

# **The Role of Law Enforcement in the Response to Child Abuse and Neglect**

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## PREFACE

The Child Abuse Prevention and Treatment Act was signed into law in 1974. Since that time, the Federal Government has served as a catalyst to mobilize society's social service, mental health, medical, education, legal, and law enforcement resources to address the challenges in the prevention and treatment of child abuse and neglect. In 1977, in one of its early efforts, the National Center on Child Abuse and Neglect (NCCAN) developed 21 manuals (the *User Manual Series*) designed to provide guidance to professionals involved in the child protection system and to enhance community collaboration and the quality of services provided to children and families. Some manuals described professional roles and responsibilities in the prevention, identification, and treatment of child maltreatment. Other manuals in the series addressed special topics, for example, adolescent abuse and neglect.

Our understanding of the complex problems of child abuse and neglect has increased dramatically since the user manuals were developed. This increased knowledge has improved our ability to intervene effectively in the lives of troubled families. For example, it was not until the early 1980's that sexual abuse became a major focus in child maltreatment research and treatment. Likewise, we have a better grasp of what we can do to prevent child abuse and neglect from occurring. Furthermore, our knowledge of the unique roles key professionals can play in child protection has been defined more clearly, and a great deal has been learned about how to enhance coordination and collaboration of community agencies and professionals. Currently, we are facing new and more serious problems in families who maltreat their children. For example, there is a significant percentage of families known to Child Protective Services (CPS) who are experiencing substance abuse problems; the first "drug-exposed infant" appeared in the literature in 1985.

Because our knowledge base has increased significantly and the state-of-the-art of practice has improved considerably, NCCAN has updated the *User Manual Series* by revising many of the existing manuals and creating new manuals that address current innovations, concerns, and issues in the prevention and treatment of child maltreatment. The user manuals offer a distillation of the current knowledge base in the field of child maltreatment, but cannot cover all aspects of the topic completely. These manuals should not serve as substitutes for a thorough familiarity with professional standards.

This manual, *The Role of Law Enforcement in the Response to Child Abuse and Neglect*, provides the foundation for the involvement of law enforcement agencies in combating the crime of child abuse and neglect. The manual is intended to be used primarily by local, State, tribal, and military law enforcement agencies. It may also be used by other professionals involved in child abuse and neglect intervention such as CPS, education, mental health, legal, health care, and early childhood professionals to gain a better understanding of the role of law enforcement in child protection. Other manuals are available that examine the role of CPS caseworkers, educators, health providers, and legal professionals, as well as a basic manual that provides an overview of the problem of child abuse and neglect and the roles of the key professionals in the prevention, identification, and treatment of child maltreatment.

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# ACKNOWLEDGMENTS

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# INTRODUCTION

## PURPOSE OF MANUAL

This manual is designed to provide guidance to local and State law enforcement agencies, tribal police agencies, and law enforcement officials within the military establishment as they plan their involvement and fulfill their responsibilities in combating child abuse. The manual examines:

- ✍ the roles of law enforcement in the intervention of child maltreatment;
- ✍ the nature of team investigations;
- ✍ the investigative process;
- ✍ how other disciplines interrelate with law enforcement;
- ✍ interviewing children; and
- ✍ specialized types of investigations and issues of significant interest to law enforcement officers.

The manual also will be useful to other professionals, especially child protective service (CPS) caseworkers as they attempt to work in a multidisciplinary environment with law enforcement personnel. If other professionals understand the role of law enforcement personnel and their motivations, potential conflict between disciplines can be reduced.

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# OVERVIEW OF THE CHILD PROTECTION SYSTEM

Law enforcement is one of the key professions involved in the child protection system. Each discipline involved in the system maintains its own purpose, authority, philosophical basis, and approaches to intervening in child abuse and neglect. For example, Child Protective Services (CPS) generally is designated as the agency responsible for receiving reports of intrafamilial child maltreatment (and in some States all types of abuse or neglect). The CPS agency maintains a social work orientation, with a focus on protection of the child from further abuse and neglect and maintaining the integrity of the family. CPS has a rehabilitative focus in its intervention. State and Federal laws and professional values and standards support the preservation or reunification of the family. Decision making in these agencies is often shared, with individual CPS caseworkers seeking consultation from supervisors or legal counsel prior to significant case action such as the removal of a child from his/her family.

Most child protection systems receive reports 24 hours a day. Some do so through family “hotlines” at the local or State level while other, generally more rural communities rely on law enforcement to receive the calls after hours. Law enforcement refers the emergencies to the “on-call” CPS caseworker. A few States rely exclusively on law enforcement for after hours emergency response. A limited number of agencies contract with private agencies to handle these cases. The largest percentage of the total reports are cases of neglect. In most jurisdictions law enforcement only becomes involved with the more serious cases, those involving serious injury, sexual assault, and death.

Law enforcement’s mission is to investigate crimes and refer those believed responsible for the crime for criminal prosecution. The police agency is organized in a quasi-military structure with clear lines of authority. Individual officers generally act on their judgment without the requirement of formal consultation with supervisors. The prosecutor and other professionals, such as victim/witness advocates, use the results of law enforcement investigations to prosecute cases and assist victims.

Other key professionals such as physicians and other health personnel not only treat the injuries incurred as the result of abuse, but also provide critical information to investigators. Mental health professionals are also valuable members of the community’s child protection team, assisting investigators in understanding what has happened to the child and using their skills to treat the emotional effects of maltreatment. Officers involved in the child protection system encounter a greater diversity of judicial forums than in other areas of law enforcement. Not only will they work with prosecutors and criminal courts, but they may find themselves called upon to testify in juvenile or family court, divorce courts (when allegations of abuse are being considered), and even before State administrative bodies such as day care licensing boards. Often less known to the law enforcement officers are the other members of the community’s child protection system such as public health professionals, domestic violence shelter staff, homemakers, volunteers, educators, self-help groups, and others.

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# **ROLE OF LAW ENFORCEMENT IN COMBATING CHILD MALTREATMENT**

Law enforcement officers tend to view child abuse and neglect not as a social problem, but rather in the context of criminal law, and in “most States, all or most all forms of reportable child abuse or child neglect are crimes.”<sup>1</sup> Consequently, officers generally focus their energy on preservation and collection of evidence for criminal prosecution. Unless they have been trained in the philosophy of child protection, law enforcement officers will generally see little importance in family preservation. Many officers will believe a parent who abuses or neglects a child has abdicated parental responsibilities and does not deserve to care for the maltreated child. Most officers will consider incarceration of the person(s) responsible for the child’s condition as the desirable outcome. As officers gain experience in cases of child maltreatment, they often begin to appreciate the civil protection alternatives CPS offers, the value of casework intervention, and the need for efforts to protect children without resorting to out-of-home placement.

Child abuse and neglect represents a departure from the more traditional law enforcement cases. Most crime reports can be accepted as generally factual. That is, if Mrs. Jones reports her house has been burglarized, the responding officers can enter the case with the presumption that a crime has occurred and set out to find the person(s) responsible. In child maltreatment cases, however, the officer must first establish that a crime has, in fact, occurred. He or she cannot assume, in the absence of other evidence, that the injury or sexual assault reported has occurred, and that the child’s condition is the result of an individual’s actions or willful inactions. In fact, 47 percent of cases of child abuse or neglect reported to CPS across the Nation do not present adequate evidence to be substantiated.<sup>2</sup> (Law enforcement officers can expect to see a somewhat higher rate of substantiated cases due to the nature of the cases with which they typically get involved.) The role of the law enforcement officer and the CPS caseworker, as well, is *first to determine if abuse or neglect has occurred*, and if so, *who is responsible*, then decide *what actions*, if any, *are necessary to protect the child*. Only then can the officer really focus on collecting the evidence necessary for a criminal prosecution.

## **SPECIALIZED KNOWLEDGE AND SKILLS**

The crimes of child abuse and neglect also present some other unique issues. First, the victim is always a child, and some are very young. The officer’s ability to communicate with children is dependent upon his/her understanding of cognitive and language development of children. The crime victims in this class of case are at a disadvantage in any subsequent legal proceedings. Second, many forms of abuse resemble nonabusive conditions. Inflicted traumatic injuries will be described by defense attorneys as the result of accidents. Some medical conditions may also be initially misdiagnosed as maltreatment, even by trained medical professionals. Therefore, the officer must consider all reasonable alternative explanations for the child’s condition. The situation is especially sensitive when it involves child death. Complicating the investigation further is the fact that child abuse and neglect generally occurs in private places and the victims, for a number of reasons, may actively try to hide the evidence of maltreatment and deny its existence even when approached by an investigator.

Law enforcement officers assigned to child abuse investigations must possess special skills. The investigators chosen for this type of work should be able to communicate and empathize not only with the victim but also with the family and the perpetrator. In many instances, if the investigator can talk effectively with the offender, he or she can obtain a confession or other incriminating statements. Often,

meticulous, detailed effort is necessary to build the case. Also, knowledge of the patterns and types of child maltreatment is a necessity for the investigator.

Investigators who work with child abuse cases must receive special training. While a good investigator can work on a child abuse case, specialized knowledge and skills eliminate much of the guesswork on the part of the investigator. Any law enforcement training provided to investigators must focus on the special needs of the victim. It is important for the investigator to realize that the victims of child abuse may suffer both psychological and physiological trauma. Immediate attention to psychological wounds assures greater possibility of successful treatment just as immediate attention to physical wounds assures greater probability of successful medical treatment. Finally, investigators must also be able to share authority with other disciplines and work in a team environment with CPS officials if the outcome of all agencies is to be achieved.

## **LAW ENFORCEMENT ROLES**

Law enforcement officers play many roles in the community's response to child abuse and neglect.

### **Prevention/Advocacy**

Because law enforcement officers are seen as a symbol of public safety, they are in an excellent position to raise community awareness about child abuse and neglect. Their perspective on the issue will carry significant weight with the media and the public at large. Because of this, many law enforcement agencies actively participate in community education efforts designed to reduce the risk of child abuse and neglect and encourage reporting. The most common prevention programs are held in school settings and target extrafamilial sexual abuse. Officers conducting such programs must balance their presentations with material on abuse by relatives and caregivers if programs are to be effective for most potential victims.

### **Reporting**

Because of their presence in the community, law enforcement officers often encounter situations that appear to involve child maltreatment. For example, on domestic calls or during drug arrests the officer may see evidence of harm to a child. Police are, in fact, legally mandated to report any suspected abuse and neglect in all but three States.<sup>3</sup> Nationally, law enforcement makes about 16 percent of all reports of suspected maltreatment to CPS.<sup>4</sup>

### **Support to Child Protective Services**

It is increasingly important for CPS and law enforcement to work together. One area of cooperation involves law enforcement support to CPS. Sometimes CPS caseworkers must visit isolated, dangerous locations and deal with mentally unstable, violent, and/or substance controlled individuals. Caseworkers generally do not have on-site communication (radio, car phone, etc.), weapons, or special training in self-protection. Because of this and the stabilizing effect that law enforcement personnel have on many people, it is often necessary for law enforcement personnel to accompany CPS caseworkers to conduct their investigations.

Law enforcement officers may accompany CPS caseworkers based on the location of investigation, the time of night, or history of the subjects involved. Failure to have proper backup has unfortunately resulted in the deaths of several CPS caseworkers and injuries to many others.

Law enforcement's authority is also much more widely accepted than the CPS authority. Many times CPS caseworkers are denied access to alleged victims of maltreatment while law enforcement's requests to see the child are honored. The officer with the power of arrest is also in an excellent position to enforce any standing orders of the court. For example, in States that allow warrantless arrests of those violating civil protection orders, the officer may be able to remove an offender from the home who has previously been placed under restrictions by the court. In some circumstances, this may avoid the need to remove a child from his/her home.

When it is necessary to remove children from their home, law enforcement officers are often called upon for assistance. Law enforcement has general authority to take custody of children. However, 46 States give specific authority to officers to take legal custody of children without a court order.<sup>5</sup> Approximately 20 other States also provide the same authority to CPS caseworkers<sup>6</sup> but "most do not attempt forcible removal of the child without police assistance. This is good practice, because the parent is less likely to react violently if police are present."<sup>7</sup>

### **Immediate Response**

Law enforcement is often able to react to emergency situations faster than CPS. If officials learn that a child is being seriously abused or the perpetrator is trying to flee the jurisdiction of the court with a child in State custody, a patrol unit can generally get to the scene much faster than CPS and stabilize the situation until CPS and/or law enforcement investigators can arrive. Law enforcement is also available 24 hours per day while the CPS after hour response is limited in some communities.

### **Investigative Role**

Law enforcement is the criminal investigative agency in the community and often must investigate the same incident, involving the same people, as CPS. In many communities this involves a parallel investigation where CPS and law enforcement must attempt to not work at cross purposes. *To avoid potential conflict and to improve investigative outcomes, a team approach with CPS and law enforcement working collaboratively is far more desirable.*

There are, however, cases of maltreatment where law enforcement personnel generally work alone or take the lead role. These include child homicides, particularly where no other children are in the home; out-of-home care abuse (in many States); commercial child pornography (these cases often involve law enforcement teams with postal inspectors and the FBI); and organized sexual exploitation of minors (again involving the FBI if State lines were crossed).

### **Victim Support**

In communities where no victim witness services are available, the law enforcement officer may be called upon to help prepare and support the child victim through the experience of prosecution. This may include taking the child to the courtroom prior to trial to see where everyone sits and explain what each person's role is; it may simply mean being available to a child who wants to talk about what is happening during the trial.

## **THE TEAM INVESTIGATION**

Increasingly, professionals involved in child abuse and neglect investigations recognize the need to eliminate unnecessary duplication of effort, to promote proper and expeditious collection and preservation of evidence,<sup>8</sup> and to “develop a coordinated system for identifying and investigating appropriate calls.”<sup>9</sup> This is best accomplished through a team approach<sup>10</sup> where both CPS and law enforcement work collaboratively, sharing information, assigning investigative tasks, and participating in a shared decision-making process. As a result of a team effort, the victim is less likely to be further traumatized by the investigation and a positive outcome for all investigative parties is enhanced.

As the Tennessee Child Sexual Abuse Task Force found in 1986,

The team representatives of each discipline (law enforcement, child protective services, and in some cases prosecutors and mental health) bring their various expertise to be utilized as part of the total investigative process. By applying their expertise as part of a coordinated effort the Team members can work more efficiently and effectively. The independent goals of each discipline are still met with the only difference being that the investigative process will be coordinated through the Team. All Team members will not actually work all aspects of the investigation, but all will actively coordinate the total process drawing from the resources available through all involved disciplines and other disciplines as needed.<sup>11</sup>

Law enforcement brings to the team “expertise in the collection and preservation of evidence, in crime scene examination, and in taking statements and confessions.”<sup>12</sup> Law enforcement can also make arrests and present the criminal case in a lawsuit through obtaining warrants, presenting the case at a preliminary hearing or grand jury and in criminal court. CPS caseworkers often have greater experience in interviewing children (victims and siblings), in assessing the risk of further abuse, in arranging for medical or psychological exams and services, and in working with the protective alternatives of juvenile or family court. Law enforcement can place children in custody, but the CPS agency generally must provide foster care services. Other members of an investigative team might include the prosecutor or agency attorney who assesses the evidence as it is collected and then formally prosecutes the case. The prosecutor can assist in drafting search warrants, preparing witnesses, and providing general direction and guidance. Mental health professionals also provide consultation to investigators on the clinical needs of the victim and others involved in the investigation, help interpret psychological information secured, and offer guidance on interviewing strategies with children and adults. To facilitate team operation, local agencies are encouraged to establish formal CPS/law enforcement protocols.<sup>13</sup> As the participants in a national consensus building conference on CPS/law enforcement cooperation concluded, the protocol should include:

- ✍ statement of purpose;
- ✍ discussion of joint and respective missions and organizational responsibilities;
- ✍ types of cases covered (e.g., sexual abuse and serious or potentially serious cases of physical abuse);
- ✍ procedures for handling cases, including special investigative techniques;
- ✍ criteria for child’s removal;
- ✍ criteria for arrest of suspects;
- ✍ criteria for law enforcement referral to the CPS agency;

- ✍ criteria for CPS referral to the law enforcement agency;
- ✍ procedures to assist the CPS agency;
- ✍ criteria and/or procedures for joint investigations, including timing, determining who has prime decision-making authority, and concurrent prosecutions;
- ✍ provisions for joint training;
- ✍ provisions for multidisciplinary consultation; and
- ✍ criteria and/or procedures for cooperation/ coordination with/among agencies.

Effective collaboration is based on mutual understanding of the unique perspective of each discipline. Interagency collaboration does not blend the disciplines into a homogeneous mix where the police are indistinguishable from CPS caseworkers. Rather a multidisciplinary team seeks to create a final product that retains the flavor and integrity of each ingredient. By understanding why other professionals believe and act as they do, team members are better able to accept, if not always agree with, the action of a fellow team member.<sup>14</sup>

## **PROBLEMS IN WORKING TOGETHER**

The CPS caseworkers approach the job from a different perspective than most police officers. CPS caseworkers have a dual role, one part of which may appear to conflict with the other. The dual role is mandated by law in most States and is integrated throughout social work literature and training. CPS is charged with the responsibility of protecting children from further abuse and neglect. This is a difficult task involving assessing not only what has happened but also predicting if it will ever happen again. As with police, the basic investigative questions for CPS are: Did the child suffer harm or is the child likely to suffer harm? Did the parent or caretaker cause the harm? What is the likelihood of the child being harmed in the future? What steps are necessary to protect the child? It is the last question that brings into play the second role of CPS: to make all reasonable efforts to preserve the natural family. The CPS agency is obligated to attempt to keep the family together or, once separated, to work toward family reunification. It is this role that becomes a major source of conflict on many teams. Many officers see permanent removal of the child, termination of parental rights, and adoption of the child as the only route available for the child to grow up in a “normal” setting. Officers may not understand the CPS philosophy that if his/her safety can be assured, the child’s own family is the preferred place for him/her. Also, officers may not be aware of the problems and realities of foster care or the legal difficulties in terminating parental rights.

