



# ***Handbook for Child Protection Practice***

## **What is Sexual Abuse?**

Contributors: Lucy Berliner

Edited by: Howard Dubowitz & Diane DePanfilis

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## **What is Sexual Abuse?**

Lucy Berliner

*Child sexual abuse* is a general term used to refer to nonconsensual sexual acts, sexually motivated behaviors involving children, or sexual exploitation of children. These activities are associated with a variety of emotional and behavioral sequelae; being sexually abused increases the risk of psychiatric conditions and functional impairment. Although not all children develop problems as a result of these experiences, many do.

## **Laws and Legal Definitions**

Criminal statutes at the state and federal levels define sexual behavior that is illegal. Each state has laws, variously named, that prohibit certain sexual conduct and define the elements of the criminal behavior that must be proven to convict the accused. These laws apply to adolescents and children as well as adults. States set an age at which children are presumed capable of forming the intent to commit a crime and can be prosecuted, usually between 10 and 14 years of age, and an age below which children cannot be prosecuted, regardless of conduct. In certain circumstances, the courts may determine that a child who is younger than the age at which competence is presumed did engage in criminal conduct and authorize prosecution. Although rare, this means that a prepubertal child could be charged with a sexual offense if force is used or there is an age differential. Laws also establish an age of consent at which adolescents are permitted to make their own decisions about sexual relationships. Incest is illegal regardless of age; states determine the degree of relatedness.

Child protection statutes in every state explicitly include sexual abuse as a form of child abuse that warrants state intervention. States vary in the degree to which they specify the exact behaviors or activities that constitute sexual abuse, however. Some child abuse statutes refer to the criminal laws of the state, whereas others define what constitutes sexual abuse more broadly. These laws may encompass behaviors that are inappropriate or suggest risk but do not rise to the level of sexually explicit acts or criminal conduct.

## **Nonconsensual Behavior**

Lack of consent makes sexual activity abusive. Sexual activity can be nonconsensual in the following ways:

1. Force or coercion is used, regardless of the ages of the persons involved.
2. Consent is not possible (e.g., incapacitation by virtue of drugs, alcohol, or disability).
3. The target is a child. Children are presumed unable to give informed consent to sexual relationships with adults or when there are significant disparities in age, size, or development. In some cases, children perceive themselves to be consenting to the sexual activity, but developmental limitations on their capacity to objectively evaluate relationships or to understand the consequences call such judgments into question.

## **Sexually Motivated Behavior**

Sexually motivated behavior consists of intentional acts that produce sexual arousal or

gratification:

1. Explicit sexual acts: Sexual motivation is presumed for sexual penetration (vaginal, oral, anal, digital, and with an object), sexual touching (intentional contact with genitals, buttocks, or breasts), and sexual kissing. It is also presumed when adolescents or adults instruct children to engage in such behaviors with each other.
2. Indecent exposure, voyeurism, and frottage (i.e., rubbing against a person): Sexual motivation is inferred when sexual arousal is present or the context of the behavior is public and does not have a plausible nonsexual explanation.

### **Sexual Exploitation**

This term refers to sexual behaviors or situations in which the motivation may or may not be sexual, but there is a clear sexual component. For example, in some cases the motivation is financial:

1. Taking pictures or videos of children engaging in sexual activities or in sexually explicit poses
2. Making children available to others for sexual purposes

### **Problems in Determining Whether Behavior is Sexual Abuse**

Some behaviors that are assumed to be sexually motivated in extrafamilial situations may be normative in intrafamilial situations. For example, parental nudity, looking at a child who is undressing or unclothed, joint bathing, and kissing on the mouth may be innocuous and acceptable in many families, but sometimes they are sexually motivated. Such behaviors frequently accompany intrafamilial sexual crimes, but by themselves they are not sufficient to conclude abuse.

Several factors may be used to assess whether behavior is sexually motivated. Specific evidence of deviant motivation may be found (e.g., holes drilled into bedroom walls). Behavior that is secretive or is accompanied by warnings not to tell raises strong suspicion. Repeated "accidental" touching or "inspections" of sexual body parts, especially in pubertal children, is suggestive of sexual motivation, as is "sex education" accompanied by touching. Also, there may be overt indication of sexual arousal when the person is nude or engaging in physical contact with the child. Explicit sexual remarks or observations may signal that a sexual component is present (e.g., lascivious comments about the child's physical developmental or intrusive inquiry into the child's sexual thoughts, feelings, or behavior).

### **Developmentally Inappropriate but Not Sexually Motivated Behavior**

Parental nudity, joint bathing or showering, extensive bodily touching, or having children sleep in the parental bed are quite normal with younger children but may become uncomfortable for older children. For example, with the onset of puberty or sexual awareness, kissing on the mouth may make some older children uncomfortable or confused. In other cases, parents may expose children to sexually explicit activity or materials without any sexual intent. This may be the result of poverty and overcrowding, the level of parental supervision, or values about sexuality. There is no clear line for when these activities become abusive, if ever, when sexual motivation is not present.

## **Sexual Activity between Children**

It is sexual abuse when adolescents engage in sexual contact by use of force or with younger children. Sexual contact between adolescent siblings, even when consensual, is ordinarily considered a form of sexual abuse. Sexually aggressive or persistent sexual contact by prepubertal children, except in the rare cases in which criminal intent is present, is best considered a sexual behavior problem. This does not mean that the child who is the recipient of the behavior has not been victimized, but this conceptualization does not require that the aggressing child be labeled an offender. Such behavior in children may signal that they have been sexually abused, but it may also result from exposure to sexually explicit activity or a high level of family stress. Sexual intercourse between prepubescent children, regardless of consent, is developmentally inappropriate. Sexual curiosity and touching between similar age children up to early adolescence is common; as long as the activity does not involve coercion, is not a preoccupation, and is private, it can be considered normal.

## **Family and Cultural Variations**

Family relating style or cultural traditions will strongly influence the nature of physical expression of affection, privacy accorded children, and openness about sexuality. In situations in which the behavior does not involve coercion or sexual motivation, it is important to assess the context and family values before making a determination. Some practices may be acceptable in a country of origin but violate legal or child protection standards in the United States, whereas others may simply reflect variations in family practices. Consultation with culturally competent experts may help in uncertain situations.

- sexual activity
- children
- sexual abuse
- kissing
- consent
- arousal
- use of force

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