulting from interactions between criminal justice system personnel and Sexual Assault Center social workers are summarized below:

Interviewing Techniques - Criminal justice system personnel, both police and prosecuting attorneys are not trained to be effective interviewers of small children. Formal training was instituted to assist personnel in becoming more effective interviewers of children. This training included material on cognitive abilities of children (e.g., memory and recall skills), emotional and behavioral reactions to sexual assault, interviewing skills (e.g., developing a relationship, using child-appropriate language, probing for weakness in a child's story without frightening the child) and assessing the credibility and competency of the child as a witness.<sup>2</sup>

Victim Interview - In order to decrease the number of times the child has to recount the details of the sexual assault, the option of a joint detective prosecuting attorney interview was instituted. During this interview the detective, prosecuting attorney, and the social worker (when necessary for the support of the child) are present with the child. Although three adults are present, usually only one actually conducts the interview and another may take notes. In difficult cases (e.g., when the child was developmentally disabled

or especially frightened) the social worker might conduct the interview.

Several prosecuting attorneys report that they believe this system is most effective when they have the general facts of the case prior to the interview.

Child Interview Room - At the prosecuting attorney's office, a child interview room was established. This room was designed to make children feel more at ease during the actual interview. It was equipped with a box of toys, a rug, and child-size furniture. This environment tended to make the interview less formal and less frightening for the child.

Several of the adults reported that the room initially made them uncomfortable. However, most reported that the room also appeared to help the child tell her/his story.

Pre-assignment of Child Cases - Child cases involving a sexual assault are pre-assigned to one prosecuting attorney who handles the case through both the pre-trial and trial process. This decreased the number of adults to whom the child and her/his family must relate and identified one person for the family to call with questions. Prosecuting attorneys report they especially like this procedural

innovation. They report that it served to increase their personal knowledge of the case and their commitment to seeing it successfully through the entire prosecution process.

Prosecution of the Adult Offender

As part of the project, data was collected from the county prosecuting attorneys files on cases involving sexual assault against a child.<sup>3</sup> Of the eighty-four cases for which data is available, in 35.7% (30) the offender is a family member, 56.0% (47) a non-related adult who is known to the child, and only 8.3% (7) a stranger. The age of the child victims varies with about 6% between one and five years of age, 45% between six and twelve, and 26% between thirteen and sixteen years (23% data missing).

Data on charges brought against the offender reflect a pattern of multiple charges against a single offender. A total of 127 charges were filed against the eighty-four defendants. Almost 68% (57) were charged with indecent liberties (non-penetration sexual assault), 54.7% (46) with various degrees of statutory rape (lack of consent assumed due to age of child, no force may be present), 10.7% (9) incest, 1.2% (1) with misdemeanor sexual contact with a minor, and 16.7% (14) with other charges (e.g. rape, assault, theft).

After being charged, offenders are released on personal recognizance in 59.5% of the cases, with bail of less than \$5,000

in 14.3%, bail between \$5-10,000 in 9.5% and bail over \$10,000 in 16.7% of the cases.

Although data is not available for this sample of offenders, in the majority of cases involving sex offenses against children, the offender is not actually jailed during the justice process. Frequently the offender is called by telephone by the originating police jurisdiction and requested to come in for formal booking.

Data suggest that the majority of offenders will plead to the original charge when that charge does not carry a mandatory prison sentence. For example, as can be seen in Table 1, 45.6% (26) offenders charged with incident liberties (fondling) which does not require a mandatory prison sentence, plead to the original charge. In contrast, only 21.1% (4) of the nineteen offenders charged with statutory rape first-degree which carries a five year minimum mandatory prison sentence plead to the original charge.

Insert Table 1 about here

In a similar vein, only 22.2% (2) of nine offenders charged with incest, which carries high social stigma, plea to that original charge.

Data for the eighty-four offenders indicate that the ultimate case disposition is a guilty plea in 73.8% (62), a conviction in 14.3% (12) and an acquittal in 8.3% (7) of the cases. Only one case was

dismissed and this followed a trial resulting in a hung jury. These data are particularly important for those who are concerned with the effects of prosecution on the child because they indicate that in the majority of cases (73.8%) the child never appears in court.

Insert Table 2 about here

In terms of sentencing, the data indicate a pattern of multiple sentencing. Only 12.2% (9) of the offenders actually go to prison and 13.5% (10) are committed to the Sexual Psychopath Program at Washington State's Mental Hospital. This means that 75% of the offenders remain in the community.

Of the total number of offenders receiving a sentence, 51.4% (38) received counseling as a condition of probation, 20.3% (15) were required to make restitution, 47.3% (35) received some jail time or work release, and 74.3% (55) other conditions of release (usually court costs). This pattern of sentencing can be found in Table 3.

Insert Table 3 about here

The entire criminal justice process involved in prosecuting these cases range from less than two months to six months in length. As can be seen in Table 4, the time lapse between filing data of charges and disposition (plea or conviction) varies with 48.8% taking less than two months. Washington State law requires a

trial date within 60 days if offender is incarcerated and 90 days otherwise. Only 9.6% (8) of the cases involve periods longer than four months. After disposition, sentencing normally takes six to eight weeks.