The decision making processes of the two systems differ in many ways. Law enforcement officers are accustomed to making rapid life and death decisions in the field without supervisory consultation or approval. Many CPS agencies have procedures that involve “shared decision making” on critical issues such as the emergency removal of a child. Police find the CPS need to consult with supervisors frustrating, time consuming, and an example of bureaucracy at its worst. CPS caseworkers find that consultation reduces inappropriate actions based on the emotions of the moment.

Visitation between the child in foster care and his/her parents is another source of conflict. Laws, court decisions, and agency procedures encourage visitation between a child and his/her parents once in foster care. Visitation is considered vital to the child’s sense of continuity and belonging even when removed from an abusive home. It is, after all, the only home the child has known and even abusive parents represent some degree of security and attachment for the child. This visitation, generally supervised in cases of sexual abuse or severe physical abuse, is usually therapeutic for the child and is essential if the

child is to return home. However, law enforcement may view visitation as undermining the criminal prosecution. Police often believe that the parents are using the time to directly or subtly pressure the child to recant (and often they are right). Many police and prosecutors would prefer to suspend visits pending the outcome of a criminal case. CPS typically disagrees and emphasizes that isolating the child from the family for an extended period can also lead to recantation of any allegations.

Recommendations for disposition of the offender after the conclusion of the investigation often emphasizes the differences in philosophies of law enforcement and CPS. In intrafamilial cases, recommendation for treatment outside of the correctional system has been a fairly common procedure for CPS staff. The vast majority of law enforcement officers are extremely skeptical about the efficacy of most treatment programs and, indeed, about the expertise of most therapists. They perceive that many of the offenders are just “going through the motions” in treatment to comply with court orders, and they see therapists, aided and abetted by CPS caseworkers, helping manipulative offenders escape the punishment they so justly deserve.

When lack of coordination or other factors lead the CPS caseworker to initiate the investigation alone or to interview any of the principals without law enforcement, the danger exists that they will unwittingly tamper with or destroy physical evidence or lead others to do so. But once familiar with the value of physical evidence collection, CPS staff can become frustrated with a law enforcement officer who does not pursue a timely search warrant where appropriate.

These conflicts must be minimized and properly dealt with if the investigative goals of all parties are to be achieved and the secondary trauma to the victim limited. These issues can be addressed on two levels, the systems level and the individual level.

## **Systems Level Recommendations**

Community service delivery systems should:

- ✍ **Establish formal teams.** Much conflict is overcome simply through familiarity and trust (although when personalities conflict the opposite may be true). This can be achieved on community levels through collaborative agreements or through State statutory changes.
- ✍ **Establish investigative protocols.** Protocols that clearly lay out the roles and responsibilities of both police and child protection standardize practice and enhance collaboration. Protocols can be developed even where no team agreement exists. Protocols enhance investigations by limiting conflict and clarifying expectations.
- ✍ **Provide adequate personnel to both agencies.** The sources of conflict are amplified when a disparity exists in the personnel resources available to the two agencies. When CPS staff committed to the team are disproportionate to police staff, conflict is inevitable as CPS feels compelled to proceed even though law enforcement is unavailable to participate. Disparity in resources also may affect the individual level of commitment to the team concept, with resulting conflict.
- ✍ **Joint training.** This is one of the keys to collaboration once the team concept is realized. Training provides all parties with an opportunity to hear the same information and to learn skills together. It also provides an opportunity to acquaint the other discipline with the philosophical perspectives and unique concerns of others.

## **Individual Level Recommendations**

Individual professionals should:

- ✍ **Reach out to the other discipline.** This should be done in informal, nonthreatening ways. It can take many forms, from suggesting that team members meet in a nonwork setting to inviting other disciplines to a staffing or case consultation. It is important for team members to know that they are professionally and personally valued.
- ✍ **Share professional information.** Even when joint training is not available, individuals can share research articles, procedure manuals, or other materials of mutual interest. Each contact helps build the sense of trust and breaks down the barriers to effective team work, particularly if the material shared relates to an area of conflict.
- ✍ **Keep communication open.** Even when the system does not provide for a close team approach, individuals can keep their counterparts informed on the status of individual cases through notes or telephone calls.
- ✍ **Confront the conflicts openly.** Areas of professional or personal conflict should be confronted in a nonthreatening and open manner. Discussion can put the issues on the table and sort them out. Some issues can be resolved; on others, the parties may agree to disagree.

The conflicts inherent in the relationship between CPS and law enforcement are serious but do not have to present road blocks to working together effectively. Communicating and formalizing the relationship where possible can break down barriers to effective team work. Dissonance can be reduced, and conflicts can be minimized. When the team concept works, it works for all: the police, CPS, and most importantly the child and family.<sup>15</sup>

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# THE INVESTIGATIVE PROCESS

Investigators involved in child maltreatment cases must determine if a crime has occurred. If a crime has occurred, officers must determine who is responsible, if any actions on law enforcement's part are necessary to protect the child, and if criminal prosecution is warranted. To answer these key questions, investigators must complete a number of tasks to collect necessary information.

## INTERVIEWING THE REPORTER

The investigator must have certain information prior to initiating the investigation. An adequately trained officer or CPS caseworker may have already obtained the necessary information. If not, or if some additional clarification is necessary, the investigator should contact the reporter directly.<sup>16</sup>

### Gathering Information From the Reporter

The more comprehensive the information provided by the reporter, the better able investigators are to determine the appropriateness of the report for law enforcement or CPS intervention and the better able they are to determine the level of risk to the child and the urgency of the response needed. Information gathering should focus on demographic information about the child and family; information about the alleged maltreatment; and information about the child, the parents, caretakers, and the family as a whole.

#### *Demographic Information*<sup>17</sup>

Demographic information serves two primary purposes: to locate the child and family and to assist in the assessment of risk to the child. Each State defines the scope of demographic information to be collected. In general, officers should gather information regarding:

- ☞ The child's
  - name, age (date of birth), sex, and race; and
  - permanent address, current location, and school/day care attending.
- ☞ The parents'/caretakers'
  - name, age, (date of birth), and race; and
  - permanent address, current location, place of employment, and telephone number(s). (If the person alleged to have maltreated the child is a caretaker other than the child's parents, the above information should be gathered for both the parents and caretaker.)
- ☞ The family composition
  - names, ages (dates of birth), sexes, race, and location of all children in the family;
  - names, ages (date of birth), and location(s) of other children in the alleged offender's care (if the offender is not the birth parent, e.g., a babysitter);

- names of other relatives and nonrelatives living in the home;
  - names, addresses, and telephone numbers of other relatives and their relationship to the child; and
  - names, addresses, and telephone numbers of other sources of information about the family.
- ☞ The reporter’s name, address, telephone number, and relationship to the child/family.

### ***Information Regarding the Alleged Maltreatment***

Investigators should obtain information about the type(s), nature, severity, chronicity, and the location(s) where the alleged maltreatment took place.

- ☞ The types of maltreatment. This refers to physical abuse, sexual abuse, neglect, and/or emotional abuse.
- ☞ The nature of the maltreatment. This refers to information regarding the specific characteristics of the maltreatment.
  - physical abuse: burns, beatings, kicking, biting, etc.;
  - neglect: abandonment, withholding of needed medical care, lack of supervision, lack of adequate food or shelter, emotional deprivation, failure to register or send to school, and failure to thrive;
  - sexual abuse/exploitation: fondling, masturbation, oral or anal sex, sexual intercourse, pornography, and forcing the child to engage in prostitution;
  - emotional abuse: constant berating and rejecting treatment, scapegoating a particular child, and bizarre/cruel/ritualistic forms of punishment (e.g., locking a child in a dark closet, tying a child to a bedpost, or constantly belittling and demeaning a child); and
  - parental/caretaker acts/omissions such as accidental versus intentional/premeditated, disregard for the child’s age or condition, and instruments used.
- ☞ The severity of the maltreatment. It is important to obtain information from the reporter regarding the emotional and physical injury to the child.
  - extent of the physical or emotional effects on the child (e.g., second- and third-degree burns on half of the child’s body, withdrawal, suicidal behavior, and excessive fear); and
  - location of the injury on the child’s body.
- ☞ The chronicity of the maltreatment. Information gathering should focus on:
  - whether there have been prior incidents of abuse or neglect;
  - how long the abuse or neglect has been occurring; and
  - whether abuse or neglect has increased in frequency or remained relatively constant.

- ✍ The location of the incident. It is important to ascertain the setting where the actual abuse or neglect occurred (e.g., home, school, supermarket).

### ***Information Regarding the Child***

To effectively evaluate the level of risk to the child and determine the urgency of the response, officers should obtain the following information from the reporter.

- ✍ The child's physical and emotional condition. This relates to the child's current condition and should consider any ongoing disabilities the child may have.
- ✍ The child's behavior. For example, does the child exhibit extremes in behavior?

### ***Information Regarding the Parent(s)/Caretaker(s)***

If the reporter has the information, it is important to gather as much information as possible about the parents/caretakers. Knowledge of the parents'/caretakers' emotional and physical condition, their behavior, history, view of the child, child rearing practices, and quality of their relationships outside the family helps to determine the level of risk to the child.

- ✍ The parents'/caretakers' emotional and physical condition (e.g., do the parents/caretakers misuse drugs/alcohol? Are the parents/caretakers physically ill or incapacitated?).
- ✍ The parents'/caretakers' behavior (e.g., do the parents/caretakers engage in violent outbursts? Do the parents/caretakers engage in bizarre irrational behavior?).
- ✍ The parents'/caretakers' history (e.g., were the parents/caretakers traumatized or victimized as children? Do the parents/caretakers have a history of trouble with the law?).
- ✍ The parents'/caretakers' view of the child (e.g., do the parents/caretakers view the child as bad or evil? Do the parents/caretakers blame the child for the child's condition?).
- ✍ The child rearing practices (e.g., do the parents/caretakers have unrealistic expectations of the children? Do they use verbal and physical punishment as the first response to misbehavior?).
- ✍ The parents'/caretakers' relationships outside the home (e.g., do the parents/caretakers have friends and what is the quality of those friendships?).

### ***Information About the Family***

CPS caseworkers need to gather as much information as possible about family characteristics, dynamics, and supports.

- ✍ The family characteristics (e.g., is this a blended or single parent family? Is there inadequate family income?).
- ✍ The family dynamics (e.g., is spouse abuse occurring? Is there marital conflict or poor communication? Is the family characterized by disorganization or chaos?).

- ⌘ The family supports (e.g., are extended family accessible and available? Is the family connected in the community?).

Gathering this indepth information is essential because it helps to determine how quickly an investigation must begin. It enables officers to identify the victim(s), the parent(s)/caretaker(s), and the offender and determine how to locate them so that the initial investigation can be conducted. It also identifies other possible sources of information about the family that will help evaluate the possibility of past, current, or future abuse or neglect. Finally, it will assist the investigator in accurately and effectively planning the approach to the investigation.

## **FIELD INTERVIEWS**

### **Physical Neglect**

While neglect allegations are the most common form of child maltreatment reported to child protection agencies, criminal investigation and prosecution occurs in only a small minority of the cases. Allegations of physical neglect normally involve the care the child receives in his/her home. The first step in such an investigation is to visit the home, generally on an unannounced basis. The neglect may involve environmental hazards, a lack of supervision, abandonment, malnutrition, failure to provide medical care, or other factors. The officer investigating possible environmental hazards in the home should examine the living conditions with the permission of the occupant or, in extreme cases, under the authority of a search warrant. The investigator must draw a distinction between poverty, a dirty house, poor housekeeping and clutter, and true environmental hazards to the child. The distinction is best made by separating poverty or life style factors from those conditions that will adversely affect the child's health and safety. Significant amounts of human or animal feces; exposed live electrical wires; extreme rodent and insect infestation; rotting garbage; and structural damage to the house, exposing the child to the risk of illness or injury, may independently or collectively constitute child neglect.

Unless law enforcement officers find clear and present danger requiring immediate action, they will rarely act independently in cases of child neglect. CPS staff are often in a better position to work with parents to reduce the risks to the child without unnecessary removal from the home. In fact, under Federal law, Public Law 96-272 (and many parallel State laws), the juvenile or family court requires CPS agencies to demonstrate that they attempted *reasonable* efforts to prevent out-of-home placement. Some communities have many options for avoiding foster care placement in neglect cases. These include intensive family preservation programs, day care, teaching homemakers, parenting classes, and traditional counseling. For some neglectful parents the answer is financial aid, with CPS referring them to income maintenance and job search programs. Law enforcement officers generally lack access to those services and consequently are handicapped in neglect investigations unless CPS is involved.

There are situations in which law enforcement may determine that independent action is required. These include times when CPS is not accessible and when:

- ⌘ very young children are left unattended and no one can contact a responsible adult caretaker;
- ⌘ the adults are under the influence of drugs or alcohol and their actions or inability to act constitute a clear threat to the child's safety (i.e., Driving-Under-the-Influence (DUI) or Driving-While-Intoxicated (DWI) or actual and threatened use of firearms); or
- ⌘ the adult caretakers are/have been arrested and no responsible caretaker is available to care for the children.

A child neglect investigation includes a visit to the child's home or place where the neglect is alleged to have occurred to determine the physical conditions present. The investigation should include an interview with the caretaker(s) to determine their perception of the situation and to assess their ability and willingness to care for the child. The investigation may include securing medical assessments of the child, particularly in cases where malnutrition, failure to provide medical care, or improper physical care is alleged. A combination of medical exams and psychological or developmental assessments may also be useful, particularly when neglect is alleged to adversely affect the development of small children or in cases of emotional neglect. The CPS caseworker generally arranges for these assessments.

## **Physical Abuse**

Criminal prosecution of physical child abuse is more common than prosecution of neglect, and the role of law enforcement becomes clearer. The first step after conferring with the complainant is to interview the child. The investigator, preferably acting as part of a team with CPS staff, can explain to the caretaker that the agency received a call concerning the child and that they would like to talk to the caretaker about the child's condition. It is important to avoid using the term child abuse at this stage as it has different meaning for different people and can elicit intense feelings resulting in parental resistance in the interview.

Some parents may admit to disciplining their children in a way that accidentally caused severe injury. In reality, much physical abuse, if not most, is the result of the offender's efforts to discipline the child and a failure to control the situation, his/her temper, or the force used. However, caretakers rarely view what they have done as abuse.

### ***Interviewing the Alleged Victim***

After explaining the reason for the visit, investigators should ask to see the child. One of the investigating team members should explain, if the child is old enough to understand, why they are there and what they will be doing. Depending on the allegations and/or the child's age, the investigator will need to visually examine the child for signs of obvious trauma. Investigators should document any injuries noted and, if possible, photograph areas of injury or of questionable physical findings. The child should be interviewed outside the presence of the caregiver. The investigator is interested in such issues as:

- ✍ establishing the child's developmental level;
- ✍ the child's explanation of any injuries;
- ✍ who the child perceives as his/her caretakers;
- ✍ how the child is disciplined;
- ✍ how other children in the home are disciplined;
- ✍ how often have the victim and/or siblings been injured in the past;
- ✍ what type of weapon or implement was used, and where it is now;
- ✍ if they bled after the assault, where their clothing is now, or any other item that might have been stained;
- ✍ who else saw the incident; and
- ✍ whom the child told of the incident.

If the investigator finds the child has sustained life threatening or severe injuries, the first priority is securing emergency medical attention for the child.

### ***Interviewing Caretaker***

After talking with the child and assessing the presence of obvious physical findings, the investigator should talk with the caretaker(s). The caretaker should be asked for his/her explanation of any injuries. Again, the investigator should make an initial assessment of the match between the injuries and the explanations the child and adult caretaker(s) provide. The investigator should remain nonjudgmental and matter-of-fact during this stage, since some people who physically abuse their children fail to recognize the impropriety of their actions and will openly acknowledge what has happened. If they recognize that the officer disapproves of what they have done, they will attempt to cover up their actions. In cases of significant injury, however, such resistance can be expected. If CPS staff are present, they may need to talk with the caretaker(s) about their background and current living situation to assess the risk of future abuse.

The investigator may find that there have been a number of persons caring for the child during the period of injury, and the child may not be willing or able to identify the person responsible for the injury (due to trauma or age). In this case, the officer should obtain details about who has recently cared for the child, for what time periods, and if anyone else was present, building a chronology of care so the investigator knows the transition points between these caretakers. Names, addresses, and telephone numbers should be secured. If any of these caretakers are present, the investigator should discuss the injuries with them as well. If there is any question about who is responsible for the abuse, all caretakers should be asked what signs of injury they observed, when they first noticed them, and when was the last time they knew those injuries were not present. Investigators should also determine what they know of the other caretakers' actions, of any past history of injury to this or other children in the home, or other relevant factors.

### ***Interviewing Other Children***

If other children are under the care of the same people, the investigator should talk with these children and perform, as appropriate, a screening for signs of physical injury. Other children should be asked about any injuries noted, as well as their observations about the injury on the alleged victim. Even if no sign of abuse is present in these children, they may be able to provide valuable information about family interactions, such as how discipline is handled, by whom, whether it varies from child to child, etc.

### ***Medical Examination***

When there is evidence of injury in cases of physical abuse, it is advisable to secure a medical examination of the child as soon as possible. The physician can document any injuries and treat any conditions present. The physician can also check for injuries with little outward manifestations such as internal bleeding, old fractures, or shaken infant syndrome. The doctor can also assess the developmental level of smaller children. Perhaps the most valuable role of the physician (after the treatment of any injuries) is to assist in the assessment of the match between the injuries noted and the explanation offered. For example, if the parents say that a 1-month-old child pulled himself up in his crib and tumbled out, the physician can explain the implausibility of the story based on child development and show that the injuries sustained are not consistent with a fall but the result of violent shaking.

