



Law Enforcement Response to Child Abuse

PORTABLE GUIDE TO INVESTIGATING CHILD ABUSE

OJJDP

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Law Enforcement Response to Child Abuse



Child abuse is a community problem. No single agency has the training, manpower, resources, or legal mandate to intervene effectively in child abuse cases. No one agency has the sole responsibility for dealing with abused children.

When a child is physically assaulted or sexually abused, the ideal response is for doctors to treat injuries, therapists to counsel the child, social services professionals to work with the family, law enforcement officers to arrest the offender, and attorneys to prosecute the case. This is possible only if the agencies and organizations involved have an established process for working together to respond to child abuse cases. The most effective community response involves establishing a child protection team that includes professionals from the medical, mental health, criminal justice, social services, and education fields who understand and appreciate the different roles, responsibilities, strengths, and weaknesses of the other team members and can cooperate and coordinate their efforts.

Law enforcement's role in child abuse cases cannot be overstated. It spans the entire case from the initial call, through the investigation, to the court proceedings. Law enforcement officers investigate and determine if a criminal law has been violated; identify and apprehend the offender; file appropriate criminal charges; and provide guidance and support to the child, family, and other agencies involved. Law enforcement's response needs to be constant and consistent. This guide provides the information officers need to ensure consistency, understand their importance as vital members of the multidisciplinary team, and recognize the value of effective procedures and protocols in guiding their work with other professionals to meet the needs of abused children.

In most child abuse cases, law enforcement becomes involved in one of two ways—a referral from a school, physician, or agency (such as social services), or a direct call from a parent, child, or neighbor. Because of the complexity of child abuse cases, officers need to be well-trained to handle them. Child abuse cases have unique characteristics that make them particularly difficult to investigate. Children often make “perfect” victims for the following reasons:

- They may not be able to protect themselves because of their physical and mental development.
- They generally do not like to talk about the abuse. As a result, they may delay disclosure or tell only part of the story.

- An emotional bond often exists between the child and the offender. Children may want the abuse to stop, but they may not want the offender to be punished.
- Instances of abuse are typically not isolated incidents. Instead, the abuse takes place over a period of time, often with increasing severity.
- There is often no conclusive medical evidence of the abuse.
- The abuse usually occurs in a private place with no witnesses, making interviews of children crucial and requiring special handling.
- Legal issues governing child testimony are complicated and ever changing.
- Children—whether victims or witnesses—are often viewed as less credible or less competent than the accused.
- Child abuse cases often involve concurrent civil, criminal, and sometimes administrative investigations and often cross jurisdictional lines.

The criminal justice system was not designed to handle the special needs of children. Law enforcement officers should be objective and proactive in investigating child abuse. Questions concerning who, what, when, where, why, and how must be answered. It is important to remember that child abuse is a crime and that law enforcement has a legal duty to respond accordingly.

Multidisciplinary Team Approach: Why Is It Important?

The most effective approach to cases involving child maltreatment is through interagency coordination and planning. Social workers, physicians, therapists, victim/witness service providers, prosecutors, judges, and law enforcement officers all play important roles—both individually and collectively—in cases involving child abuse. Everyone must work together with a common concern—the welfare of the child—and a common goal—to communicate with mutual respect. The multidisciplinary team approach has proved beneficial for the child, family, and all agencies involved.

When establishing a multidisciplinary team, members need to understand what other members are trying to accomplish and how their activities interrelate. For example, law enforcement should consider how its investigation might traumatize a child. Child protective service workers, physicians, and therapists need to understand that their treatment and evaluation techniques might hinder or damage law enforcement’s investigation. Although differences in opinion are to be expected, effective teamwork relies on a mutually agreed upon and open mechanism for discussing and resolving differences. Ongoing discussions of priorities and problems during investigations will also help mitigate any damage that these differences may cause while clarifying the roles and responsibilities of team members.

Clearly defined roles are critical for multidisciplinary teams. Formal written interagency protocols help establish guidelines for those who investigate cases of child abuse and neglect and allow each agency to fulfill its responsibilities. Properly drafted agreements provide a blueprint for action for each agency, and a long-term strategic plan ensures that the team responds to the evolving needs of the community. Elements of an effective multidisciplinary team agreement include the following:

- Identification of the scope of the community problem.
- Description of the resources available.
- Establishment of communication guidelines for each response team member and the victim's family (e.g., victim/witness services).
- Delineation of clearly defined roles and responsibilities for each response team member.
- Establishment of clearly defined criteria for the types of cases with which the team will be involved.

