

Child Abuse Investigation

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One of the most dreaded assignments for most police officers is that of investigating a complaint of child abuse. This fear stems from many sources, not the least of which is the feeling of inadequacy in terms of specialized investigative skills. This, in turn, gives rise to the fear that some detail might be overlooked that ultimately might prove to be crucial to the investigation of the crime and the prosecution of the guilty party. That having been said, we need to realize that it is imperative for each officer to learn to recognize these crimes, and to be able to carry out the area of the investigation which is his responsibility. This is true whether he is the first responding officer or a criminal investigator assigned to the case.

In the normal scheme of training and preparing an officer to do his duties, not enough emphasis is placed on developing specialized skills which will serve him when he is called on to investigate a crime of this nature. Often, the officer is told that “someone else” will investigate this type of crime, and little further thought is given to the matter. This view overlooks the fact that almost every officer will be the initial responder to a crime of this nature at some time during his career. In addition, most officers who are assigned to full time duties as investigators are not sufficiently trained in the specialized skills that are needed to adequately recognize and investigate this type of crime. These are skills which can be easily taught and learned, and will be discussed herein.

With these issues in mind, we'll look at some of the things officers need to be aware of when they are called to a crime of this nature, such as the type of activity which constitutes child abuse, as well as techniques to use while processing the crime scene and interviewing the victim and suspect. As mentioned before, these are some of the specialized skills investigators need to develop in order to adequately investigate such crimes. When an officer is familiar with these methods, he is more confident in his abilities and therefore more apt to thoroughly investigate the crime.

### Types of Crimes Which Constitute Child Abuse

Depending on the wording of the various state codes, there are several types of actions, or the lack of, which can be considered to be child abuse. Child abuse can consist of sexual abuse, neglect, or physical abuse. Often children undergo emotional or verbal abuse that is not strictly defined by statute, and is subject to interpretation by courts or counselors. Barbieri and Berliner (1984) state that "Sexual activity with children is prohibited by custom in all known societies and is illegal in every state of this country, regardless of the degree or type of coercion by the adult, or accommodation by the victim. Children under a certain age are considered legally incapable of consenting to sexual relations.....The crime has been known as rape, statutory rape, indecent assault, incest, sexual battery, criminal sexual conduct, indecent liberties, and a variety of other names. By whatever name, child molestation is universally considered to be deviant behavior." Neglect and physical abuse of children generally fall under

the same statutes that govern such conduct against other persons, although there may be enhanced penalties if the victim is a child. Barbieri and Berliner (1984) also tell us that, as a rule, "Child sexual abuse can be generally defined as sexual contact by an adult, by a person who is more than five years older (difference varies from state to state) than the child, or by anyone with the use of force."

### Response to Child Abuse Complaints

The officer who is the initial responder to a complaint of child abuse should be aware that there are many similarities to comparable crimes that are committed against adults, but he should realize there are important differences in the way some of these crimes will be investigated. For instance, child victims are interviewed using different interview techniques than those used with adult victims, and the suspects often are approached differently, as well. Since most sexual abuse complaints are not immediately reported, there is often no crime scene to protect. The initial responder should determine if this is the case, and then act accordingly. If he sees that a crime scene exists, it should be preserved with the same diligence as would be accorded to any other crime scene, but if the alleged crime occurred at an earlier date or at another location, this is not as much of a consideration. In any event, he should make an effort to gather all information regarding the identities of the victim, the suspect, and other potential witnesses. Unless he is to be the officer who is assigned to fully investigate the case, the responding officer should make no effort to interview the victim or suspect, beyond the normal need to make sure that no further danger exists to the victim. He should also refrain from letting

personal feelings toward the victim or suspect influence any of his actions. If the crime is one involving physical abuse, he should see that the victim's medical needs are met. If it is one that involves neglect, he should contact the appropriate social service agency and ask them to send a representative. After doing these things, he should see that the actual investigation is initiated as soon as possible. If he is to be the investigator, he should continue gathering facts. If he is not to be the primary investigator, he should stay at the scene until the assigned investigator arrives, or assist the victim in contacting the primary investigator.

At this time, we'll assume that the initial responding officer is also the investigator who is to fully investigate the crime, and we'll examine some of the actions he needs to take to ensure that the incident is investigated in a competent manner. With this in mind, we'll discuss the investigation of the crime scene, the interview of the victim, and the interview of the suspect.