### ***Crime Scene***

While the order of these steps may vary by necessity, the law enforcement agency may wish to seek physical evidence to substantiate any criminal charges. Using either a consent to search or a search warrant, the officer will be interested in the instrumentalities of the crime, such as the rod, coat hanger,

bed board, belt, etc., used to inflict the injuries; blood-stained items such as children's clothing; and the exact location where abuse occurred to possibly photograph blood splatters on wall/floor/furniture, etc.

### ***Interviewing the Alleged Perpetrator***

In the event a possible or alleged perpetrator is not the caretaker already interviewed, the officer should interview the subject. The interview of this person should be postponed until the investigator can get a clear idea of what has happened (unless the delay exposes children to undue risks). The interview should parallel the caretaker interview, seeking information nonjudgmentally, which will generally yield the best results. Again, the officer is not seeking an admission of responsibility for "abuse," but seeking an acceptance of responsibility for the injuries sustained.

### **Sexual Abuse**

Due to the nature of child sexual abuse, law enforcement and CPS are strongly encouraged to approach the allegation of sexual abuse as an investigative team. This will reduce the number of interviews the child must experience and improve the investigative outcomes of both agencies. Prior to initiating the field investigation, investigators must make several key decisions.

- ✍ Who will take the lead in interviewing the alleged victim, siblings, or other child victims or witnesses?
- ✍ Who will be present during the interviews?
- ✍ Will the interviews be audiotaped or videotaped?
- ✍ Where will the interviews take place?
- ✍ Who will interview nonoffending adults?
- ✍ Who will interview the alleged perpetrator(s)?

### ***Interviewing the Alleged Victim***

Once the aforementioned decisions have been reached, the investigators should proceed with the field investigation. Generally *the first step*, after clarifying necessary information with the complainant, is to interview the alleged victim. For the most part investigators should seek to arrange this in a neutral setting and away from the place where the abuse may have occurred. The location of the interview should de-emphasize the "power" of the alleged perpetrator. For example, if the child is alleged to be abused by his/her father, then an interview in the family home is generally ill-advised because of the sense of power the child may perceive from the perpetrator, even if he is not home. However, the location should be in a place where the child can feel comfortable. Consequently, a busy police station may also be unwise. Many investigators have had success interviewing children at school, at a CPS interview room, or in a special room at the law enforcement agency. If the abuse occurred outside the home by a nonfamily member, the child's natural home may be the best location. The actual interview should be conducted consistent with the "Special Considerations for Interviewing Children" chapter of this manual. Because of the nature of sexual abuse, the victim interview plays a far more critical role than in other forms of maltreatment. In sexual abuse cases, the investigative interviewer must be extremely thorough. The investigator must:

- ✍ Develop an understanding of the child's developmental level and vocabulary.

- ✍ Determine what, if anything, of a sexual nature the child says happened.
- ✍ Establish whether the incident appears to be sexual in nature or can be reasonably explained by normal caregiving activities.
- ✍ Determine how the incident fits into the normal pattern of care by the alleged perpetrator.
- ✍ Establish the date of the last event as accurately as possible.
- ✍ Determine if this abuse has happened before. If so, determine when and how often.
- ✍ Determine how the child was introduced to the activity; what transitional behaviors preceded the sexual interaction. Determine if elements of progression were present (i.e., moving from less intrusive to more intrusive forms of sexual activity).
- ✍ Determine whether the child believed that the sexual interaction was to be kept a secret and how that was communicated.
- ✍ Establish if there were subtle or overt bribes, enticements, or threats used in the engagement process.
- ✍ Determine what forms of coercion or pressure were employed to maintain secrecy.
- ✍ Determine what the perpetrator did before the incident; the events that transpired immediately before the incident; what the perpetrator said before, during, and after the event; and what happened after the incident.
- ✍ Establish whether the child can provide explicit details of the sexual interaction.
- ✍ Determine what the child remembers, including sensory details of the event. Find out if the child heard any sounds. Establish what the child saw from his/her perspective.
- ✍ Determine whether any physical items were used in the abuse that might become the object of a search and seizure.
- ✍ Establish if the child was wearing any clothing that may have become stained or torn and is it available.
- ✍ Determine if photographs or videotapes were made.
- ✍ Find out if any weapons were used or suggested by the perpetrator.
- ✍ Determine whether there are any idiosyncratic details that lend authenticity to the child's account.
- ✍ Establish if the child sustained physical injury as a result of the sexual activity.
- ✍ Find out who else was present and who may have any knowledge of the events.
- ✍ Determine if any other children were present or if the victim is aware of others who may be victims.
- ✍ Find out whom, if anyone, has the child told of the incident, in part or whole.

- ✍ Establish the role the nonoffending parent played and how he/she reacted to the disclosure.

### ***Interviewing Other Children/Siblings***

After interviewing the alleged victim, the investigator should also talk with any other children identified as possible victims or witnesses for information about sexual activity directed at them or for any corroborating or conflicting information that they can provide. The child witnesses may not have direct knowledge of the incident, but may be able to confirm that the victim told them of the incidents long before the disclosure to adults. These other children may confirm elements of the victim's statement, such as seeing the perpetrator leaving the victim's room, hearing the victim's cries, or simply confirming the household routine that allowed the perpetrator to be alone with the victim as the child alleged.

### ***Interviewing Other Adult Witnesses***

Any adult witnesses who can shed light on the allegations should be interviewed for much of the same information as described above: what did they see, what were they told, and how did they react.

### ***Interviewing the Nonoffending Spouse***

In intrafamilial cases, the nonoffending parent, most commonly the mother, will be the next family member interviewed in depth. Frequently, this is the most difficult interview for the investigator. The primary goals of the officer's interview are:

- ✍ To learn what the nonoffending parent believes has happened and to provide corroborative evidence to support or refute the child's statement.
- ✍ To assess the capability and willingness of the nonoffending parent to protect the child in order to provide the child with a supportive environment. This is necessary for the child to heal and to enhance his/her ability to handle the challenges that the criminal justice system demands of the survivor of sexual abuse.

This interview, like that of the victim's, should be conducted in a neutral setting if possible. Only the interviewer and the parent should be present. Because of the nature of some of the questions the officer asks the parent (such as the concern about spousal violence or quality, quantity, and type of sexual activity engaged in with the offending spouse), the element of privacy should be maintained.

During the early stages of the interview, the investigator should convey an attitude of concern for the nonoffending parent and the child. No guilt or recriminations should be indicated by the interviewer. The interviewer should reassure the parent as much as possible that there is a legitimate investigative necessity for not only this interview but for specific questions that will be asked. The attitude of the interviewer should be that of seeking the truth and discovering what actually happened.

In general, the investigator wants to determine what the parent knows about the sexual abuse. *The investigator should tell the parent only what is absolutely necessary about the child's disclosure.* The investigator should not reveal anything during this interview that should not be repeated to the perpetrator. It is frequently best to use generalities, at least in the initial stages of the interview. There are a number of possible reactions to such information ranging from anger and grief to total disbelief and hostility. The interviewer might find it necessary to give the parent several minutes to ventilate and express his/her feelings before bringing the interview back on track. Some nonoffending parents will be very concerned about what will happen to them as opposed to the child's immediate well-being. While taking note of this attitude, the interviewer can make it clear that this will be discussed at a later time.

It is necessary for the investigator to determine how much of the child's statement the parent can corroborate. As in all interviews, it is frequently best to let the parent talk about his/her knowledge in a flowing narrative style, and then go back to ask specific questions at the end of this parent's recitation. Specifics to be covered should include:

- ✍ Can the parent confirm any behavioral indicators?
- ✍ Does the parent recall any times when the sexual activity could have taken place?
- ✍ How long has the nonoffending parent known about the allegation?
- ✍ How did the parent become aware of the allegation?
- ✍ If the child disclosed, does the nonoffending parent believe the child? If so, why? If not, why not?
- ✍ What action has he/she taken since the child revealed the incidents?
- ✍ What statements has this parent made to the child concerning the allegations?

This information is extremely important in assessing the cooperation of the parent, his/her ability to influence the future cooperation of the child, and his/her desire and ability to protect the child from further abuse.

Other circumstantial evidence that this parent could provide to enhance the credibility of the child's statement includes a description of household routine; for example, which parent is the primary disciplinarian; who controls the finances; and what is the child's daily routine. These can be explored early in the interview in a manner that gives the nonoffending parent a chance to talk about nonsexual and less threatening matters first. The investigator needs to obtain all possible details during this initial interview. Once the nonoffending parent has had a chance to think about possible consequences of the situation or talks with the molester or other family members, he/she might be reluctant to expand on any statements that verify the child's account.

Once the investigator has an understanding of the family dynamics, he/she can move to the more sensitive issues:

- ✍ What is the nonoffending parent's relationship to his/her spouse (the offender)?
- ✍ Is there a history of violence between the alleged offender and family members?
- ✍ Is the nonoffending parent physically afraid of the alleged offender?
- ✍ What is the sexual relationship between the parents (i.e., frequency of sexual activity, type of sexual activity, does the alleged offender have the spouse engage in actions such as shaving the pubic area, wearing "juvenile" clothes, or speaking or acting like a child)?
- ✍ What sort of material does the suspect read or collect (soft-core pornography, hard-core pornography, child development literature, general sexuality literature, "detective" magazines, etc.)?
- ✍ What is the suspect's relationship with children other than the victim?

- ⌘ Is there a history of arrest for any family members? If so, for what?
- ⌘ Have there been any hospitalizations or psychiatric treatments for any family members? If so, where and for what reasons?
- ⌘ Is there substance abuse by family members? The investigator should keep in mind that substance use/abuse by the alleged offender may be used by the defense as a mitigating factor in establishing the defendant's lack of responsibility. Substance use/abuse by the nonoffending parent might be critical in his/her inability to protect the child in the past and future. Substance abuse by the child might be a behavioral indicator of abuse.
- ⌘ Does the nonoffending parent know the background of the suspect (i.e., was the offending spouse sexually or physically abused as a child)?
- ⌘ Were there any prior marriages or children by other individuals? Does this parent know their names and current locations?
- ⌘ What is the employment history of the offender?
- ⌘ What is the military history of the offender?
- ⌘ What is the nonoffending parent's relationship with his/her children, particularly the victim?

If the nonoffending parent is appropriately concerned, believes the child, and is supportive of the goals of the investigation, this parent can be enlisted as an ally with the investigator to help the child. If this parent does not believe or support the child or demonstrates a hostile, punitive, or rejecting attitude toward the child, then he/she cannot be considered properly protective of the victim. Out-of-home placement of the child should be discussed with CPS staff in these situations.

The interviewer should be aware of the services such as temporary shelters, financial assistance, medical and psychological assistance, etc., that are available for the nonoffending spouse and children. It is preferable to have this information in written form, which can be left with the nonoffending parent.

If possible, end the interview on a positive note, giving the nonoffending parent a card with the investigator's name and telephone number. Let the parent know that if he/she needs any assistance or thinks of anything that would help the child to feel free to call. The investigator should prepare the parent for further intervention of the criminal justice system, such as the possibility of preliminary hearings, grand jury proceedings, videotaped interviews, medical examinations, etc. The interviewer should attempt to address any concerns and answer any questions that the parent has at this time.

The law enforcement investigator should remember that if circumstances warrant, charges can be brought against the nonoffending parent for either complicity in the sexual abuse itself or failure to protect the child. This should be discussed with the team and the prosecutor, if appropriate.

### ***Interviewing Parents in Out-of-Home Abuse Cases***

In out-of-home abuse cases where the perpetrator is not a family member, parents are interviewed after the child has been interviewed. Investigators are interested in what the child has told the parents concerning the assault(s) and in physical or behavioral indicators that they may have observed. In cases where the offender is someone known, the investigator wants to explore the parents' relationship with the offender, how they first met the offender, what the offender told them he/she was doing with their child,

and how the offender responded to particular questions the parents asked concerning activities with the child.

It is important to confirm whether or not the parents believe the child and what plan they can develop to prevent further abuse. Investigators should offer parents an explanation of the steps in the investigative process and discuss the possibility that the child may recant the disclosure. Parents should be instructed not to question the child about the abuse but be prepared to discuss it if the child brings it up. Investigators should give parents a name and number to call if they have problems during the investigation or think of further details relevant to the case.<sup>18</sup>

### ***Medical Examinations***

Generally the next step in the investigative process is to arrange a medical examination, as appropriate. Some controversy exists as to which children should be physically examined. Advocates for exams for all alleged victims argue that the exam may provide evidence of genital trauma, venereal disease, or the presence of sperm even in cases where no abuse was disclosed by the child or the abuse was minimized by the victim. Another reason offered for examining every child is that it will assure the child victim that he/she is unharmed and allay any fears that they have been damaged. Other researchers suggest that requiring a child who has not been abused and denies any contact to undergo a genital exam is very stressful in its own right and may unnecessarily traumatize the child.

Evidence of sexual assault can be medically detected in only a minority of cases. Muram, for example, reported that only 45 percent of the cases studied revealed clear evidence of sexual assault among cases in which the perpetrator confessed.<sup>19</sup> Other researchers concur. Such findings are not surprising, given the nature of sexual abuse. Most incidents of exposure, fondling, forced masturbation, or oral sex would not be expected to leave medically detectable evidence. For this reason, the terms chosen by the physician for the exam report can be very powerful. A child disclosing a history of fondling to the examiner may be described on the report as having “no evidence of sexual abuse,” subtly undermining the child’s statement. The same physician may just as accurately phrase the results as, “consistent with the child’s statement, no abnormal medical findings.”<sup>20</sup>

Physicians and nurses specializing in child sexual abuse know ways to minimize the child’s discomfort. Those working with the child should describe clearly, in terms the child will understand, what is going to happen, perhaps using anatomically detailed dolls. The child should be given as much control as possible over the exam. The examiner should conduct a general physical exam in a head-to-toe fashion, paying no more attention to the genitalia than is necessary. Tools such as colposcopes or special magnifying medical cameras may allow the examiner to see and record on film important findings.

The examiners should swab for sperm as appropriate to the case, which may include swabs of the mucus lining of the nose (where semen may have been aspirated after oral sex), vagina, rectum, or as indicated. Body orifices should be examined for trauma, unusual characteristics, or foreign bodies. Pregnancy testing may be appropriate, and venereal disease screening is often indicated. The body should be examined for teeth marks and signs of physical abuse.

The physician should take a thorough history from a child who is old enough to communicate verbally. This will help the examiner to focus the exam. In addition, statements made by physicians are admissible in many civil proceedings and, at times, in criminal trials.

In taking the assault history, the physician should ascertain the time lapse since the assault and the kind of sexual contact (e.g., oral, anal, vaginal, whether or not ejaculation took place, and whether or not a condom was used). The number of assailants, use of force or weapons, or injuries secondary to force/restraints/escape should be explored. The physician needs to question the child concerning post-

assault symptoms such as pain, bleeding, bruises, loss of consciousness, nausea, or vomiting. An example of a question a physician could ask is: Did the child have any post-assault activities, such as bathing or douching, defecation, urination, eating or drinking (which would be important in cases of oral assault), or was the clothing changed? The physician should try to document any prior sexual contact the child has had.

The investigator should request *legible* copies of all medical reports and notes. The investigator should confirm how evidence collected during the exam will be handled to ensure the chain of custody. All samples should be labeled with the name of the victim and identification number and with the signature of the person(s) responsible for collecting and processing the sample. The evidence should be maintained in a locked environment and signed over only to representatives of law enforcement or the prosecutor.

### ***Crime Scene Search***

A primary objective of every law enforcement investigation of child sexual abuse should be to avoid having the child victim testify in court. Building a case so strong that the defendant will want to plead out rather than go to trial is one way to accomplish this goal. The presence of physical evidence is a key determinant toward this end. The investigator should view every case, no matter what the relationship between the offender and the child, as a case which he/she is preparing for vigorous prosecution. If, after the interview with the child, the investigator feels that this is a potentially valid complaint, the officer should proceed with the investigation, just as he/she would with any other criminal investigation.

One of the most important points to keep in mind in these cases is that corroborative evidence is extremely critical; all attempts should be made to secure *any* evidence that supports *any* statement that the child has made.

The investigator should also keep in mind standard investigative crime scene procedures and use these in all possible circumstances.

The following rules of evidence should be followed:

- ✍ **Recording.** Officers should note the position and the condition of the evidence and its relation to other evidence. Also, they should note the date and time the evidence was collected, who found it, who collected it, how it is marked, etc.
- ✍ **Preservation.** Officers should use: proper collection techniques, placing the evidence in a proper container; and marking the evidence.
- ✍ **Chain of evidence.** Officers must list everyone who handles evidence.
- ✍ **Evidence of violence.** Officers must look for weapons. The assailant with a weapon often leaves traces of his/her weapon or uses a weapon found at the scene and leaves it. Officers should note and photograph the victim's wounds and damaged clothing. Blood is important to note at the scene, as are signs of forced entry. These factors can help prove the element of force or lack of consent on the victim's part, which may be an issue at trial.
- ✍ **Stain evidence.** Officers must look for many stains including: blood, semen, perspiration, saliva, etc.
- ✍ **Minute and latent evidence.** Evidence collectors must always search for fingerprints and vacuum for hairs and clothing fibers, if practical. For example, in an incest situation, if pubic hairs are discovered in the prepubescent child's bed, the investigator may also want to search

for underwear recently worn by perpetrator and not washed to check for pubic hairs. These should be sent to the lab for comparison.

✍ **Specific places to search.**

- Officers should search the bathroom for evidence, because the suspect may have bathed or washed the child.
- Investigators should search for semen in the area where the assault occurred.
- Officers must mark sheets or other fabrics on which a sexual assault took place on the exposed side, and they should then be folded. Fabrics that are not frequently washed, such as bedspreads, may show ejaculate long after the assault has taken place and should be submitted to the lab.

✍ **Evidence left.** Investigators should collect articles of clothing left, stains, fingerprints, weapons, etc.