Establishing Law Enforcement Protocols and Procedures

With their authority to investigate violations of the law, law enforcement officers are vital members of any multidisciplinary team assembled to investigate child abuse. Investigators need to be properly trained and experienced in how to investigate child maltreatment objectively, recognize and document suspicious injuries, interview children, and interrogate suspected offenders. This training should be ongoing. Although proper training is critical for all members of the multidisciplinary team, it is perhaps more important for law enforcement because of the officer's critical role at the onset of a child abuse case. Failure to respond properly from the beginning (e.g., not obtaining information or documenting findings) can result in cases being dismissed in court or innocent people being falsely accused.

Law enforcement agencies should establish policies, procedures, and protocols to guide officers' actions when they respond to reported cases of child abuse. Although these established agency protocols, guidelines, and training will guide decisionmaking, officers will face situations in which they must use their own judgment. For this reason, officers must be familiar with what is expected of them legally in their jurisdictions and consult their agency's legal advisor or prosecuting attorney for clarification when needed. In establishing law enforcement protocols and procedures, several important elements should be considered (see exhibit 1).

EXHIBIT 1. CONSIDERATIONS FOR CHILD ABUSE INVESTIGATIONS

After Receiving a Referral

- Always consider the possibility of child abuse and talk with children at the scene when responding to a domestic dispute.
- Identify any personal or professional biases you may have with child abuse cases.
- Develop the ability to desensitize yourself to those issues and remain objective.
- Understand your department's guidelines and state statutes.
- Know the investigative resources that are available within your department or the larger law enforcement community (e.g., medical examiner's office, child protection team personnel, forensic interviewers).
- Know what resources are available to the victim and family in the community (e.g., therapy, victim compensation) and provide this information to them.
- Introduce yourself to the victim and other team members who may be present. Explain your role and the focus and objective of the investigation.

- Ensure that the best treatment will be provided for the protection of the child.
- Schedule a forensic interview with a trained professional.

Obtaining Information for the Preliminary Report

- Inquire about the history of the abusive situation. An accurate timeline of events is crucial to the successful investigation and prosecution of all types of child maltreatment.
- Obtain any elements of the crime necessary for the report.
- Inquire about the instrument of abuse or other items at the scene. Check the scene for potential instruments of abuse.
- Do not discount children's statements about who is abusing them, where and how the abuse is occurring, or what types of acts occurred.
- Save your opinions for the end of the report and provide supporting facts. Highlight the atmosphere of disclosure and the mood and demeanor of participants in the complaint.

Speaking a Common Language

Each agency may use terminology that is unique to itself. Members of the multidisciplinary team must understand this and be able to speak a common language that may include specialized medical and legal terms and more basic terminology used within an agency or the child's community.

Problems can arise because some terms are not universally accepted or defined. For example, the legal definition of "child" varies from state to state—sometimes even from statute to statute within the same state. Issues of consent are often confusing and the law may be convoluted. Furthermore, there is often a difference between the legal definition of "consent" and the community's accepted practices. When in doubt, law enforcement should

EXHIBIT 1. CONSIDERATIONS FOR CHILD ABUSE INVESTIGATIONS (continued)

Preserving the Crime Scene

- Treat the scene as a crime scene (even if the abuse occurred in the past) and not as the site of a social problem.
- Secure the instrument of abuse or other corroborative evidence that the child identifies at the scene.
- Photograph the scene in detail from all angles of each room.
- Photograph injuries noted on the victim; always include a scale in the photographs.
- Rephotograph injuries as needed to capture any changes in their appearance.

Conducting a Followup Investigation

- Be supportive of the child and family.
- Arrange for a medical examination and transportation to the hospital. Collect a change of clothes for the victim, if needed.
- Use appropriate investigative techniques.
- Ensure that the child and family are linked to support services or therapy.
- Provide your contact information so that the family can report further information, if necessary.

- Contact other agencies, such as child protective services, as appropriate.

During the Court Phase

- Bring the child to court before the first hearing to familiarize him or her with the courtroom setting and atmosphere. The prosecutor or a victim/witness service provider may assume this task.
- Prepare courtroom exhibits (e.g., pictures, displays, sketches) to support the child's testimony.
- File all evidence in accordance with state and court policy.
- Update family members (other than those who are suspects) about the status and progress of the investigation and maintain contact with them throughout the court process. Use caution when providing information to the family because they may share it with others.
- Provide court results and case closure information to the child and family.
- Follow up with the probation department to prepare the presentence report and victim impact statements.

seek the district attorney's assistance to clarify complex laws. Clarifying terminology across disciplines is vital for a successful investigation and prosecution. Teams should address each case, discuss terminology, and establish a mutual understanding of the law and its application.