### Investigation of the Crime Scene

As we alluded to earlier, whether or not there is a crime scene to be processed depends on a number of factors. Remember—there is always a crime scene. Unfortunately, so much time may have elapsed between the commission of the crime and the report that there will be no physical evidence to obtain at the scene. One of the first things the investigator needs to ascertain is the date/time the crime occurred. He will base his crime scene actions on that information.

Let's first assume that the crime occurred within the last few hours. If this is the

case, he should act on the assumption that there could be physical evidence at the scene which would prove or disprove the allegations. First and foremost, the investigator should make sure that he has legal grounds to search whatever area he is searching. If the alleged incident occurred outside, in a public or open place, this doesn't present a problem. Most of the time, this time of crime occurs in the child's home, or the home of a relative or acquaintance. Knowing this, the investigator must either obtain a consent to search from a person who is authorized to give such consent, or prepare an affidavit and obtain a search warrant from a magistrate. Only when he is on firm legal ground may the search begin.

What is the object of the search? What does the investigator look for? This obviously depends on the type of complaint. No matter what the nature of the complaint, he should search for and take into evidence items which may hold evidence of the crime. If the crime is of a sexual nature, this could include such things as sheets or blankets, items of clothing such as panties and pajamas, towels and washcloths, and any other item which the investigator thinks could possibly show traces of physical evidence such as saliva, semen, hair, blood, or any other substance which could be important to his case. These items will vary on a case to case basis. In some instances, he may be searching the trash for items such as condom packaging or tissues which may have been discarded. In others, his main focus may be to find a particular item which was described by the victim as being present at the location of the crime. If the crime is one of physical abuse, the investigator may be searching for bloodstains, for items which may have been used to clean up such stains, or for items which may have been used to inflict the injury. He should have an idea of the type of injury that was inflicted, and look for items which

could have caused such an injury. This could include items such as belts, extension cords, wooden sticks, toys, clothes hangers, or any other item which the suspect could have used to inflict the injury. He should also be aware of what clothing the victim or suspect was alleged to have been wearing at the time of the crime, and see if that clothing can be located. If the crime is one of neglect, the investigator may be looking for the absence of certain things, such as food, clothing, or medical supplies. He may also look for the presence of things which could constitute physical danger to the child or the child's health, such as unprotected electrical items, or unsanitary conditions.

As our next scenario, let's assume that the crime occurred days ago, or even weeks or years ago. This is not uncommon in child abuse cases, as most are not reported immediately. Is it now necessary or beneficial to conduct a crime scene search? This is a question that can only be answered by the investigator, but he must always keep in mind how he plans to make his case. He'll have to be able to show that the crime could have occurred as the victim says it did, and a crime scene search, late as it may be, may help him to do that. It will probably still be to his advantage to photograph and diagram the place where the crime was alleged to have occurred, even though enough time has passed to make the gathering of physical evidence impossible or unlikely. If he has such photographs and diagrams when his case goes to trial, the investigator will be able to show the jury exactly how the crime scene was laid out. This could be very important in convincing the jury that the crime could have occurred exactly as the victim described it. Often, a suspect will allege that he could not have committed the crime since someone else was in the house and could have seen or heard him, thus making it impossible for

him to have done that which he is accused of. A good crime scene diagram, which shows the relative locations of various rooms, windows, etc., can give the jury valuable information that they can use to decide the case. The diagram and photographs can also be used to show that the child victim's recollection of the arrangement of the scene was correct, and not a fabrication.

The other important crime scene consideration is that the body of the victim is a crime scene. Whether the crime is one of sexual abuse, physical abuse, or neglect, the body of the victim is a major part of the crime scene. Whether the crime just occurred, or whether it happened sometime in the past, the victim needs to be examined by a doctor. If the crime is of a sexual nature, the doctor used should be one who is familiar with doing sexual abuse examinations. In the case of a recent sexual assault, the investigator should ensure that the doctor collects swabs of all of the victim's body orifices, and the doctor should be asked to look for any hair or other evidence which may have transferred from the suspect to the victim. When the investigator receives the evidence, the chain of possession should be carefully maintained as the evidence is transported to the laboratory. The victim should also be examined and treated, if treatment is needed, for sexually transmitted diseases. In the case of physical abuse or neglect, photographs of the injuries (or evidence of neglect) should be made in accordance to accepted forensic methods, including the use of measuring devices in the pictures to give scale to that which is depicted. Medical records should also be obtained, again through proper channels so that they can be presented in court. The investigator should keep copies of releases for medical records which he can have signed by the proper person. If the