✍ **Articles taken.** Officers should look for small items such as locks of hair, barrettes, panties, or pubic hairs which may have been taken by the offender as a souvenir or remembrance of the sexual activity.

✍ **Background evidence.** During the interview, the investigator should ask the child about furniture, wallpaper, ceiling fixtures, anything that would be difficult for the offender to remove or change. The collectors should search for such evidence and record it with either photographs or videotapes. The child's ability to relate this information shows accuracy of memory. This may be important evidence in a court hearing.

✍ **Instrumentalities of the crime.** Investigators should look for cameras, condoms, sexual devices, or any items that the child indicated were used in the commission of the sexual assault.

✍ **Lures.** Officers should search for toys, games, stuffed animals, etc., that the perpetrator may have used to entice the child into the situation or into the location where the assault occurred.

✍ **Child erotica.** Investigators should look for any material relating to children that is sexually arousing to an adult, such as child sketches, fantasy writings, diaries, and sexual aids. There is one important distinction between child pornography and child erotica. Although both are used for sexual arousal and gratification of the individual, child pornography has the added and more important dimension of effect on the child portrayed.

✍ **Child pornography.** Officers should look for any visual or print medium depicting sexually explicit conduct involving a child. Child pornography is photographs or films of children being sexually molested. The sexually explicit conduct can include sexual intercourse, bestiality, masturbation, sadomasochistic abuse, and lewd exhibition of the genitals or pubic area. The child(ren) visually represented in child pornography have not reached the age of consent. This is in effect a crime scene photograph of actual child abuse. Mere possession of child pornography is a crime in many States and now is considered a crime in certain circumstances under Federal law. In 1990, Congress passed P.L. 101-647, which included a provision in Title III, section 323 that amended 18 USC 2252, making possession of three or more items of child pornography a Federal crime if anything used to manufacture the pornographic material crossed State lines, the film or photographic paper was made in another State, or the camera was made in another State or country. In addition, the use of the mail to send child

pornography is a separate Federal offense. Officers discovering child pornography should contact postal inspectors and the Federal Bureau of Investigation if a Federal violation appears to be present. This can lead to increases in investigative personnel assigned to the case, charging in multiple jurisdictions, and an enhanced period of incarceration.

- ✍ **Adult pornography.** Officers should look for the use of adult pornography. There are several uses in child sexual abuse. In some instances, the offender may need the adult pornographic material to arouse himself to complete the sexual abuse of the child. In other situations, the material is shown to attempt to arouse the child so that the sexual abuse can take place. Or the material is shown to the child to lessen his/her inhibitions and to give the child some ideas as to the sexual activities he/she would “enjoy” engaging in. When an investigator discovers quantities of adult pornography on the premises, he/she should seize the adult material and compare the scenes in the commercially produced magazines and videotapes with the sexual activity with the child(ren) to determine if the same or similar poses were used with the child victim(s).
- ✍ **Homemade pornography and albums.** Investigators should seize child pornography or child erotica or simply a collection of nonsexual pictures of children such as school photographs. The nonsexual photographs may help identify other victims.
- ✍ **Personal letters and diaries.** Officers should examine all correspondence found at a residence to determine the type of correspondence. Investigators should also search for diaries, which might summarize sexual encounters the perpetrator has had or even list names and ages of sexual partner(s) and a brief description of the type of sexual activity. Thus a diary may be helpful in determining other victims that this offender has abused.
- ✍ **Audiotapes.** Officers should examine any audio cassettes. Some offenders will have the children talk onto cassette tapes. During these sessions, the children are encouraged to talk about the sexual acts they might perform or that they have performed before. In addition, sometimes the sexual abuse itself may be recorded on audiotape.
- ✍ **Home computers.** When a home computer is present in the home of an alleged offender, the investigator should determine if it is being used to contact others of like interest. Computers are also used to store information concerning the pedophile’s photographic collection and his/her victims to facilitate retrieval. Should the investigator find a home computer and believe that it has been used for this purpose, the computer should be seized (both hardware and software) for further evaluation. Care should be taken during shut down and removal so as not to erase any data.
- ✍ **Cameras.** Investigators should seize still cameras and/or video cameras and recorder(s) if the child has related that he/she was photographed or was shown sexually explicit movies. All equipment used should be seized as well as undeveloped film found at the location. The video camera and recorder should be seized as well as all videotapes on the premises. These videotapes should be reviewed for content, despite the labeling on the outside of the cassette. The investigator should consult with the prosecutor to determine if a separate search warrant will be needed to view all the videotapes. Some agencies also seize any televisions used to show the videotapes to the child.

The investigator should be creative in the search. The search warrant should be broad enough to include items that might not be considered sexual, but which the child may have mentioned in the statement as used by the offender to entice the child, help consummate the crime, or record the crime.

Investigators must also consider the possibility of obtaining a legal consent to search when interviewing a nonoffending spouse in an intrafamilial case.

As mentioned earlier, if the investigator believes that such items may be destroyed or hidden after the child is interviewed, the investigator should take immediate steps to secure this evidence. This may involve contacting the prosecutor to expedite the issuance of a search warrant or sending officers to the location where it is believed this material is housed to secure it until such time as a search warrant can be obtained.

The investigator should consult with the prosecutor regarding what circumstances would be considered exigent where the items could be seized without a search warrant. Telephone search warrants might be used in jurisdictions where they are permitted.<sup>21</sup>

### ***Interviewing the Alleged Perpetrator***

If the identity of the offender is not known, the investigator should conduct normal investigative procedures to ascertain identity. This means neighborhood canvases, all points bulletins, a check of local jails, hospitals, etc., that have had recent inmate releases, strangers in the neighborhood, and suspicious vehicles that may have been reported.

If possible, the timing of the interview with the offender should be selected carefully. Many sexual abuse cases have been lost or jeopardized because investigators moved too rapidly to interview the offender before they were fully conversant with the facts of the case. The investigator must keep in mind that the offender is, in many cases, not likely to cooperate with him or her unless the offender is convinced that the investigator has strong evidence to prove the abuse. However, in some cases consideration should be given to interviewing this individual early in the investigation where the element of surprise can work to the investigator's advantage. The offender, if unaware of the investigation, will not have prepared an alibi, retained an attorney, or destroyed physical evidence, all of which is possible if the investigator does not act swiftly. This should be evaluated on a case-by-case basis.

There is no one style of interviewing a suspected child sexual assault offender. Just as there are different types of offenders, there are different techniques that will work with various offenders. Adolescents, for example, account for a significant number of offenders, and the interviewing style and procedure must be adjusted, consistent with local procedure. As stated earlier, the primary objective of any investigation is to collect enough corroborative evidence so that it will not be necessary to have the child testify in court. Therefore, the interview with the suspected offender should be handled in a timely and skilled fashion. It is preferable that only one investigator be present during the interview. As in interviews with the child victim, the offender will often feel inhibited about his/her behavior if other persons are present. It is desirable that this interview be conducted in a room with a two-way mirror and, if possible, videotaped for the record.

The principal psychological factor contributing to a successful interrogation is privacy, being alone with the person under interrogation. In providing privacy during interrogations, it is advisable to select a quiet room with none of the usual police surroundings and with no distractions within the subject's view.

In cases where a suspect has given an alibi, it should be checked if at all possible before the interview begins. Any known inconsistencies in the alibi will assist the officer. Moreover, an alibi check may actually establish the innocence of the suspect. However, many other circumstances may point to his/her guilt. A background check should be done before the interview to determine if there are any prior arrests for crimes of a similar nature. The number of times he/she has moved or the number of jobs the suspect has held may point toward the fact that in prior communities and in prior places of employment there was some problem that might have stemmed from the individual's sexual preference.

The officer should avoid creating the impression that he/she is an investigator seeking a confession or conviction. It is far better to appear in the role of one who is seeking the truth. The neutrality of this position will give the investigator an advantage and may lull the suspect into being overconfident.

The interrogator should dress in civilian clothes rather than in uniform during an interrogation. Otherwise, the subject will have before him/her a constant reminder of police custody and the possible consequences of an incriminating disclosure. The investigator should avoid inflammatory words or expressions such as “rape,” “pornography,” “abuse,” and “confess your crime.” It is much more desirable, from a psychological standpoint, to employ milder terminology like “touch,” “caress,” and “tell the truth.” The investigator should keep in mind that some offenders do not view their activities with children as criminal. They may not regard the fondling of children as a criminal assault, and they may not regard the photographs of children in the nude or engaged in sexual activity as pornography. The investigator should maintain and use nonjudgmental language.

A subject should be treated with decency and respect, regardless of the nature of his/her offense. This behavior on the part of the interviewer may well be the turning point of the interrogation and may make the suspect feel comfortable enough with the interrogator to give a full confession and, in fact, admit to crimes of which the interviewer had no prior knowledge. It has been noted by a number of investigators that once a child molester begins talking, he/she frequently details each and every episode of sexual assault that the offender can remember. A sympathetic, understanding attitude in an interrogation is far more effective than a threatening approach.

Because of the coercion issue, the interviewer should avoid, at any time during the interview, making any promises to the offender about the possible effect a confession would have on the prosecution of the case. To promise an offender anything at this time, including probation or a diversionary treatment program, is promising something the law enforcement officer cannot carry out. If the offender stands by his/her constitutional rights not to make a statement and the investigator then advises the offender that he/she will not be considered for diversion or treatment programs if he/she does not confess and he/she subsequently confesses, this confession may well be held as having been coerced and be considered inadmissible in a court hearing. Therefore, the investigator should work hard to establish rapport with the offender so that the offender wants to try and please or brag to the investigator about the activity.

In dealing with a suspect whose guilt is definite or reasonably certain, the interrogator will usually disclose his/her belief in the suspect’s guilt and attempt from the onset to secure a confession or incriminating statement. If the interview with the child was videotaped, it might be useful to show the offender all or part of the tape. In some instances, this has persuaded offenders to make a full confession.

During the interview with the suspect, investigators should:

- ✍ Display an attitude of confidence in the subject’s guilt.
- ✍ Point out some, but by no means all, of the circumstantial evidence indicative of the subject’s guilt.
- ✍ Sympathize with the subject by telling him/her that anyone else might have done the same thing under similar circumstances.
- ✍ Reduce the subject’s guilt feelings by minimizing the seriousness of the offense. It is also helpful to tell the subject that the interrogator has heard many people tell about sexual activities far worse than any the subject can relate. The conduct itself should be discussed as though it were actually normal.

- ⌘ Suggest a less revolting and more acceptable motivation or reason for the offense than that which is known or presumed. An offender should always be offered an opportunity to save face by letting him/her base the initial admission of guilt upon a motivation or reason for the act. To secure the initial admission of guilt, the interrogator should suggest such possible reasons, motives, or excuses. The important point is to have the subject place him/herself at the scene or to connect him/herself with the event in some way. Following a partial admission, the interrogator can then point out that the circumstantial evidence negates certain explanations. The inconsistency between the subject's original denial of the crime and his/her present admission will deprive him/her of a possible defense.
- ⌘ Remember, the main objective of the interview in many instances is to have the subject place him/herself at the scene or in contact with the victim.
- ⌘ Display understanding and sympathy because it may urge the subject to tell the truth. Urge the subject to tell the truth for the sake of his/her own conscience, mental relief, or moral well-being as well as for the sake of everybody concerned, and also because it is the only decent, honorable thing to do.
- ⌘ Seek an admission of lying about some incidental aspect of the occurrence. Once a subject has been caught in a lie about some incidental detail, he/she loses a great deal of ground. As he/she tries to convince the interrogator he/she is telling the truth, he/she can always be politely reminded that he/she was not telling the truth just a short while ago.
- ⌘ Ask the subject a question regarding some detail of the offense rather than seek a general admission of guilt; getting an admission on seemingly insignificant details will sometimes lead the accused into a confession.<sup>22</sup>

## **Mental Health Information**

As with medical findings, the opinions of mental health professionals will sometimes be introduced into child abuse investigations. Extreme caution should be exercised when mental health professionals are called upon to offer an opinion about whether *this* child was abused by *this* perpetrator, particularly if based on the assessment of the alleged offender. Various psychological tests and/or clinical interviews by a trained professional may yield information about the individual's predisposition to commit abuse or factors which may contribute to abuse, such as a history of victimization, immaturity, sexual arousal toward children, a tendency toward violence, or a loss of self-control. (It should be recognized that defense expert witnesses may argue that the lack of such known risk factors makes the individual innocent of any criminal charges.) Both arguments overstate the role of the mental health professional. The time for such input is when sentences are being determined, when the court is considering incarceration versus community-based alternatives.

While not appropriate evidence, the insight of mental health professionals can be helpful in child maltreatment investigations. Mental health therapists can best assess the impact of the abuse and the investigation on the child. They can provide insight into the ability of the child to testify and explain the developmental reasons for a child's actions. Their clinical training may help determine the credibility of a child's statements or how the investigator should proceed in interviewing the principals involved. State child abuse statutes abrogate professional privileges of confidentiality. Consequently, mental health professionals must share relevant information regarding a particular case.

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# DECISION MAKING

## VALIDATION

At the heart of the investigative process is the decision regarding the validation of the allegations. Validation is the process of determining if abuse has occurred or, for CPS, whether risk of maltreatment is imminent. It is a term borrowed from CPS and may be used interchangeably with “substantiation,” “indicated,” or “founded” in some jurisdictions. More than a belief that the maltreatment has occurred, validation is based on substantial evidence. This decision does not require the same evidentiary standard as that of a criminal prosecution. As noted earlier, even when sufficient evidence is lacking for a criminal prosecution or abuse has not yet occurred, children can still be protected through skillful CPS intervention and/or the civil protections of the juvenile or family court.

### **Physical Abuse and Neglect**

The decision regarding validation of alleged physical abuse is a comparatively straightforward process. Physical abuse leaves physical evidence of the assault on the child, which can be observed, documented by a physician, and photographed for evidence. Other tests that can document presence of physical abuse include: X-rays, lab tests (e.g., for poisoning), etc. The officer investigating a physical abuse case should weigh various factors.

### ***Medical Evidence***

Medical evidence is the findings of licensed physicians or qualified medical practitioners that support or refute the allegations. This evidence may document injuries or conditions and explain how the injury or condition could have been sustained. Of particular interest are injuries medically inconsistent with the explanations offered by the caretaker, injuries consistent with inflicted trauma, or conditions that are the result of willful actions or inactions of caretakers.

### ***Admission of the Perpetrator***

This is self-explanatory: an individual acknowledges full or partial responsibility for causing the injury or condition.

### ***Credible Witnesses***

Individuals who support or refute the allegation and are willing to do so in court are credible witnesses. Care must be exercised to assess the credibility of persons offering statements who may have a bias about the incident, child, or perpetrator.

### ***Mental Health Information***

This information is garnered from clinical interviews, psychological test results, interpretation of tests, and interviews by qualified mental health professionals. However, mental health professionals do not have training to validate whether abuse or neglect occurred.

### ***Victim’s Statement***

This statement details when, where, and how the abuse occurred and who is responsible.

### ***Observed, Videotaped, or Photographed Injuries or Conditions***

These include tapes, photographs, or other documented evidence usually produced by a licensed physician or a law enforcement officer.

### ***Physical Evidence***

Physical evidence is collected during the investigation at the crime scene (see discussion of the crime scene for physical abuse and neglect cases).

### ***Behavioral or Physical Indicators of Abuse***

These include any behaviors or physical symptoms involving the child noted by others that support or refute the allegation. For example, the teacher who sees bruises and notes that the child refused to dress for physical education class can help support other evidence of injury during the same time frame.

### **Sexual Abuse**

Child sexual abuse presents far greater problems in validation than physical abuse, due to the nature of the abuse. For the most part, validation relies upon the same categories of evidence but with some special considerations. First, clear physical evidence is generally lacking, the abuse usually occurs secretly so no credible witnesses exist, often the child has been coerced into silence, and the victims' young age makes their statements problematic on the surface. Second, perpetrators are admitting to very serious felonies if they acknowledge their role in the abuse. Understandably, they are reluctant to do so. All of these factors make accurate validation of child sexual abuse very challenging. Defense experts at trials may well argue that every category of evidence used by investigators is invalid, yet investigators must make a reasonable determination of whether evidence exists of sexual abuse. The categories of evidence are discussed below.

### ***Medical Findings***

These are findings by a licensed physician or other qualified medical practitioner that support the allegation of sexual abuse, including a diagnosis of a sexually transmitted disease, or even pregnancy in some cases.

### ***Admission of the Perpetrator***

This is self-explanatory: the perpetrator confesses to specific sexual acts with a child.

### ***Credible Witnesses***

These are observations of child and adult witnesses, which serve to support or detract from the allegation. Extreme caution should be exercised about the credibility of witnesses (e.g., statements of parties engaged in a custody dispute).

### ***Victim's Statement***

Due to the nature of sexual abuse, many cases will hinge upon the statement of the alleged victim. Sexual abuse occurs secretly in many forms of sexual abuse (fondling, fellatio, etc.), and leaves no long-term

physical findings; the perpetrators are frequently well-respected, seemingly stable people. In the 1970's, it was suggested that investigators should believe all children when they alleged abuse. Currently, however, investigators must be able to articulate exactly *why* they find the child's statement credible or lacking credibility. Being able to explain why the statement is credible is critical in court.