Investigators need to be able to communicate with victims and their families, offenders, social workers, and medical and mental health personnel. To do so without confusion and misunderstanding, investigators must be familiar with medical and legal terms and various slang terms for body parts and sexual acts and should be able to use the terms appropriately, given the audience. Training and ongoing collaboration with other team members can help law enforcement learn to communicate effectively throughout the investigative process.

Working With the Medical Community

The medical community is an important ally in the prevention and treatment of child abuse. Doctors can serve as family counselors and educators, influential child advocates, and key members of the multidisciplinary team. They also can manage health problems, provide child-rearing advice, and discuss family planning alternatives.

In cases of suspected child maltreatment, doctors have four basic responsibilities:

- Diagnose and treat the victim's injuries.
- Identify suspicious injuries.
- Report suspected incidents of abuse to the appropriate authorities.
- Testify in subsequent legal proceedings.

Unfortunately, some physicians are reluctant to get involved in cases of child maltreatment. They may not want to report an incident because it may be impossible to determine the cause of the child's injuries. They may be apprehensive about testifying in court because of time constraints or fear of cross-examination, interrogation, or possible litigation.

Law enforcement can help assuage physicians' reluctance by involving them fully in the multidisciplinary team and reinforcing the importance of medical evidence in preparing the case for court. They can also accentuate prevention strategies to alleviate physicians' reservations. Law enforcement should work with doctors to ensure that they report all suspicious injuries to the proper authorities and emphasize that physicians do not have to investigate the case or determine potential perpetrators. It may be helpful to remind physicians that all 50 states and the District of Columbia have enacted legislation about immunity from civil or criminal liability for persons who, in good faith, make or participate in making a report of child abuse or neglect. Law enforcement also can facilitate meetings with the district attorney prior to criminal proceedings to prepare the physician for direct examination and cross-examination.

Obtaining a Medical Examination

The primary purpose of a medical examination is to assess potential injury and identify the need for treatment. A medical examination also protects law enforcement against accusations that a child's injuries occurred after removal from the home. Whenever possible, a medical professional—preferably one experienced and trained in conducting forensic examinations—should examine all children suspected of having been abused. In most cases, this examination should be performed as soon as possible. Time is especially critical in cases of alleged sexual abuse.

A secondary, but vital, purpose of a medical examination is to determine the presence of and properly collect any corroborating evidence of acute or chronic trauma. In recent

years, the ability and willingness of doctors to corroborate child physical and sexual abuse has improved greatly as a result of better training, technological advances, and the establishment of protocols. Law enforcement officers are likely to hear terms relating to medical imaging technology, such as magnetic resonance imaging (MRI), computed tomography (CT), and colposcope (an instrument used to view, magnify, and photograph or video the genitals and anus).

Law enforcement should remember that children's statements to doctors during the medical examination may be admissible in court as exceptions to the hearsay rule. Many acts of child sexual abuse do not leave physical injuries that a medical examination can identify. In addition, children's injuries can heal rapidly. However, lack of medical corroboration does not necessarily mean that a child was not sexually abused or that an offense cannot be proved in court. A forensic interview is crucial in such cases, and a trained professional should perform it. Exhibit 2 suggests guidelines for the immediate law enforcement response to an allegation of child sexual abuse. It also provides details about obtaining a medical examination, which is critical to investigating this offense.

Domestic Violence Calls

One of the most common calls for law enforcement service is for domestic violence. Most police officers understand the potential for danger associated with these calls, but many do not realize that a violent adult might also direct anger at a child. Consequently, officers should ask whether there are children living at the residence and, if so, if they are present at the scene. Officers should also consider the following:

- At least two officers should answer domestic violence calls, not only for the officers' protection, but so one officer can deal with the parties involved in the domestic violence while the other can talk with any children present.
- Once the involved parties are calm, most parents (if asked tactfully) will allow an officer to talk with their children. They also may appreciate the officer's offer to allay a child's fear that someone has been hurt or is going to jail.
- If possible, an officer should speak with the children separately and privately to gather information about the situation directly from them and assess their need for protection.

In addition, officers should look for any physical signs that a child may have been abused. They should keep in mind that a child in this situation is likely to be afraid and withdrawn and that nervousness or a reluctance to talk may be an indicator that physical or emotional abuse has taken place. The officer should also remember that despite an occurrence of domestic abuse, a child may be reluctant to leave the residence.

When officers suspect child abuse, they should preserve all crime scene evidence, such as a weapon or another instrument of abuse, and photograph both the scene and the victim. In most cases, a search warrant is not necessary because officers are already legally on

EXHIBIT 2. SAMPLE CHILD SEXUAL ASSAULT PROTOCOL

Interviewing the Victim

- Immediately assess the child's medical needs and address emergency medical conditions.
- Determine which examinations are needed for collecting evidence.
- Determine venue.
- Establish what offenses, if any, have occurred.
- Establish date(s) and time(s) of the offense(s).
- Ensure that child protective services (CPS) is notified.