suspect also happens to be the child's parent, caretaker or guardian, and there is not another person available who can legally sign the release, the investigator must be prepared to have the prosecuting attorney subpoena the medical records. Prior consultation with the prosecutor will greatly streamline this process, in that both the investigator and the prosecutor will know what is expected of them.

### Interview of the Child Victim

As soon as is reasonable, the victim should be interviewed. Although the investigator's primary intent is to gain information, he should make a special effort to protect and support the child. He should be non-confrontational and should keep in mind that children view events differently than do adults. He should also keep in mind that unless there is some outside influence, children rarely make up stories of sexual abuse. According to Inbau and Reid, (1966), "Of incidental interest at this point is the fact that it is exceedingly rare for a child to falsify a sex report. The exceptions to guard against are situations in which there is a reasonable likelihood that some adult induced her to make the accusation. An illustration of this possibility is a situation where the accused is the estranged husband of the child's mother, or where there may be some motive on the part of the mother or other member of the child's family to embarrass or otherwise hurt the accused or damage his reputation." (p. 111). With this in mind, there are several things to keep in mind when preparing for an interview.

1. The first incident reported is not usually the first incident. Statistics show that most abused children have been abused for at least two years before the incidents come to light. The investigator should be prepared to begin his questioning by asking about earlier incidents which may have been less threatening to the child, and therefore easier to talk about.
2. If at all possible, the child should be interviewed privately in a relaxed, neutral setting. If the child wants a support person present, this should be allowed, but that person should be seated to the side of or behind the child to decrease any likelihood of his coaching the child. Avoid interruptions by phone, other officers, etc., since they are disruptive to a child's comfort and attention span. The officer should be comfortable discussing the issues, and should not allow anger or personal emotions to show.
3. The investigator should be in street clothes, never in uniform. He should not have any visible weapons, and should make sure that the child understands that the investigator is there to help, and that the child is not and will not be in any trouble, regardless of what he may disclose to the investigator.
4. Materials which are appropriate to the age of the child may be used to make him comfortable. These could be crayons, paper, or other similar supplies. They may be useful in that the child may be more comfortable indicating places he was touched by the use of drawings.
5. The investigator should learn what words the child uses for certain body parts and functions. This can be done by asking the child's parents, or by pointing out the body parts on drawings and asking the child to name each one. He should avoid using words that the child doesn't understand.

6. The investigator should keep the number of interviews to an absolute minimum. He should consult with other people who have an interest in obtaining information from the child and try to incorporate their questions into his interviews. This will cause less trauma to the child, and lessen the chances of confusion about the facts.

7. Consideration should be given to making a video or audio tape of the interview. This can serve several purposes. Other interested parties can view or listen to the tape, rather than having to personally interview the child. The tape can also be used in court to refute accusations by the defense that the child was subjected to leading questions. The recorder should be placed in an unobtrusive place, so it does not become a distraction to the child.

Once the foundation is laid and the investigator is prepared, the interview may begin. The first thing the investigator needs to do is introduce himself and explain his role. He may say, "My job is to keep kids safe, and I wanted to find out what might have happened to you." How he introduces himself will vary according to the child's age. He can spend some time visiting with the child about hobbies, school, etc., but it should not appear that he is stalling or is uncomfortable discussing the issue. During this time, he should establish his own credibility. He should let the child know that he has talked to many children who may have been hurt, and that he understands how the child feels. This will also minimize the child's sense that he is the only person to whom something has happened. The investigator should refrain from making any promises to the child about what will happen to the suspect, and should make sure that the child understands that the information he gives the investigator will be shared only with those who have a need to know. Whatever his personal style may be in conducting the interview, the

investigator must always keep in mind that his role is to gather all the facts he can possibly gather about what may have happened to the child, and who is responsible. He does not have the luxury of letting his personal feelings or emotions influence what he says or does. It is important that investigators keep in mind that “they are not surrogate parents who can drop what they are doing and cry with the child.” (Layman and Bryan, 1988, p. 63). If one does this, he loses his effectiveness.