The child's statement should be considered in terms of a set of factors suggested by various practitioners and researchers in the field. Most are based on extensive experience with victims of child sexual abuse. In 1983, Sgroi, Porter, and Blick laid the foundation for this work,<sup>23</sup> and their concepts have been expanded and refined by others. In 1988, Faller tested some of these ideas and found that statements of child sexual abuse victims (in cases of abuse confirmed by the perpetrators) generally fit into these validation criteria identified.<sup>24</sup> Not every criterion was met in every case and, in some cases of actual abuse, the child's statement did not fit the validation framework at all (particularly with young adolescent males).<sup>25</sup>

The following factors should be considered when assessing child victim statements:

✍ **History of abuse and related behaviors .**

- **Multiple incidents over time.** The abusive incident, which resulted in the present referral, is probably not the first time abuse has occurred. Investigators should determine through the interview with the child if more than one incident had occurred. This situation is most common when the alleged perpetrator is a relative, friend, or caretaker of the victim.
- **Details of sexual abuse.** It is important to get explicit details of the sexually abusive incidents from the child in *his/her own words*. The investigator may begin by establishing the child's present knowledge of appropriate/inappropriate touching and words used for genitals. The anatomically detailed dolls and art media can be useful in this process. Investigators must be careful not to lead the child and should seek the explicit information *in the child's own words*, which should be recorded verbatim.
- **Explicit details.** Investigators should determine if the child is able to provide details of sexual activity beyond his/her developmental level. This is of greater significance with younger children than with adolescents.
- **Age-appropriate language.** Investigators should consider whether the child described the details in age-appropriate language and sentence structure.<sup>26</sup> Caution should be used here as many parents teach their children the correct anatomical name for their body parts. Few young children, however, would refer to penetration as "rape" or "intercourse." Such words suggest that the child may be relying on someone else's words.
- **Experience perspective.** Investigators should evaluate whether the child described the events from a participant child's point of view. For example, what did he/she feel, see, hear, taste, smell?
- **Richness of detail.** As children get older, they are often able to provide details of the surrounding environment, what the perpetrator said, who else was nearby, etc. Younger children tend to focus more on the central issues of the abuse and what is happening.
- **Idiosyncratic details.** Young children, even in the midst of abuse, sometimes note extraneous activities and include them in their report to the investigator. Such detail

serves to support the credibility of their statement. For example, “While he had his pee thing in me, a dog started barking at the door.”

- **Consistency.** Investigators should consider if the child was interviewed more than once, were the responses generally consistent from one interview to the next? Many children describe additional details and even new incidents in successive interviews as they get more comfortable. Kee McFarlane described this as “peeling the onion.”<sup>27</sup> Were any elements of the child’s story corroborated by others or by physical evidence?
- ⌘ **Progression of sexual activity.** This takes several forms.
  - **Transitional behaviors.** The investigator should explore what type of activities preceded the initiation of the overt sexual abuse. Many people who sexually molest children also engage in behaviors which, while not overtly sexual, serve to set up the abuse, just as an adult heterosexual male may use dinner and drinks with an adult female as a prelude to a sexual overture. This behavior includes actions that bring about nonsexual intimacy; if observed, this intimacy would appear within normal limits of adult–child contact, such as tickling, sharing a bed, bathing, or play activities. These behaviors become relevant if the child describes the first overt sexual contact in the context of the transitional behaviors. For example, “Daddy started helping Mom give me baths, then he just did it alone, and then one night while he was washing my back, his hand went inside of me.”
  - **Progression of sexual activity from less intrusive to more intrusive behaviors.** Few perpetrators who have long-term access to their victims move immediately to intercourse. Many move more cautiously from one form of abuse to another, similar to transitional behaviors, from fondling exterior of clothes, to fondling under clothes, to penetration. The progression may occur over years, in some cases, or move rapidly in others.
  - **Progression within a single incident.** Investigators should determine if the child described the progressive activities leading to the abuse through such patterns as exterior clothing touching, followed by under clothing touching, to penetration. While older children may fabricate in this detail, smaller children generally lack the frame of reference to do so.
- ⌘ **Child’s sense of time.** Investigators must gather information on *when* and *how* the abuse began and *how many* incidents have occurred. Investigators should keep in mind that young children do not have the same sense of time as adults. They may be unable to give dates and times. The investigator must relate the incidents to some event that is meaningful for the child. The following types of questions may help in this area:
  - Who was your teacher at that time?
  - Did this happen before or after Christmas?
  - Can you remember anything else that happened around that time?
  - Was this around the time of your birthday?
  - Was it cold outside?
  - Was there snow on the ground?

Sometimes children can describe what was on television at the time of the abuse or some other memorable event. The child may state that some of the other family members were on

a trip out-of-State or grandmom was visiting, allowing the investigator to fix an approximate date.

If numerous incidents have occurred, it may be confusing to sort out all the times, dates, and places. In fact, this may take several interviews to delineate several specific incidents. It is essential that the investigator establish some sense of when the abuse began, the frequency of abuse, and how it progressed through the spectrum for purposes of indictment requirements.

- ✍ **Secrecy.** Investigators should establish if the abuse occurred in a private place and if the child understood that the abuse was a secret.
- ✍ **Pressure/coercion/enticement.** Pressure, coercion, or enticement occur in two areas. First, investigators should establish how the perpetrator got the child to engage in the behavior. Did he/she entice or bribe the child; did he/she rationalize the behavior, for example, “all daddies do this;” did he/she threaten the child (anything from a loss of attention to death threats). The second type of pressure or coercion is that which is used to maintain the secret. This may range from the very subtle to the very threatening and overt. Investigators should determine what the child thought would happen if he/she told and why he/she believed this. Many perpetrators are fairly direct in warning the child not to tell, but may be more subtle in communicating the consequences of telling to the child. The pressure may range from, “You’ll get in trouble;” to “I won’t love you anymore;” to “Daddy will go to jail,” to the extreme “I’ll kill you,” or “I’ll kill your mommy.”
- ✍ **Affect.** Officers must evaluate how the child acted during the disclosure. For example, was he/she tearful, afraid, embarrassed, anxious, or distressed? Did the affect differ when talking about less emotionally laden material and the abuse? Note that some children who have been exposed to very serious abuse may begin to disassociate from the abuse, and their affect will flatten accordingly.<sup>28</sup>

The investigator should review all these factors in assessing the credibility of the child’s statement. In some cases, there will be little question as to the validity of the statements. In other cases, due to the child’s age, personal circumstances of fear, and anxiety over disclosure, the statement will not be clear and definite. The investigator must weigh all the factors present and consider why some are weak or absent. For example, Faller’s study showed boys are less emotional in their disclosure and provide less detail than girls.<sup>29</sup>

### ***Observed, Videotaped, or Photographed Injuries or Conditions***

This is documentation of physical injuries through observation from a trained physician, photographs produced by a physician or law enforcement officer, or videotapes demonstrating the conditions under which the child is living (e.g., severe physical neglect).

### ***Physical Evidence***

(See the segment on the crime scene search.) This evidence is collected during the crime scene investigation. Indicators vary with different victims.

### ***Behavioral or Physical Factors That Might Be Indicative of Childhood Trauma***

Some sexual behaviors of children are specific to sexual abuse. Other nonsexual behaviors in children may corroborate the child’s disclosures. Still other behaviors in children are indicative of trauma and need

to be explored for possible sexual abuse. For specific information on behavioral and physical indicators of sexual abuse, see the manual entitled *Preventing and Treating Child Sexual Abuse*.

## Summary

The validation process should weigh all the factors described above, including those that support and refute the allegation. *Based on the sum of the factors the investigator should make a determination regarding the validity of the complaint.* Validation may be made based on only one factor if it is of sufficient strength. For example, the medical evidence or the child's statement alone may be compelling. However, cases should not be validated on behavioral or physical indicators or circumstantial evidence alone. If the case is valid, the investigator must determine what further action is necessary, including child protection efforts and criminal prosecution. In some cases, it will be evident that the child was abused, but the evidence to link the act or conditions to any specific perpetrator may be lacking.

Prior interviews conducted by others (either family or other investigators) may well influence the information the child shares in your interview. Knowing how and by whom these other interviews were administered is critical in evaluating material that was disclosed at the interview under validation.

## RISK ASSESSMENT

Once the investigator has determined that the child has been abused, the next step is to assess the risk of further abuse. Usually, CPS staff take the lead responsibility here. Many State child protection agencies have developed/implemented risk assessment tools to guide caseworker decision making. While risk assessment tools vary from State to State, the process normally attempts to identify the factors that either place the child at greater risk of abuse (risks) or the factors that reduce the risk of future maltreatment (strengths). In assessing risk, the caseworker considers the nature of the maltreatment, location of injuries, and factors present within the *parents* that heighten risk, such as:

- ⌘ past abusive or neglectful behavior;
- ⌘ use or abuse of alcohol or drugs;
- ⌘ mental instability;
- ⌘ interpersonal skills;
- ⌘ knowledge of child development and expectations of their children;
- ⌘ how they discipline their children; and
- ⌘ flexibility or rigidity of child rearing attitudes.

Often, CPS caseworkers will also consider factors present within the *child* that place him/her at risk such as:

- ⌘ the age of the child (most child abuse related deaths occur among very young children);
- ⌘ physical, mental, emotional, or social development; and
- ⌘ specific behaviors that may elicit abusive behavior, such as crying, demanding, or fighting.

In sexual abuse cases, risk factors may include:

- ✍ the sex and/or age of the child;
- ✍ the child's isolation from peers; or
- ✍ the child's relationship with the nonoffending spouse.

The investigator may also take into account *family* factors that contribute to the risk such as:

- ✍ financial pressure;
- ✍ marital conflict;
- ✍ low levels of family interaction and mutual support;
- ✍ lack of extended family support;
- ✍ little supervision;
- ✍ role reversals, with the child fulfilling adult roles and meeting adult needs; and
- ✍ the nature of the bonding between family members.

The last major category consists of *environmental* factors, including:

- ✍ the physical conditions of the family home;
- ✍ the nature of the community in which they live; and
- ✍ the types of supports present for the family.

## **SAFETY PLANNING**

Having concluded that maltreatment was present and having assessed the risks to the child, the CPS caseworker will seek ways to protect the child and reduce the risk of further maltreatment. The first and foremost goal is to ensure the child's safety while maintaining him/her in his/her own home. This may be accomplished by using certain services to address the risk elements. It may mean bringing a homemaker into the home to teach the caretaker parenting skills or putting the child in day care to give the parent a respite from child care. The safety plan may involve a temporary change in living circumstances for the child (moving into a relative or friend's home) or moving the alleged offender pending the outcome of the investigation. In sexual abuse cases, the plan may call for the alleged offender to move out of the home.

Law enforcement can play a key role in developing and enforcing such plans in cases where criminal prosecution is initiated. Following arrest, restrictions can be placed using a bond arrangement that requires the alleged offender to live elsewhere and have no unauthorized contact with the victim. Failure to comply with the agreement could lead to revocation of the bond and incarceration. "No contact" orders and civil protection orders may also be sought to help provide some authority to a safety plan.

## **REMOVAL FROM THE HOME**

When all reasonable interventions that would protect the child in his/her own home have been examined but none are found suitable, removal from the home and placement in State custody may be necessary to protect the child from harm. Police officers may have to act in an emergency, but the likelihood of maintaining custody is enhanced if the decision to remove is made with juvenile or family court concurrence or at least in cooperation with CPS staff and their attorneys. Generally, removal from home and placement in foster care causes a total disruption of the child's life, including a loss of familiar surroundings, possessions, pets, friends, and family. The children frequently must change schools and move into totally unknown surroundings. This experience is very traumatic in its own right and should be avoided when possible. For this reason, CPS staff will explore possible relative placements or other avenues to minimize the negative impact of removal on children.

# **SPECIAL CONSIDERATIONS FOR INTERVIEWING CHILDREN**

The initial investigative interview with a child is a delicate situation requiring skill and tact. The setting for the interview should be chosen as carefully as possible. The interview should be held in a neutral setting where the child feels comfortable and not threatened. When a child is fairly young, his/her general schedule (e.g., naps) should be considered when scheduling interviews. If an interview in the home or location where the abuse may have occurred is unavoidable, the team is advised to select a place where the abuse is unlikely to have taken place. The interviewing team should consist of as few individuals as possible. Which team member questions the child is not as important as the skill of the interviewer *and* the preference that the child may indicate.

The interview will be enhanced if a cooperative adult accompanies the child and acts as liaison between the child and the interviewer. The adult can introduce the interviewer to the child as someone who is specially trained to help children. In addition, the adult can encourage the child to tell the interviewer everything that happened, thereby giving the child permission to talk freely.

It is important to conduct the interview in a quiet setting with minimal disruptions. It is also important to keep in mind that a child rarely feels free to disclose sensitive information when a parent or relative is present. However, if the child is extremely distressed or unwilling to be questioned alone, a nonoffending parent or other supportive adult may sit quietly in during the interview. Although multiple interviews may be necessary, the original interviewer should either conduct them or be present to introduce the child to the new interviewer. This preserves the rapport between the interviewer and the child and protects the child from unnecessary anxiety. However, it is extremely important to minimize the number of interviews and professionals the child experiences. The greater the number of interviews, the more trauma the child suffers. Whenever possible, the same individual, either the interviewer or a volunteer, should accompany the child to all appointments and proceedings relative to the case. The child is thus provided with a familiar and supportive person throughout the legal process.

In addition, the investigator must be extremely careful how he/she reacts to the child's statements. Inexperienced investigators hearing the graphic details of child sexual abuse for the first time from a small child may inadvertently display shock or discomfort. Most children are very perceptive and "pick up" on even subtle reactions by the adults around them. If the child believes the interviewer really does not want to hear the information, he/she may stop talking about the very issues that necessitated the interview in the first place. New investigators must become comfortable with the slang language of sexual assault and be able to talk about the details of abuse without emotion. Even body language and facial responses must be carefully controlled. The investigator must use his/her words and demeanor to encourage, not discourage, open communication.

## **THE INTERVIEW PROCESS**

If a police officer is the interviewer or is going to sit in during the interview, he/she should ask him/herself two questions: "Should I be in uniform?" "Will the uniform distract or be threatening to the child?"

To answer these questions, the uniformed officer should consider the following five points:

- ☞ The child's beliefs about what would happen to the child if he/she disclosed. The officer should keep in mind that the child may have been told by the perpetrator that:
  - if the child told, the child would be punished, and the child may assume that the officer is the instrument of that punishment;
  - the child will get in trouble, and the police will arrest the child and take him/her away; or
  - if the child disclosed, the perpetrator would be arrested; the child may assume that the police officer is there for that function.
- ☞ The child's beliefs about police and past experiences with police. For example, have the parents told the child that the law enforcement officer's function is punitive; not one of a helpful, friendly individual who is there in the child's best interest?
- ☞ The child may view the police uniform as a symbol of protection and feel much safer having that protection present, believing that the uniform means that the perpetrator cannot be with the child again. The officer might find it to his/her advantage to either change into civilian clothes or put a jacket on over the uniform to play down obvious signs of authority. In all child interviews, the officer should remove and secure his/her weapon so that it is out of sight prior to the interview.
- ☞ The child may believe that the uniform represents authority. This can be positive if a child looks to someone of authority to grant permission to talk freely. However, in some instances, such as when dealing with adolescent victims, the uniform may be a negative influence. The officer might find it to his/her advantage to either remove the uniform or to put on a jacket over the uniform to downplay obvious signs of authority.
- ☞ A smaller child is frequently attracted to the uniform and the various objects that are worn by the officer. An exploration of an officer's uniform, by the officer and the child, may help establish rapport and may enable the child to feel more comfortable.

Another issue to consider is that all interviews with children should be documented fully by the interviewer. If more than one interviewer is present, the professional not interviewing the child should take notes of the child's statements. These notes should be as exact as possible using the specific words of the child rather than an interpretation by the adult of what the child has said.

The interviewer should not stand above the child but should get down on the child's level, even if this means sitting on the floor. The interviewer should merely get close enough to the child to hear what the child has to say. The interviewer must remember that each person maintains a body space and to violate this space could be a reminder of the invasion of the offender.

Investigators must introduce themselves to the child. They may use their first name, if they feel comfortable doing so. Through school programs, many children have been exposed to an "Officer Friendly" type interaction and will respond well when the officer introduces him/herself as Officer Bill or Officer Mary. The investigator should also let the child know the agency that he/she represents. Initial questions should be unrelated to the incident itself, such as the child's age, where he/she goes to school, does he/she have any brothers or sisters, what are his/her favorite games, etc. This should help the child become accustomed to talking with the interviewer in a nonthreatening manner. The interviewer should remember to look at the child throughout the interview.

The language the interviewer uses should be appropriate for the child's age and development. Questions should be phrased in familiar terms. As rapport is established, the interviewer evaluates that child's competency: Is the child able to distinguish between fantasy and reality? How does the child respond when asked to recall and relate information? For young children, what is their developmental level, do they understand the meaning of the words used?

It is generally advisable for the interviewer not to initiate physical contact with children during questioning. If the child touches the interviewer in a seductive or inappropriate manner (as some sexually abused children may), the interviewer may respond by saying, "I feel uncomfortable when you touch me that way. Let's not do that. We can just sit here next to each other. Okay?"

As a prelude to specific questions about the abuse incident, an investigator may talk with the child about the duties of his/her job. For example, "My job is to talk to children about things that happen in their lives. I talk to kids about things that make them happy, sad, mad, or angry. Sometimes these children have problems they need help with."

The interviewer should never suggest that the nature of the problem is already known. Rather they should encourage the child to talk. "Someone who is concerned about you called me today and said that you might have a problem at home and need some help."

If the child shows discomfort, this should be acknowledged and explored. To elicit a response, the interviewer might say, "You seem worried (scared, embarrassed, nervous) right now. What are you worried about? Are you worried that someone might find out you talked with me? Who are you worried about? What do you think will happen?"

The interview should flow from the general (getting to know the child) to the specific (the actual abuse).

During this phase of establishing an alliance or getting the child to trust the investigator, the officer needs to identify and build on the request—how the child hopes or wishes the law enforcement officer can help.

Law enforcement officers can accomplish this by:

- ✍ Identifying what the child wants (this child may want you to promise not to tell anyone).
- ✍ Identifying what the officer can do to meet what the child wants ("I can first listen to you tell me what happened to you.")
- ✍ Letting the child know that the interviewer is honest (won't lie to him/her) and is trustworthy.
- ✍ Enabling the child to perceive the interviewer as empathetic.

