

Section 3

The Fourth Amendment's Impact On Child Abuse Investigations.

The United States Court of Appeals for the Ninth Circuit said it best, "The government's interest in the welfare of children embraces not only protecting children from physical abuse, but also protecting children's interest in the privacy and dignity of their homes and in the lawfully exercised authority of their parents." *Calabretta v. Floyd*, 189 F.3d 808 (1999).

This statement came in a case, which held that social workers who, in pursuit of a child abuse investigation, invaded a family home without a warrant in violation of the Fourth Amendment rights of both children and parents. Upon remand for the damages phase of the trial, the social workers, the police officers, and the governments that employed them settled this civil rights case for \$150,000.00.

Contrary to the assumption of hundreds of social workers, the Ninth Circuit held that the Fourth Amendment applies just as much to a child abuse investigation as it does to any criminal or other governmental investigation. Social workers are not exempt from the requirements of the Fourth Amendment when they act alone. They are not exempt from its rules if they are accompanied by a police officer. And police officers are not exempt from the requirement even if all they do is get the front door open for the social worker; this would include intimidation, coercion and threatening. The general rule is that unreasonable searches and seizures are banned. But the second part of the rule is the most important in this context. All warrantless searches are presumptively unreasonable.