As the child becomes more comfortable with the investigator, the investigator can start to find out specific facts. In my experience, it’s been helpful to have a checklist or “cheat sheet” that I can look at occasionally to make sure nothing is overlooked. As in any investigation, the basics of “who, what, when, where,” and “how” need to be addressed. In finding out these things, the investigator will find out that certain types of questioning work better than others. Sometimes he can use statements like “some adults play games that they shouldn’t,” or “some adults hurt kids when they really don’t mean to,” to get the child to open up. The investigator must avoid leading questions, or questions that require only a “yes-no” type answer, and should let the child describe what happened in his own words. The investigator should never describe a sexual act and say “Is this what happened to you?” He can ask the child if he can identify the areas of his body where it’s OK or not OK to be touched, or about “good” and “bad” touching, and if anyone has ever touched him in a way that made him uncomfortable. As mentioned earlier, he should find out the child’s names for these areas, and use them if possible. He should remember that when a child says something like “he had his clothes off,” the child may mean that the person was naked, or he may only mean that the person was dressed for bed. The investigator must be very specific and make sure he knows

exactly what the child is describing. For instance, if he asks the child if an adult has ever undressed him, he should make sure he differentiates between normal activities such as bathing and other circumstances wherein the activity would not be normal.

As was mentioned earlier, the investigator should first try to find out the basics of “who, what, when, where,” and “how.” As these items are covered, he needs to find out as much specific information as possible. The following information should always be gathered.

1. “Who” is the person who did this? Where does he live? What is his real name? How often was the victim around him? What is his relationship to the victim?
2. “What” happened? How did it begin? How long did it go on, and how many times? Exactly where was the child touched, and with what? Were his clothes on or off? Were the adult’s clothes on or off? Was anyone else in the house? Did the same thing happen each time, or did it change to other things? Does the victim remember anything specific to the abuser, such as a tattoo or scar? Did the abuser take photos of the child?
3. “When” did the incident/incidents happen? A young child may reference “when” to day or night, to a season, to when a certain television show was on, or even if he was going to school at the time or was out for the summer or holidays
4. “Where” did the incident/incidents occur? Did they only happen at the child’s home? At someone else’s home? Be very specific about locations, and who had access to those locations, and why they had access.
5. “How” did it happen? Was anyone else in the home at the time? If so, where was everyone else? Find out how the opportunity presented itself to the abuser, and if anyone else could/should have been aware of what was going on. How did it continue, if it in

fact did? Was the child threatened, and told not to tell anyone? Did he tell anyone?

Who? If so, what was their reaction?

After all these items are explored as fully as is possible, the investigator might also want to add “why” to his questions. He should understand that the child will not know the real reason for the abuse, but may have been given an excuse by the adult. Was the child given any reason by the adult for his actions? Did the adult make any excuses for his conduct? These questions may or may not be appropriate, and will depend on the investigator’s assessment of the child.

When concluding the interview, the investigator should ask the child if there is anything else he wishes to talk about. He should explain to the child that often he forgets to ask things which might be important, or things that the child might expect him to ask, and should give the child the opportunity to ask questions. He should offer to answer any questions that the child may have for him, and explain to him “what happens now” in regard to the investigation. Above all, he should make sure that he has gleaned all the information he can get, and thus will not have to go back to the child and re-interview him.

After the interview, the investigator should assess what he has learned from the child, and if there are any protection issues, he should address them with the appropriate parties. Such issues might be a disclosure that the abuser lives in the home with the child, or is a person with whom the child has frequent contact. In the cases such as this, arrangements should be made to ensure the child’s safety.

## Interview of the Suspect

After the victim has been interviewed, and all possible information gathered from whatever sources the investigator may have, the suspect should be interviewed. The ultimate goal of the interview is to find out what has happened, and to hopefully extract a confession from a guilty party.