### **Encouraging Children To Use Their Own Language**

Strategies to encourage children to use their own language include the following:

- ✍ Use verbal prefaces (e.g., "It is important for you to tell me so I can help you.").
- ✍ Avoid direct and leading questions. An example of a leading question is "Your father took your clothes off, didn't he?"

- ⌘ Encourage clarification. As the interview progresses, the child will often make a vague reference to “trouble at home” or “the thing that happened after school.” The interviewer might encourage clarification by paraphrasing the child’s statement or by forming questions from key words that the child has used such as, “What kind of trouble at home do you mean?” or “Can you tell me about the thing that happened after school?”
- ⌘ Do not use bribes or enticements. A child who has probably been told to be silent by a perpetrator will only be further confused when offered ice cream or toys as a reward for revealing information. Such methods will also jeopardize the case in court.
- ⌘ Deal with the child’s fear and try to decrease the child’s anxiety. One way to do this is to let the child tell his/her account at his/her own pace.
- ⌘ Acknowledge a child’s embarrassment and/or reluctance to discuss troubles and issues. For example, if the child suggests that the problem involves a specific person (stepfather, babysitter, friend, etc.), the interviewer might ask, “What kind of problem are you having with your stepfather or with Uncle John?” If the child indicates embarrassment and reluctance, the interviewer should acknowledge it, reassure the child, and then restate the question. In addition, in sexual abuse cases, if the child answers, “Uncle John touches me down there (indicating the genital area) when we are alone,” the interviewer should respond matter-of-factly, “What do you call that down there?” If the child is too embarrassed to answer or has difficulty in answering or giving specific details, the interviewer might then consider the introduction of anatomically detailed dolls.
- ⌘ In physical abuse cases, if the child does not introduce the injury, the investigator should ask specific questions to elicit the information. For example, “How did you get that cut on your head?” If the child’s explanation is implausible, the investigator might try, “Is that what you’re supposed to tell me?” The investigator should wait for a response and say, “What really happened?”
- ⌘ Encourage a dialogue by discussing privacy with the child. As an investigator talks with the child about nonsexual and sexual parts of the body, he/she may also encourage a dialogue by talking with the child about privacy. Investigators can ask the child what privacy means. When the concept is understood, investigators may ask the child, “Do people give you privacy at home? Can you be by yourself when you want to be?” If their reply is, “Well, sometimes Uncle John comes into my room when I want to sleep,” the interviewer can then ask for specifics.

### **Establishing Details of the Assault**

In establishing the details of an assault, the investigator should move from general details to the specific details of the assault. The investigator needs to help decrease anxiety and fear by using focusing techniques.

- ⌘ **Child’s activity.** The investigator should help the child reconstruct his/her day. For example, “What were you doing that day?” (The weather, play inside or outside, school, television show, etc.)
- ⌘ **Assailant’s activity.** The investigator should try to learn what the assailant was doing.

- ✧ **Family's activity.** The officer should determine where other family members were during the assault (e.g., mother was out of house).

Pictures may be used to tell what happened during an event. Officers can encourage the child to draw his/her family, their home, or try to draw what happened. At this time, investigators must concern themselves not only with the facts of what happened but also the child's feelings about the incident. These pictures may be used as evidence in court so, after the child has finished drawing the picture, investigators should be sure to initial it and maintain it in a chain of custody. On the back of the drawing, investigators should write what the child stated he/she was drawing. For example, "In response to the question, how were you lying on the bed? Connie drew a picture of the bed with her and a figure she identified as Uncle Harvey on it. The figure drawn in red is Harvey." As the child uses the dolls or draws pictures, investigators must have the child describe, during the demonstration, what is going on. This may assist the investigator in making this information admissible in court, since it is information that was given as part of the demonstration and is not necessarily hearsay information.

In some jurisdictions, puppet play is used, where the child talks to the puppets and moves from talking about the puppets or with the puppets to talking about him/herself to the interviewer.

If, during the interview, the child indicates that other individuals were present at the time of the incident, this gives the investigator information about potential witnesses or victims. If several incidents of abuse have taken place, the child needs to be questioned concerning the first incident that occurred. Talking about earlier incidents is often less threatening than discussing more recent ones. This procedure also helps establish the progression of sexual activity in sexual abuse cases.

The interviewer should not ask leading questions but should pose open-ended questions that invite the child to elaborate. Questions such as, "Did your mom hit you there?" or "Did he pull your pants down?" will tempt the child to agree and should be avoided. In contrast, "What happened next?" or "Then what did he do?" are questions that encourage disclosure without being suggestive.

In some special situations, interviewers may wish to *repeat* exactly what the child said to facilitate their understanding of the child. This should be considered in the case where the child has a speech impediment or when a young child cannot be easily understood. This is especially important if an audiotape or videotape is being made.

As the abuse is revealed, the interviewer should underreact. A simple nod or "uh huh" is usually an effective acknowledgment. This matter-of-fact attitude helps ensure the child's confidence and encourages additional disclosure.

The duration of the perpetrator's access to the child should be explored since multiple incidents may have occurred. Access may be corroborated by adult friends or relatives of the child.

To determine if the child was told to keep a physical or sexual abuse incident a secret, the interviewer might ask, "What did your mom (or teacher) say about it (the incident) when you told her?" Often the victim will reply, "I never told my mother about it. It was a secret." This disclosure opens further dialogue and helps confirm the abuse.

When questioning is completed, the child should be thanked for helping. The child should be reassured that he/she is not to blame for the abuse and the adult is responsible. The interview should close with an open question about whether there is anything else the child wants to say. The child should be given a name or number to call if he/she has problems during the investigation or thinks of something else (if age appropriate). If the child expresses concern about what will happen (to self or perpetrator), answer the

questions honestly. Explain that in this situation rules must be followed. However, detailed explanations about the prosecution of the offender can be confusing or alarming.

It should be remembered that not all abused children will be able to disclose on the first interview (or in some cases, ever), nor will all children disclose the totality of their abuse on the initial interview. It may be necessary for the interviewer to arrange for therapy for the child before the child feels comfortable or safe enough to disclose. Investigators should always keep in mind that the child may initially deny any abuse and even deny it repeatedly over a period of time. They may then begin to release bits and pieces of the abuse to test the reaction of the interviewer. This is especially true in cases of sexual abuse. Patience and skill are necessary in handling children of various ages, and experience will be one of the key factors in developing the investigator's competency in handling these situations.<sup>30</sup>

## **INTERVIEWING TOOLS**

Investigators have found a variety of tools useful in communicating with small children (and sometimes older ones as well). Small children sometimes find it easier to communicate sensitive information about the abuse through some form of media. While these techniques help the child explain what is happening, there are pitfalls, including the potentially leading nature of the interview.<sup>31</sup>

### **Puppets**

Many children are comfortable with puppets and will talk to a puppet when they would otherwise remain silent to the direct questions of an adult.

### **Drawings**

Many preschool and school-age children like to draw. Investigators can request the child to draw a picture of his/her family, the perpetrator, or, more directly, the abuse (after disclosure). There are no standards by which such drawings may be interpreted as showing abuse. The principal advantage of drawings is that the investigator can ask the child to explain what was drawn. This is an excellent way to get needed details.

### **Bodygrams or Anatomically Detailed Drawings**

Available commercially, these outline drawings of the human form allow the child to show where on the body he/she was touched and by what part of the perpetrator. The drawings are available in male and female, child and adult forms.

### **Doll Houses/Small Toy People**

Some researchers have found that preschool children prefer small dolls, because they are less intimidating and more easily manipulated. Again, this tool allows children to verbalize what happened while they show the investigator.

### **Prevention Materials**

Some investigators use materials such as coloring books designed for abuse prevention. This is risky from an investigative standpoint. Because the material was conceived as a prevention aid, it is often highly leading. For the most part, it is suggested that officers avoid the use of such tools during the investigative stage.

### **Dolls**

Dolls that are not detailed anatomically can be used by the child to act out the story. The investigator should allow the child to select and name the dolls. Avoid using terms like, “Let’s pretend this is Uncle Mike.”

### **Anatomically Detailed Dolls**

These are among the most commonly used tools. Not all anatomically “correct” dolls are “correct” enough to be accepted by the court. The investigator should receive training on how to use these dolls and review the manufacturer’s instructions prior to use. The following guidelines should be observed.

The child must be interviewed verbally and give some indication that sexual abuse has occurred before the officer proceeds with introduction of the anatomically detailed dolls. Investigators should follow the principles described below during this interview:

- ✍ **Dolls should only be used if the child has difficulty or is embarrassed about describing the sexual abuse that has occurred.** Not all children need the aid of the dolls. *Investigators should not insist on using them if it is not necessary.*
- ✍ **Introduce the dolls fully clothed.** Investigators should tell the child that the dolls help when talking with children. They should also let the child know that the dolls belong to the agency, but the child may touch them during the interview. Further, investigators must explain that the dolls are different from most other dolls because they have all of their body parts, including the sexual parts, which is why they are helpful in describing what happened.
- ✍ **Let the child explore the dolls.** Investigators must remember that it is not necessarily indicative of abuse for children to engage in exploratory behavior with the dolls. Some children stick their fingers in various holes, pull on the penis, see if the penis fits into the vagina, anus, or mouth. Officers should not consider this evidence of sexual abuse. Investigators should listen to what the child says during this time. Some children may start to share details about previous sexual activity.
- ✍ **Pick a doll to name the body parts with the child.** Investigators should point and say “What do you call this?” Investigators should begin with nonsexual body parts, then move back and forth between sexual and nonsexual. They should repeat what the child says and use the child’s terms. If the child uses slang terms for some body parts, the investigator should ask who suggested that name. Officers should cover each doll that will be used during the interview in the same way.
- ✍ **Ask the child to choose a doll to represent him/herself.** Investigators should not use the word “pretend” or “let’s play like this is you.” Investigators should have the child choose a doll to represent the person the child has named as the perpetrator.
- ✍ **Ask the child to show what happened.** Investigators should have the child *explain verbally* what is being demonstrated. They should also repeat back to the child what he/she is saying. Officers must ask about the first time something happened with the named offender and try to move forward in chronological order, using open-ended questions, for example, “What happened next? And then what happened? Did he/she do anything else to you? Ask you to do anything else?”
- ✍ **Avoid leading questions.** For example, “Where did Steve hurt you?” Questions beginning with who, how, when, what, or where are seldom leading. Officers should avoid questions

that suggest the answer within the question and questions that can be answered yes or no. For example, “Daddy hurt you, didn’t he?” Investigators should not use “why” questions with the child. They tend to imply that the child is at fault. Officers must keep sentences short and simple and use names (Daddy, Miss Sue) rather than pronouns. With young children, officers should avoid either/or questions.

- ⌘ **Do not react visually to the child’s statement.**
- ⌘ **Do not bribe the child to talk** (for example, cookies, other special treats, or inappropriate verbal reinforcers).
- ⌘ **Adapt the interview to the child’s pace, not to the interviewer’s urgency to learn what happened.** Children who feel pressured often reveal less. It may be helpful for officers to allow the child to talk about other things or play during the interview, returning to the subject of sexual abuse periodically.
- ⌘ **Close the interview by praising the child for helping and being able to talk about something very personal and hard to discuss.** If the child discloses, investigators should let the child know he/she is not to blame; the adult is. They should also explain the next step in the process, and let the child know that what will happen next is due to the adult’s actions, not because the child disclosed. When possible and appropriate, investigators should end the interview with an activity pleasant for the child.
- ⌘ **Because children who have been abused over time seldom disclose everything that has happened in the first interview, multiple interviews (two or three) may be important for every child suspected of being a victim.** They should be conducted by the same interviewer, at the same place, and on subsequent days if possible.<sup>32</sup>
- ⌘ **If a child is *not* disclosing or cooperating with the interview, terminate the interview in a reasonable period of time.** If it is felt necessary, investigators should schedule another interview at a later date. A protracted interview with a nonresponsive child can be counterproductive and later used by defense attorneys *against* the investigator if the child subsequently discloses.

# **SPECIAL TYPES OF INVESTIGATIONS**

## **CROSS-CULTURAL INVESTIGATIONS**

Law enforcement officers will be called upon to investigate allegations of child maltreatment involving members of different ethnic or racial groups from their own. In some parts of the country, the cultural diversity of the community requires tremendous flexibility in the investigative style. Not only must officers be able to communicate with others who do not speak English, but they must also know the style of interview that will yield the most accurate results. Investigators will also need to consider cultural factors in the validation process.

Investigators need to be sure that their personal beliefs about child care do not become the standard to which they legally seek to hold others. As Elmer and Schultz illustrated, “an unproven popular belief is that young children should not be cared for by their older siblings. In some other cultures such caretaking arrangements are standard.”<sup>33</sup> They further note that, “determining whether caretaking by siblings is evidence of neglect should be a matter of context; whether such caretaking is valued by the group or imposed on an unwilling child.”<sup>34</sup> Numerous other examples exist that place the predominant culture’s view of child rearing at odds with other cultures.

In addition, some cultural practices have the potential to be misinterpreted as child abuse. For example, Vietnamese may cause syncretical linear bruises from the cultural practice of coin-rubbing. The practice is for the treatment of fever, chills, or headache and involves massaging the back and chest with a coin.<sup>35</sup> The result may appear to be abuse related. Other practices of foreign cultures must be explored when the officer is called upon to investigate people whose culture is different and/or unknown.

However, the officer must also be cautious about the influence of racism. A national consensus building on law enforcement and CPS suggested, “just as racism plays a role in many parts of society, it is expressed in the child protection process at both individual and institutional levels.”<sup>36</sup> Officers must be attuned to their own beliefs about members of other racial groups and ensure that their beliefs do not influence their case judgment.

## **SEXUAL ABUSE ALLEGATIONS IN DIVORCE PROCEEDINGS OR RELATED TO CHILD CUSTODY DISPUTES**

Reports of child sexual abuse arising during divorce or custody disputes seem to be increasing. These cases present some unique and perplexing issues to the investigator. Truly false reports of abuse are rare (as opposed to legitimate misunderstandings). Children rarely make up stories about abuse, and adults rarely report sexual assaults they know not to be true.<sup>37</sup> Motivations on the part of the parents in a custody dispute, however, may be different. One parent may act with vindictiveness or malice toward the other parent. Currently, allegations of abuse are one of the most powerful weapons available to an estranged parent in courts. Alleging child sexual abuse changes the balance of power and can immediately alter visitation arrangements and custody. For these reasons, many divorce judges and attorneys have become highly skeptical of any allegations of abuse that arise during the dispute. They presume that if the charges were legitimate the charging parent should have made the allegations before divorce proceedings were initiated.

There are numerous reasons why the abuse may not have surfaced before the divorce, including changes in the offending parent's emotional support system, sexual outlets, housing and sleeping arrangements, or level of supervision over the child.<sup>38</sup>

Investigators should consider the following special issues when investigating these cases:

✍ **Interview the child in a neutral setting away from both parents' home and without the charging parent present.**

✍ **The child's statement about abuse must be carefully scrutinized.** Investigators should look for patterns in the child's statement or statements of siblings. Use of the same words over and over or using adult terminology should be examined by officers. The "coached" child will usually have few words to describe something about which he/she has no real knowledge. Investigators must look at the details of what the child is saying. In particular, preschool children are developmentally unable to falsify factual material in the proper context of the abuse.

The investigator may have to assess the authenticity of the child's statement. For example, "Does the statement of abuse fit with other information provided (e.g., behavioral indicators)?" "Are the statements made dispassionately or with emotion or fear?" If not, "does there appear to be a reason for lack of emotion?" "How does the way the child describes the abuse relate to less emotionally laden material?"

✍ **Note if the statements are made spontaneously or after normal introduction questions and preparation.**

It is also important to realize that some unfounded reports in custody cases come from a misunderstanding of some action on the part of the alleged perpetrator. For example, a preschool child may tell mother that, "Daddy hurt me on my pee-pee." The mother responds based on her negative feelings about the spouse and assumes child sexual abuse. The attention she focuses on the child reinforces the statement and encourages the child to say and do whatever generates the attention. In fact, the "hurt" the child described may have been from normal parent interactions,<sup>39</sup> playing, bathing, or changing clothes or diapers. Consequently, it is important for investigators to be sure that the child is describing actual abuse, not normal parent-child interaction that has been misinterpreted.

## **ALLEGATIONS OF SEXUAL ABUSE IN FOSTER CARE**

With divorce cases, false allegations may arise out of the vindictiveness or misunderstandings of an adult and usually involve small children. Allegations in foster care more commonly involve somewhat older children, many of whom have a history of victimization. While children rarely lie about abuse, former victims of abuse are somewhat more likely to fabricate such charges or to misinterpret the actions of their caregivers as sexual abuse.<sup>40</sup> Assessing cases of abuse of children in foster care is more difficult, because the children may have been abused elsewhere and may be able to accurately describe sexual assault. They may have explicit knowledge of abusive behavior and know that last time it was accompanied by secrecy and/or coercion. Assessing their statement may be further complicated by emotional disturbance and/or a history of fabrication.

Special issues to consider in these cases include:

✍ Compare the details of the alleged abuse with prior victimization. Are the same words used and are the same acts or sequence of behavior described?

- ⌘ If the child has a history of fabrication, how does the detail of the current allegations compare with the detail and consistency of past fabrications?
- ⌘ What do other current or former foster children in the home or agency have to say about the child, the alleged perpetrator, and their relationship? Do they have circumstantial information to corroborate or refute the child's statement?

The fact that some foster children who were previously abused have a history of lying and emotional disturbance does not mean that such a child's statements regarding this abuse are not accurate.

## **MACRO-CASE**

Abuse and exploitation of children in out-of-home care settings have occurred in many communities nationwide. The long-held stereotype of the single "stranger" offender who abuses a lone victim is one that has increasingly proved to be unrealistic. Many of the out-of-home care cases now being properly investigated show that where there is a single offender, there probably will be multiple victims (possibly involving hundreds of children), and that a number of these offenders communicate and/or associate with others who have a similar interest in children.