### Conclusions

The descriptive data presented in the previous pages of this report provide preliminary evidence concerning prosecution of offenders in cases of child sexual assault.<sup>4</sup> Clearly, the data reflects prosecution of this sample of offenders in one geographical area during a one year period. Nevertheless, the evidence suggests that the prosecution of offenders need not necessarily be a punitive experience for the offender or the child.

\*Once charges are filed by the prosecutor's office, an overwhelming majority of the cases result in successful prosecution. In the majority of cases, prosecution takes place over a period of less than four months.

\*Offenders appear likely to plea to charges which do not require mandatory prison terms and which do not carry high social stigma.

\*The consequence of successful prosecution, in the majority of cases, is that the offender receives counseling within his own community.

\*For the child, in the majority of cases, she/he will not have to appear in court.

\*Once charges are filed, most cases proceed to disposition with the continued cooperation of the child victim and her/his family.

Notes

1. Brochures developed for victims' families which describe what they can expect from involvement with the criminal justice system are available from the Sexual Assault Center, Harborview Medical Center, 325 9th Ave, Seattle, Washington, 98104.
2. Guidelines for interviewing young child victims which have been developed for criminal justice system personnel are available from the Sexual Assault Center.
3. Cases involving sexual assault against a child were identified by case number from the computerized filing system at the county prosecuting attorney's office. A total of 96 cases for 1978 were identified. A research assistant using the case number then hand pulled the case folder and read the record in search of information about the offender's relationship to victim, the length of time the process took, charges filed, release conditions and disposition. A total of 84 (87.5%) were satisfactorily located and data recorded.
4. A follow-up study is currently in process which will determine the consequences of involvement with the criminal justice system from the perceptions of the victims' non-offending parents.

Table 1

## CHARGE DISPOSITION BY ORIGINAL FOR 126 CHARGES FOR 84 DEFENDANTS

	Plea, Original charges	Plea, lesser charge	Plea, multiple counts	Con- victed jury	Acquit- ted, jury	Dis- missed	Con- victed, non-jury	Other	TOTAL
Indecent Liberties	26 45.67*	7 12.3%	4 7.0%	2 3.5%	4 7.0%	9 15.8%	3 5.3%	2 3.5%	57** 67.6%
Statutory Rape 1 <sup>0</sup>	4 21.1%	5 26.3%	-	1 5.3%	2 10.5%	5 26.3%	2 10.5%	-	19 22.6%
Statutory Rape 2 <sup>0</sup>	7 41.2%	1 5.9%	2 11.8%	1 5.9%	1 5.9%	3 17.6%	-	2 11.8%	17 20.2%
Statutory Rape 3 <sup>0</sup>	6 60.0%	1 10.0%	-	2 20.0%	1 10.0%	-	-	-	10 11.9%
Incest	2 22.2%	-	1 11.1%	-	1 11.1%	5 55.6%	-	-	9 10.7%
Misdemeanor Sexual contact with a minor	1 100.0%	-	-	-	-	-	-	-	1 1.2%
Other charges	-	-	-	2 15.4%	2 15.4%	8 61.5%	1 15.4%	-	13 15.5%

\*Percents based on row totals

\*\*Percent of 84 defendants

Table 2

ULTIMATE CASE DISPOSITION FOR 84 OFFENDERS CHARGED WITH  
A SEX CRIME AGAINST A CHILD \*

	#	%
Plea	62	73.8
Conviction	12	14.3
Acquittal	7	8.3
Dismissed	1	1.2
Total		

\* Two cases missing

Table 3

PATTERN OF MULTIPLE SENTENCES GIVEN TO SEVENTY-FOUR (74) DEFENDANTS  
CHARGES WITH SEX OFFENSE AGAINST A CHILD<sup>1,2</sup>

	Prison	Western State Hospital	Counseling	Restitution	Jail - Work Release	Other
Prison	9 (12.2%)	-	-	1 (1.3%)	-	-
Western State Hospital	-	10 (13.5%)	-	2 (2.7%)	1 (1.3%)	6 (8.1%)
Counseling	-	-	38 (51.4%)	8 (10.8%)	21 (28.4%)	34 (45.9%)
Restitution	1 (1.3%)	1 (1.3%)	8 (10.8%)	15 (20.3%)	10 (13.5%)	11 (14.9%)
Jail - Work Release	-	1 (1.3%)	18 (24.3%)	10 (13.5%)	35 (47.3%)	31 (66.0%)
Other	-	4	33 (44.6%)	12 (16.2%)	30 (40.5%)	55 (74.3%)

<sup>1</sup> Out of sample of 84 defendants, 74 (88.1%) received a sentence; 7 (8.3%) were acquitted; 1 (1.2) was dismissed, and data was missing for 1 (1.2%).

<sup>2</sup> Diagonal shows total number of defendants out of 84 receiving particular sentence. Other figures in row show pattern of other sentences. Percents based on 74 offenders receiving a sentence.