The investigator should keep several things in mind while preparing for the interview. He should refrain from letting his personal feelings show to the suspect. In my experience, I've found that when an investigator treats a child abuse suspect with disdain or contempt, the suspect will barely talk to the investigator, much less admit to having done anything wrong. The investigator, if possible, should interview the suspect by himself, with no other investigators present. Psychologically, it is much easier for a suspect to talk about things he may have done to a child when there is only one other person present. He may feel that he is "getting it off his chest," and won't feel as intimidated if he is only talking to one person. Since there are many similarities between the interview of a suspected child abuser and that of any suspect, I won't go into as much detail about how to conduct the interview, but will touch on some methods that may result in the successful interview of such a suspect.

The interview should be conducted in a quiet place that affords privacy, which has none of the usual police surroundings, and with no distractions within the suspect's view. When the investigator begins his interview, he should give "miranda" warnings if appropriate, and then place those forms where they will be out of the sight, and hopefully out of the mind, of the suspect. According to Inbau and Reid, (1966), "the less there is in the surroundings of an interrogation room to remind a criminal offender, suspect, witness,

or other prospective informant that he is in police custody or in jail, or that the penitentiary awaits him or someone else about whom he may have incriminating information, the easier it is for him to make a frank statement or to supply the interrogator with the desired information.” (p. 11). The investigator should talk to the suspect in a conversational tone, and try to make him as comfortable as possible. The interview can be conducted like any other criminal interview that the investigator normally does, except that the investigator should go out of his way to not say anything which the suspect will perceive as offensive, and which might make him refuse to talk to the investigator. The investigator should elicit information by appearing sympathetic to the suspect, however reprehensible the suspect’s actions may seem to him. The investigator may inwardly feel like going outside and being sick, but he must maintain the appearance of being sympathetic to the suspect and understanding of what he has done. He doesn’t have to say he condones the individual’s actions, only that he understands how the suspect could have, in the circumstances described, acted as he did. The investigator may even wish to place part of the blame on the victim during the interview, if he feels that this tact will help the suspect to tell what happened. Legally speaking, if the suspect admits his actions, his placing the blame on the victim doesn’t lessen his culpability. The investigator should also be patient, and understand that an admission or confession may not be forthcoming for quite some time. A person often takes a long period of time to become convinced that it’s in his best interest to tell what happened, particularly when the crime is of a sexual nature. Once the investigator establishes a rapport with the suspect, it’s much easier for the suspect to make admissions to him.

After an admission or confession is gained, it must be documented. Although it's not necessary to record or document all of the questions and dialog leading to the admission, once an admission is made it needs to be preserved, either by a tape-recording or by having the suspect sign a written statement. The suspect's fear of consequences to himself as a result of allowing this may be minimized by the investigator, although he should be careful not to make any promises to the suspect regarding what might happen to him.

Once the suspect's statement is taken, the investigator will take the appropriate action, whether it be placing the suspect under arrest on the spot, or consulting with the prosecuting attorney's office about the filing of charges.

### Conclusions

It is important that investigators and first-responding officers be familiar with the investigation of child abuse complaints. The crime scene must be evaluated, and if necessary, preserved and processed. Evidence should be gathered which could related to the crime, and it must be remembered that the victim's body is a crime scene. The child victim must be interviewed in a way that will make him comfortable with the investigator and able to relate incidents to the investigator which will enable him to prepare a viable case. Special attention should be paid to terminology used by the child, as well as making sure that the "who, what, when, where, and how" of the crime is addressed, as well as "why," if possible. The child's welfare should also be addressed, in terms of keeping him safe in the future. When the suspect is interviewed, he should, if possible,

be interviewed by only one investigator, since this has been shown to make it easier for him to talk about his possible misdeeds. He should be interviewed in a place that's quiet, and that does not have an overt feeling of a jail or police institution. He should be treated in a manner that will not cause him to sense animosity of the investigator, since this can make him totally unwilling to talk.

All of the things mentioned above do not guarantee the successful prosecution of a child abuse case, but they will go far in making sure that the investigator is able to provide the information which will be needed by the prosecuting attorney to do so.

References

- Barbieri, Mary Kay & Berliner, Lucy (1984). The Testimony of the Child Victim of Sexual Assault. Journal of Social Issues 40, 125.
- Inbau, Fred & Reid, John (1966). Criminal Interrogation and Confessions. Baltimore MD: The Williams and Wilkins Company.
- Layman, Carolyn & Bryan, Joe (1988). Team Investigation in Child Sexual Abuse Cases. Little Rock, AR: Arkansas Child Sexual Abuse Commission.