Some investigations may well involve multiple offenders, multiple children, and multiple jurisdictions. These cases are the most complex and time consuming in which an investigator is likely to be involved. Correctly handling this type of situation from its inception is of utmost importance. These multiple victim and multiple jurisdiction cases have been called "macro-cases" because of the potential size of the case. While the macro-case protocol is described here, other excellent protocols exist, such as Los Angeles County's Interagency Council on Child Abuse and Neglect's multivictim, multisuspect protocol.

Media reports on alleged sexual acts committed against children in numerous out-of-home settings have elevated public and professional concern about the investigative procedures followed, as well as the safety of children. This media attention does not stop with the initial reporting of the complaint but continues as the investigation progresses into the trial. The focus of such attention may prompt investigators to move more rapidly and prematurely than the case and caution would warrant otherwise. It is critical in the face of such media pressure that investigators proceed methodically and in an organized manner. In the final analysis, when confronted with such a case, an investigator must pause, plan, prepare, and then proceed carefully.

The investigative team should determine who will be the spokesperson for the investigation. This person must be comfortable talking on camera or to newspaper reporters. The team and its agency supervisors must agree on a media strategy. Obviously the spokesperson cannot disclose the details of the ongoing investigation. The spokesperson can, however, give the media useful information without compromising the investigation, the rights of the alleged offender, or the children.

The team spokesperson can discuss how investigations like these are handled and assure the reporter that the team is seeking facts and that they have taken steps to control the contamination of the children's statements. The spokesperson can also provide background information on the number of reports of child abuse received each year and the rarity of allegations of multiple victim/multiple perpetrator cases. The spokesperson should present an image of professionals doing a difficult job in an objective manner. Having done so, it is incumbent that the team live up to this role. If the spokesperson responds to media inquiries with "no comment," the team opens itself up to manipulation by defense attorneys who, in many cases, have sought to portray the investigators as misguided zealots on a witch hunt.

Another overriding concern is to avoid pitfalls that defense attorneys will later use to try to destroy the case. Such cases defy the public imagination (and sometimes even that of the professionals investigating the case). This incredibility factor is easily exploited by defense attorneys. Attorneys will try to convince the public and jurors that “misguided zealots” (i.e., the investigators) have for some reason fabricated, induced, or brainwashed this preposterous tale into these innocent children’s minds. The primary defense strategy that has emerged in many cases is to identify the principal investigators as the problem, rather than the offender(s). By diverting attention away from the defendant, the defense attorney clouds the issue of exactly who is on trial and what the issues really are. The defense seeks to convince the jury that it is more likely that one or possibly two well-intentioned but inept investigators planted the story in the children’s minds, rather than face the reality of large-scale methodical abuse of children.

To limit such strategies, investigators are cautioned against relying exclusively on one or two principal investigators and are encouraged to establish two or more separate investigative teams and even involve multiple medical examiners when possible. The fewer the investigators, the greater the chance of challenge.

### **Investigative Teams and Design**

As soon as the possibility of a macro-case becomes known, the original investigator should request that additional personnel be assigned. These investigative teams should divide into separate units and act as separate units with absolutely no direct exchange of information among the different teams. The overall investigation and the work of these units should be coordinated by a central team leader.

Each unit should be assigned a cluster of potential victims to interview. It is wise to divide the high-risk population into different clusters and consequently different units.<sup>41</sup> The actual interviewing styles followed are consistent with other child victim interviews. Investigators should attempt to ascertain special activities, if any, that have involved the children, such as movies, television shows, games, clowns, magicians, or other similar events. Documenting such events may be important in separating fact from fantasy and in corroborating children’s statements. This information may also become critical in avoiding erroneous conclusions that mix actual abuse with a special event in such a way as to mislead investigators to conclude that ritualistic abuse has occurred.<sup>42</sup>

In some macro-cases where extraordinary levels of coercion have been employed by the perpetrator(s) to enforce the children’s silence, the victims will be slow to reveal what has happened; multiple interviews may be necessary. These children may initially deny all knowledge of abuse but then, as they feel more comfortable with the interviewer, the children may say, “it happened to someone else,” or “it may have happened to a friend,” and finally reveal that it actually happened to them—the process likened to peeling an onion one layer at a time.<sup>43</sup> Unfortunately, the defense will later use these inconsistencies to their advantage. A different qualified physician (if available) should be identified to examine the children of each cluster, if medical exams are to be given.

When the units complete their interviews (including those of the children’s parents) and prepare their reports, the coordinator will then assign the new children to be interviewed. These may be children who were identified by the original cluster as other victims or witnesses, or other children whom the team coordinator has identified as “high-risk.” These units will not be informed of the results of the other units’ interviews to avoid the charge that the investigators were working in concert to pressure the children into telling the same stories. While each team should validate its own interviews using established validation procedures that can be articulated later in the courtroom setting, it will be the team coordinator who puts the whole puzzle together and validates that it is a macro-case rather than an isolated case or cases within a single population. A diagram of how the structure might appear is given in Figure 1.

This investigation format should be followed as long as the possibility of a macro-case continues. While it may not seem feasible to commit that many investigators to a single case, the investigation will be completed far more rapidly, and the likelihood of a positive outcome will be enhanced. In reality, the actual hours of personnel devoted to the case would not increase. This should also help ensure that interviews, medical examinations, and the collection of physical evidence will be conducted in a timely fashion.

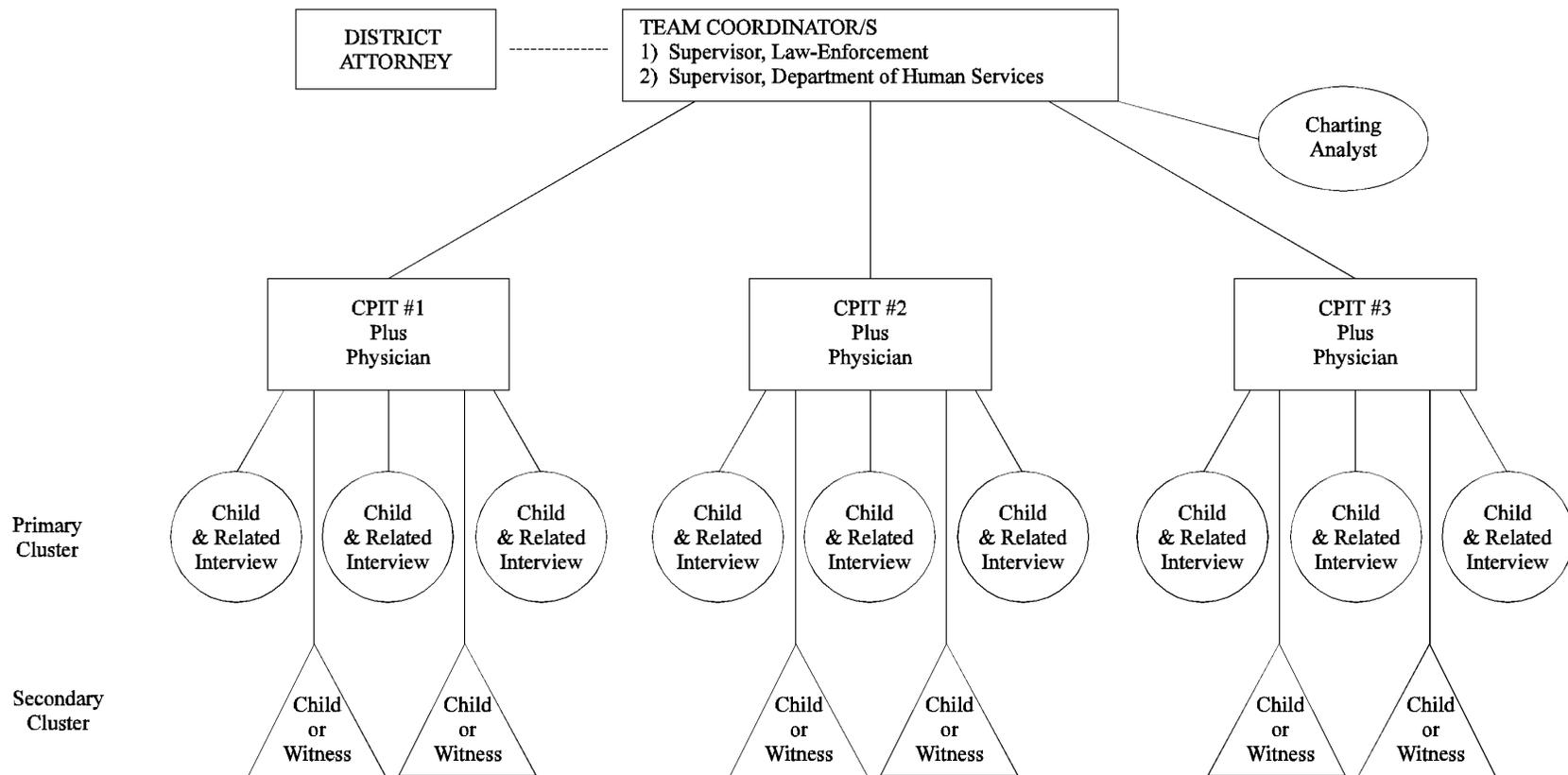
The team coordinator should take the investigative information submitted to him/her and, with the aid of a charting specialist (where available), prepare association and/or flow charting of all the activities and relationships which interviewees provide. A summary of each interview should be kept to list the name of the interviewee, the primary offender, other victims that the interviewee names, other offenders that the child names, potential witnesses, items of physical evidence mentioned, and locations where the abuse occurred. The prosecutor's office should be kept abreast of this information to better determine when enough information exists to obtain search warrants, at what locations, and what pieces of evidence are believed to be present. If multiple locations have been exposed as abuse sites, the possibility of simultaneous raids should be explored.

Since the potential for removal or destruction of evidence exists, this part of the investigation should move as rapidly as legally possible. Once the investigation is known publicly, past experience has shown that the likelihood of finding evidence the children have stated exists or finding it in the *same condition* that the children have described is rare.

As mentioned earlier, different physicians who are trained in the examination of sexually abused children should be employed. Many of these cases will require the use of specialized equipment and sophisticated techniques beyond the capabilities of untrained local physicians. Again, if only one doctor performs the exams, particularly if medical evidence is discovered, it is easy for the defense to challenge one physician's credentials, methodology of exams, and exam findings. Regrettably, many communities have few options in this area. By recruiting a different physician for each team, investigators minimize the chance that the defense will discredit the physician and relieve a single physician of the responsibility of having to document and testify in a multitude of cases.

By breaking down the number of interviews into manageable blocks, investigators are less likely to feel overwhelmed and confused about what has been disclosed and where the next step should lead. As always, the chain of evidence must be observed carefully.

**Figure 1**  
**SUGGESTED INVESTIGATION STRUCTURE**



## Parents

An important consideration is the reaction of the parents of the child victims and that of parents of possible victims. The mismanagement of the parents may be the single most common mistake in these types of cases and the most damaging to a successful investigation in the long run.

Investigators will see many different reactions by parents, from overreactive, overprotective, nonbelieving to supportive. In some situations, these reactions represent stages through which parents must pass to deal with the trauma of knowing that their child has been victimized. With other parents, investigators will see little or no movement toward healthy resolution. An effective investigation will address the issue, with a focus on moving parents to the more supportive mode. Initially, it will fall to the team coordinators to arrange for the proper environment for this process to begin.

A suggested protocol would be to call a meeting of all parents whose children are in the possible victim population as soon as the initial validation of a case has been made. This can be done by personal or telephone contact or by sending letters to parents requesting a meeting. The purpose of this meeting is to tell the parents that an investigation is underway and that they are requested to cooperate. Concern for the children and their well-being is stressed. It is appropriate to have one or more mental health practitioners at the meeting to assist in leading this discussion. Investigators can discuss the broad issues of child abuse and perhaps give the parents guidance on how to reduce risk of abuse in the future. The mental health professional can discuss how parents can best react to any disclosures or explain where to secure needed counseling. The investigators should expect a variety of emotions at this meeting, reflecting the various ways parents react to such allegations.

In some cases, families may distrust one another, fearing that information shared will get back to the alleged offender(s). The investigator leading the discussion should be clear on what will and can be discussed and what cannot. Smaller parent groups can then be established to help parents deal with the specific concerns they may have and to keep them informed of the progress of the investigation.

In summary, investigators must remember the following key points to successfully investigate a macro-case:

- ✍ Plan carefully, but react quickly, particularly in regard to possible physical evidence.
- ✍ Resist the temptation to respond to media pressure. Develop a strategy for all investigative agencies on how to respond to media inquiries. The team coordinators should be responsible for designating one person to be a media contact.
- ✍ Establish an investigative team large enough to interview all possible victims properly and quickly. Do not be afraid to ask for help.
- ✍ Appoint a team leader and break the team into investigative units, isolating the units from each other to avoid cross-contamination.
- ✍ Expect the children to reveal the abuse slowly.
- ✍ Chart and carefully document which child alleges what activity. These cases get complex very quickly.
- ✍ Understand parental reaction and try to harness parents' energies so they will not work against the investigative team.<sup>44</sup>

## **INVESTIGATION OF CHILD DEATHS**

Investigating the death of a child can be among the most difficult and frustrating types of cases law enforcement officers will encounter. In some cases the cause of death will be clear and a perpetrator obvious; unfortunately, this does not always happen. The National Committee for Prevention of Child Abuse reported 1,211 child abuse-related fatalities nationwide in 1990.<sup>45</sup> Also of interest to law enforcement are preventable deaths due to neglect, such as the death of an infant left unattended in a house fire or the child who accidentally ingests illegal drugs. However, officers and medical professionals will often be able to only speculate as to what happened to cause the death, and the autopsy report will read “undetermined” or “Sudden Infant Death Syndrome (SIDS).” In most cases, the investigators must carefully balance their investigative needs with sensitivity and sympathy for the grieving family, who may not be responsible for the child’s death. This requires skill and tact. The officer must gain adequate information to determine if the death was the result of the actions of the caregivers, without unduly adding to the trauma of the parents who lost the child. The basic steps in these cases are variations of normal investigations of possible homicides and physical abuse investigations.

### **Investigatory Steps**

#### ***The Crime Scene***

If the caretakers explain that the injury was sustained in a certain place, that location should be visited immediately. Photographs, videotapes, and/or diagrams should be made of the area where the injury occurred, noting the location of large toys, furniture, and other objects that might play a role in the injury or accident.<sup>46</sup> Any objects that might contain trace evidence should be secured. Depending on the case circumstance, the investigator may also wish to see other locations within the home, such as the child’s room (if other than the alleged scene of the “accident”) to observe any other possible sources of evidence (blood stains, vomit, or signs of struggle).

#### ***Interviewing Adults***

All caretakers and adult witnesses should be interviewed as they are in a physical abuse investigation. Topics to address in the interview include:

- ⌘ When was the last time they saw the child?
- ⌘ What was the child’s condition when last seen?
- ⌘ If they noted the injury or condition, when did it first appear and how did it progress?
- ⌘ List, to their knowledge, all persons who were with the child throughout the period of possible injury.
- ⌘ How did they react to the injury or condition and how did other caretakers react?
- ⌘ If the crime scene is significant, what observation did this person have of it and of charges made before the officer arrived?
- ⌘ Have they ever noticed injuries or similar conditions before?
- ⌘ Has the child been seen by a physician recently? If so, by whom?

- ⌘ Has the child ever been hospitalized? If so, where?
- ⌘ Does the child have regular medical contact? If so, with whom?
- ⌘ Does the child have medical insurance? If so, with whom? (This will enable the investigator to acquire a history of medical contacts.)
- ⌘ Has something of a similar nature ever happened to other children in the family or in prior relationships?
- ⌘ Do any of the caretakers use and/or abuse alcohol or drugs?

### ***Interviewing Other Children***

If the cause of death appears to be the result of a traumatic injury, any other siblings or children in the house should be interviewed. Investigators should be interested in what the children observed and when. Investigators may explore many of the same issues with all the children. Children should be approached in a nonthreatening manner. Investigators should also assess whether these children may have been abused or are at risk. If abuse is suspected in the death of a child, CPS caseworkers should be working with the officers to assess the history and risk of abuse to any minor siblings.

### ***Interviewing Professionals***

Any physicians, emergency medical technicians, or other professionals who responded to the scene or treated the child in the office or hospital should be interviewed. Complete statements should be taken regarding their observations and/or findings, statements made by the caretakers or others as to how caretakers acted during their contact, or other information of value.<sup>47</sup> They should also be questioned as to the medical procedures that they followed, which could have altered medical/physical evidence of abuse important in the validation of the case (for example, clothing the child was wearing was torn by emergency medical technicians to enable them to administer lifesaving measures).

### ***Providing Relevant Information to Medical Examiner Prior to Autopsy***

Officers should seek an autopsy any time the cause of death is suspicious. All pertinent information available should be provided to the medical examiner prior to the autopsy.<sup>48</sup> If the injury was reported as an accident, the medical examiner should review the officer's photographs, videotapes, and/or diagnosis to better assess the plausibility of the explanation given.<sup>49</sup> Statements taken from any suspects should be included.

Based on all the information available, the officer will need to decide if the case warrants further criminal actions such as presentation to the prosecutor and/or grand jury. Some cases will, in fact, be obvious homicides, while others will first appear to be the result of inflicted injuries, but, upon autopsy, may be declared SIDS or, in some cases, "undetermined." Many SIDS cases are medical anomalies that are unavoidable and that defy medical explanation. Some researchers suggest that at least some SIDS deaths are misdiagnosed as child abuse cases and/or accidents. When no outward signs of trauma are noted, the officer must be exceedingly sensitive. Many such cases involve families who did not contribute to the child's death. However, the investigative process cannot be short circuited because some "child homicides resemble (SIDS), more commonly called crib death,"<sup>50</sup> such as certain internal injuries, shaken infant syndrome, suffocation, poisoning, Munchausen syndrome by proxy, or drug injection.

# **SPECIAL INVESTIGATIVE TECHNIQUES**

## **MONITORED PRETEXT TELEPHONE OR PERSONAL CONVERSATIONS**

This is a term given to the use of monitored and electronically recorded conversations between a child abuse (usually child sexual abuse) suspect and an alleged victim. If successful, the recorded words of the offender can be used to gain a confession or guilty plea before or, if necessary, during the trial.

### **Telephone Method**

Use of the telephone is probably the most common method and represents the fewest risks for the victim. Under this arrangement, the victim would call the offender on the telephone and engage him/her in a conversation about the abuse. The caller needs to be fully prepared emotionally and intellectually for the contact. He/she must be capable of carrying on the conversation in a natural manner or the offender will become suspicious. When successful, these calls can yield detailed explanations on tape of why offenders had sexual contact with the child.

### **Personal Conversation**

In this arrangement, the victim meets personally with the offender wearing a body transmitter, again engaging the offender in a conversation about the abuse. The conversation is monitored by the officer and recorded electronically. This strategy has produced detailed incriminating statements and even overt actions that suggest abuse was about to be initiated.

### **Cautions**

Neither of these procedures should be used without consulting the department's legal counsel and without consideration of undue trauma for the child and his/her family. While pretext conversations offer a powerful tool when they work, they create risks to the victim and to the investigation. The victim must be emotionally stable and developmentally mature to not be adversely affected by the experience. This technique would be unwise and potentially emotionally abusive in its own right for a young victim or a severely traumatized and fearful victim. The telephone method is generally the least threatening for the victim, and the officer can exercise the greatest level of support and control (being in the room with the victim along with other supportive persons). The personal contact is far more threatening and risky. Even if law enforcement is nearby, the child is physically alone with the person who has victimized him/her and could conceivably be physically injured by the offender before law enforcement intervenes. For this reason, this technique is often reserved for adults who were victimized as children and who are now prepared for the confrontation.

### **Investigative Risks**

A possible risk is an unsuccessful contact, providing the defense with exculpatory evidence. If the offender has been alerted to the investigation or is generally aware of this technique through media accounts of other cases, he/she will use the contact to profess his/her innocence. However, if the victim is too young, immature, or emotionally unready to do this, he/she will not be convincing, thus alerting the offender and resulting in professions of innocence.

For the following reasons, investigators should exercise care in the use of this technique:

- ✍ **Authorization.** The alleged victim and parents should agree to the procedures with the understanding that at any time the child can terminate the call or meeting.
- ✍ **Timing.** It should be done early enough in the investigation so that the alleged offender is unaware of the investigation.
- ✍ **Victim maturity/stability.** This should be assessed in consultation with the mental health professional on the team, if available. While potentially placing stress on the victim, an elicited confession may allow the victim to avoid the extreme pressures of confrontation and cross-examination at trial.
- ✍ **Victim preparation.** The victim should be prepared fully and completely for the contact and should be offered maximum support and protection. It is not advisable to give the child a “script” to follow, but discuss in general the type of information the investigator must have.
- ✍ **Check equipment.** This is no time for equipment failure.
- ✍ **Staffing.** Have sufficient personnel in place if a face-to-face meeting is arranged. Backup is *essential*.
- ✍ **Background information of offender.** It is extremely important to know if the person being called has the CALLER ID<sup>?</sup> system or any other means of determining from where the call is being placed. The call should be placed from a “safe” telephone where the child can provide a callback number if necessary.

## **POLYGRAPHS AND PSYCHOLOGICAL STRESS EVALUATIONS**

These are used by many law enforcement agencies in conducting criminal investigations. As with other cases, there are the traditional problems with admissibility at trial, but they “may encourage additional statements which can be used as evidence.”<sup>51</sup> Many investigators have found polygraph reliability even more suspect in child sexual abuse cases. If used, careful attention should be given to the wording of the questions. (See the segment on interviewing the alleged perpetrator.) There is a natural temptation for some law enforcement officers to use a polygraph test to determine the accuracy of the child’s statement.

However, this practice sends a clear message to the child that the adults do not believe him/her, and it reinforces that child’s belief that he/she is to blame.

## **AUDIOTAPES OR VIDEOTAPES**

The use of audiotaping or videotaping victims varies radically across the country. Some States have laws that allow the introduction of investigative videotapes into evidence at various stages of the criminal trial. The appellate reviews on these statutes have been mixed. As a result, law enforcement officers are generally encouraged to defer to the prosecutor on the wisdom of audiotaping or videotaping statements of the victim. Some jurisdictions allow the use of the tapes in juvenile or family court, but not in criminal court. If such taping is acceptable within the jurisdiction, there are several advantages and disadvantages that must be weighed.

### **Advantages**

- ⌘ Taping reduces the number of times the victim must be interviewed, allowing other investigators, supervisors, and prosecutors to review the child's statement accurately without reinterviewing the victim.
- ⌘ It provides an accurate account of the statement, not the recollections or interpretations of the interviewer.
- ⌘ It can be extraordinarily powerful in gaining a confession. By playing a short powerful segment of the tape, it might be useful in breaking down the suspect's defenses.
- ⌘ It can be used with a nonoffending parent to force the reality of the abuse upon him/her, in an effort to get him/her to protect the child.
- ⌘ In some States, it can be used in lieu of the child's testimony in juvenile court, at grand jury, or at preliminary hearings. Additionally, in some States, it can be used at trial if the child is also available at trial. In other jurisdictions, the taped statements of the child taken during the investigation or in deposition *may* be admissible if the trial court finds the child to be "unavailable" as a witness. These procedures are being challenged in the appellate courts and the outcome of their use is uncertain.

### **Disadvantages**

- ⌘ A tape records the child's denials as well as disclosures. Many children disclose in phases, first denying, then disclosing a little, then more, and as they gain comfort, even more details. The tape documents the denials and earlier inconsistencies for the defense to exploit.
- ⌘ The tape documents every error the interviewer makes, every misphrased or leading question.
- ⌘ It allows defense "experts" an opportunity to critique every word chosen in the interview and to characterize the interviewer's actions in a negative manner.
- ⌘ It is not admissible in many courts or cases.
- ⌘ The equipment may make the child uncomfortable or distracted.

If taping is used, procedures should be built into the investigative protocol for when it is used, by whom, and in what cases. The protocol should also include the disposition of the tapes, i.e., who gets the copies. The team needs to be sure that it adequately attends to the technical aspects of recordings, so that the product is clear and one can see and hear what is happening during the interview.

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# ISSUES IN ARREST

## THE MIRANDA WARNING

As in any other investigation, the Miranda warnings should be provided prior to any *custodial* interview of the alleged offender. Officers should never try to circumvent the necessity of these warnings by having the CPS caseworker interview the suspect in a custodial setting (such as a police station, jail, or after arrest). Failure to properly observe these requirements will result in the inadmissibility of the statement for trial and expose the parties to lawsuits.

If the investigator's interview is considered an in-custody interrogation, the law enforcement officer must give the perpetrator the following warnings as prescribed by the Supreme Court of the United States in the Miranda case.

- ✍ He/she has the right to remain silent, and he/she need not answer any questions.
- ✍ If he/she does answer questions, the answer can be used against him/her.
- ✍ He/she has the right to consult with an attorney before or during questioning by the police.
- ✍ If he/she cannot afford to hire an attorney, one will be provided for him/her without cost.

All of these warnings must be given in such a way that the suspect clearly understands what he/she is being told.

If the suspect indicates at any time or in any manner whatsoever that he/she does not want to talk, the interrogation must cease. The interrogator is no longer privileged to talk him/her out of this refusal to talk.

If the suspect says at any time that he/she wants a lawyer, the interrogation must cease until he/she has the opportunity to confer with an attorney. No further questions may be asked of him/her outside the lawyer's presence or without the lawyer's permission, nor can the interrogator "talk him out of his desire for a lawyer." However, the subject can recant of his/her own free will the desire for a lawyer.

*Currently, the only time a police interrogation of a suspect who is in custody or otherwise restrained can be conducted is after he/she has been given the required warning and after he/she has expressly stated that he/she is willing to answer questions without a lawyer being present. Once that waiver is given, the interrogator may then proceed to employ those interrogation techniques and tactics that are normally used. They can also be used without prior warnings or waiver on a suspected person who is not in police custody or otherwise deprived of his/her freedom of action in any significant way.*

## USE OF ARREST VERSUS GRAND JURY PRESENTATION

"In most communities only a very small proportion of child abuse and neglect cases result in arrest"<sup>52</sup> and prosecution. When prosecution is indicated, the officer and prosecutor must make a determination about the best way to proceed. Depending on the jurisdiction, the investigator will weigh the advantages and

disadvantages of an immediate probable cause arrest against the advantages and disadvantages of other charging options, such as direct presentation to the grand jury.

The first decision is whether immediate arrest is required. Probable cause arrest has certain disadvantages in child abuse cases. In an incest case, for example, premature arrest may result in the family closing ranks to protect the perpetrator before the investigation is concluded.<sup>53</sup> In most jurisdictions, it means a preliminary hearing in which the child may have to testify often before he/she has even fully disclosed or begun to be prepared to confront the offender. A recantation on the stand can have a devastating impact on the child and the prosecution. As the National Center for Prosecution of Child Abuse suggests, "In general avoid having the child testify at preliminary proceedings," except where the law requires or the prosecutor wishes to evaluate the strength of the case.<sup>54</sup>

There are times when immediate arrest is indicated, including when:

- ✍ there is reason to believe that the perpetrator will flee the jurisdiction if given the opportunity;
- ✍ it is necessary to preserve the peace or protect the child; and
- ✍ the suspect presents an immediate threat to others.

Whenever arrest occurs, there are guidelines that will reduce the adverse impact of the process on the child in intrafamilial cases and increase the likelihood of cooperation from the offender.

- ✍ Investigators should not arrest and handcuff the perpetrator in front of the victim, if there is any type of positive or formal relationship involved.
- ✍ If arrest is anticipated, investigators should be sure a records check is conducted for past arrests first; there may be outstanding charges or a history of resisting.
- ✍ Investigators may give a cooperative offender who has confessed the opportunity to present him/herself for arrest.

# CONCLUSION

In the final analysis, the skills and judgments required of law enforcement officers in response to child abuse cases are significantly different than that expected of officers in the investigation of most criminal activity. Factors that set apart child abuse cases are:

- ⌘ At the onset of the investigation, officers must not assume that abuse, and therefore a crime, has occurred. The investigation must not just seek who is responsible, but must first establish that what has happened constitutes child abuse as defined in State law.
- ⌘ Officers must communicate effectively with children in child abuse cases far more often than in any other class of crime. The child, particularly in sexual abuse cases, may be the only witness to the crime (beside the perpetrator).
- ⌘ The officer must share power and authority with staff of other investigative agencies who have an equal responsibility to investigate allegations of child abuse. CPS staff must be viewed and developed as allies, rather than competitors or impediments in the criminal investigative process.
- ⌘ Officers must often defer to the judgments of other professionals in assessing the evidence before them, including physicians, coroners, or mental health professionals.
- ⌘ The officer may find that the case is affected by more judicial systems than any other class of crime he/she is likely to confront. It is not uncommon for the criminal investigation and prosecution to be influenced by the juvenile or family court judge, the divorce judge, or administrative bodies such as licensing review boards or State CPS due process systems.

Ultimately law enforcement and the criminal justice system alone cannot successfully confront child abuse. Likewise, the child protection system or the mental health or medical professions cannot deal effectively with this problem alone. It is only through the effective integration of the strengths of all who provide services to abused and neglected children and their families that successful outcomes can be achieved. For this reason, officers involved in the protection of children, either as a function of their patrol duties or as a special investigative assignment, must seek ways to build effective relationships and alliances with the other systems involved in child protection. Law enforcement officers cannot isolate themselves in their own system and expect to address this problem effectively. Officers who may be experienced in other aspects of law enforcement can only be effective if they acquire the special skills and knowledge needed for this work. While some officers may have natural abilities with children, special training promotes understanding of the special developmental limitations and abilities of growing children and positively influences the investigative and factfinding process.

Officers must also be prepared for the special emotional toll that child abuse cases may exact from professionals involved. Failure to fully appreciate this aspect can lead to early burnout, but may also cloud judgment and objectivity. The potential for such influences to adversely affect the officer's performance can be mitigated through effective coordination with the other agencies and professions actively involved in the protection of children.

It is the interdisciplinary team that is our best tool in combating child maltreatment.

## GLOSSARY OF TERMS

**Age-Appropriate Language** - a phrase used to describe language used by the child during an investigative interview in relation to the child's developmental status. In other words, the law enforcement officer encourages the child to speak using his/her own language; the officer assesses the credibility of the child based on this interaction.

**Child Protective Services (CPS)** - the designated social service agency (in most States) to receive reports, investigate, and provide rehabilitation services to children and families with problems of child maltreatment. Frequently, this agency is located within larger public social services agencies, such as Department of Social Services or Human Services.

**Child's Sense of Time** - a phrase used to explain the fact that children frequently are unable to remember exact dates and times but may be able to remember in relation to incidents that are meaningful for them, such as "after school was out" or "around Halloween."

**Day Care Licensing Boards** - administrative bodies responsible for licensing day care homes and centers. When allegations of abuse or neglect at a day care center are made, the licensing department must determine if the license should be revoked based on an instance of child maltreatment.

**Family Preservation/Reunification** - established in law and policy and the philosophical belief of social services agencies that children and families should be maintained together if the safety of the children can be ensured.

**Juvenile and Family Courts** - established in most States to resolve conflict and to otherwise intervene in the lives of families in a manner that promotes the best interest of children. These courts specialize in areas such as child maltreatment, domestic violence, juvenile delinquency, divorce, child custody, and child support.

**Macro-Case** - a term used to describe complex cases of abuse and exploitation of children in out-of-home care settings involving multiple offenders, multiple children, and/or multiple jurisdictions.

**Monitored Pretext Telephone or Personal Conversations** - a term given to the use of monitored and electronically recorded conversations between a child abuse suspect and an alleged victim.

**Munchausen Syndrome by Proxy** - a form of child abuse, Munchausen Syndrome by Proxy is characterized by the deliberate initiation or reporting of physical symptoms in a child. These symptoms do not follow the usual course of illness and may occur when the caretaker or parent believes that care of a sick child will solve personal conflicts and provide social rewards.

**Multidisciplinary Team** - established between agencies and professionals within the child protection system to mutually discuss cases of child abuse and neglect and to aid decisions at various stages of the child protection system case process. These teams may also be designated by different names, including child protection teams, interdisciplinary teams, or case consultation teams.

**Out-of-Home Care** - child care, foster care, or residential care provided by persons, organizations, and institutions to children who are placed outside the family, usually under the jurisdiction of juvenile/family court.

**Protocol** - an interagency agreement between CPS and law enforcement that delineates joint roles and responsibilities and establishes criteria and procedures for working together on cases of child abuse and neglect.

**Response Time** - a determination made by CPS and law enforcement after receiving a child abuse report regarding the immediacy of the response needed by CPS or law enforcement.

**Risk Assessment** - an assessment and measurement of the likelihood that a child will be maltreated in the future, usually through the use of checklists, matrices, scales, and/or other methods of measurement.

**Sudden Infant Death Syndrome (SIDS)** - the sudden death of an infant under 1 year of age that remains unexplained after the performance of a complete postmortem investigation, including an autopsy, an examination of the scene of death, and review of the case history.

**Substantiated** - a finding made by CPS after investigating a child abuse or neglect report indicating that credible evidence exists to support that child maltreatment did occur. The criteria used to substantiate a report are different in each State. Other terms used in some States are “indicated,” “validated,” or “founded.”

**Unsubstantiated** - a finding made by CPS after investigating a child abuse or neglect report indicating that credible evidence *does not* exist to support that child maltreatment occurred. In some States, the term “unfounded” is used.

**Validation** - a determination made by law enforcement after examining the evidence regarding whether child abuse or neglect has occurred. Based on this determination, the officer must judge what further action is necessary.

## NOTES

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3. American Bar Association, *Law Enforcement/Child Protection Cooperation*, 20.
4. National Center on Child Abuse and Neglect, *Study Findings*, 6–17.
5. American Bar Association, *Law Enforcement/Child Protection Cooperation*, 43.
6. *Ibid.*, 44.
7. *Ibid.*, 44.
8. D. J. Besharov, *Child Abuse and Neglect Reporting and Investigation: Policy Guidelines for Decision Making* (Chicago: American Bar Association, 1988), 3.
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16. K. Drews, M. Salus, and D. Dodge, *Child Protective Services: Inservice Training for Supervisors and Workers* (Washington, DC: Creative Associates, Inc., 1980).

17. Information to gather from the reporter has evolved over many years of practice. Discussions began in the *We Can Help Curriculum* (Washington, DC: National Center on Child Abuse and Neglect, 1978); J. L. Jenkins, M. K. Salus, and G. L. Schultze, *Child Protective Services: A Guide for Workers* (Washington, DC: Government Printing Office, August 1979); Drew, Salus, and Dodge, *Child Protective Services Inservice Training for Supervisors and Workers*; and W. Holder and C. Mohr, eds., *Helping in Child Protective Services: A Casework Handbook* (Englewood, CO: American Humane Association, 1980). In addition, the development of State CPS policy and procedures has further defined the information to be gathered from the reporter.
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22. *Ibid.*, 27–50.
23. S. Sgroi, F. Porter, and L. Blick, *Handbook of Clinical Intervention in Child Sexual Abuse* (Lexington, MA: Lexington Books, 1982).
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26. D. Jones and M. McGraw, "Reliable and Fictitious Accounts of Sexual Abuse to Children," *Journal of Interpersonal Violence* 2(March 1987):32.
27. K. McFarlane, Presentation at National Conference on Child Abuse and Neglect, Chicago, 1985.
28. Jones and McGraw, "Reliable and Fictitious Accounts of Sexual Abuse to Children," 33.
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## **AUDIOVISUALS AND PUBLIC AWARENESS MATERIALS**

For information on audiovisuals or public awareness materials on these topics, please contact:

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