Obtaining a Medical Examination

If a sexual assault occurred within the previous 72 hours, a physician and/or sexual assault nurse examiner should perform a medical examination as soon as possible to maximize the recovery of certain forensic evidence, such as blood, semen, saliva, and trace fibers. If the assault occurred more than 72 hours earlier, the probability of this evidence recovery is reduced. Because it is often impossible to determine the time of the last encounter, a physician or nurse examiner should examine the victim as soon as possible to maximize evidence recovery. When obtaining a medical examination, law enforcement should —

- Contact a physician and/or sexual assault nurse examiner.
- Coordinate with CPS to determine if law enforcement or the CPS worker will accompany the victim to the examination.
- Meet with the CPS representative, physician and/or nurse examiner, victim, and the victim's parent or guardian in the hospital treatment room.
- Help the victim and the victim's parent or guardian with admission to the emergency room. CPS may provide this assistance, depending on who has requested the examination.
- Brief medical personnel concerning the facts, allegations, suspect information, mental state of the victim, and past incidents, if

applicable. Discuss potential evidence to be collected and the goals of the law enforcement and CPS investigations.

Collecting Evidence

- Ensure that the examiner prepares and marks the cultures to maintain the chain of custody. Include the date, the initials of the person conducting the examination, and the victim's name.
- Transport the cultures and all other materials collected for evidence to the laboratory. Sign the chain-of-custody form and ensure that the laboratory's evidence custodian completes the form accurately. Local procedures may vary. Law enforcement must know and follow all jurisdictional procedures for handling evidence.
- Ensure that all photographs are marked with the date, time, victim's name, photographer's initials, and case number, and are turned over to you as evidence. Police officers, investigators, CPS workers, physicians, nurse examiners, and other parties can obtain photographs.

Following Subpoena Procedures

- If a subpoena has been issued, call the physician and/or nurse examiner as soon as possible to compare schedules and resolve any conflicts. Subpoenas should include the names of the victim, defendant, and prosecuting attorney (if known); the court date; and matters to which the physician may be requested to testify. Local procedures may vary. Law enforcement officers must follow all practices and procedures for their jurisdiction.
- If possible, facilitate a pretrial conference with the medical professional and prosecutor before the court hearing to discuss the medical components of the case. Outline questions that the medical professional may be asked, clarify medical terminology or difficult trial issues related to the testimony, and discuss requests for exhibits that may help clarify testimony.

the scene. The officer should notify social services of his or her suspicions of child abuse as soon as possible.

Placing a Child in Emergency Protective Custody

When placing a child in protective custody, law enforcement must meet all state requirements. Officers should consider all the information and ask themselves, "If I leave and obtain a court order to remove this child, is the child likely to be injured before I return?" If the answer is "yes," the officer should remove the child. However, all actions should be in accordance with state guidelines and departmental policy and procedure:

- Depending on the jurisdiction, the officer may be obligated to remove the child if direct disclosure of physical or sexual abuse is made, if such abuse is alleged, or if evidence of an abusive incident is present.
- In most jurisdictions, state laws allow an officer to remove a child based on observation of the facts and judgment of the information gathered. In some situations, an officer may remove a child because he or she believes that the child may suffer further physical or emotional harm or trauma or be hidden or abducted before a court order can be obtained.

In some jurisdictions, child protective services (CPS) may call on law enforcement to investigate allegations of child abuse and may assist in placing a child in protective custody. In these situations, officers need to know the laws in their state. An officer's failure to understand his or her legally mandated roles and responsibilities may result in the following:

- A child being left in a dangerous situation.
- A child being removed illegally.
- The officer and the department being placed in a situation of civil liability.

In jurisdictions where law enforcement has sole responsibility for deciding to remove a child from the home, the child is usually placed in the custody of the department of social services until the courts can make a final determination about the child's custody. Social services is responsible for placing the child in a licensed foster care facility. Officers need to be aware of the legalities regarding parental rights and their responsibilities for notifying the parent or guardian of the child's removal from the home.

In most states, it is not acceptable for law enforcement to take a child from one parent and place him or her in the custody of another parent or a relative without a court order or verification of legal authority. Also, in most states, the department of social services has sole responsibility for placing a child in the custody of another individual. However, if social services places the child in the custody of a parent or someone other than a licensed foster

care facility, law enforcement should be aware of the jurisdictional policies and practices before participating in or agreeing to this placement.

Officers should take removal or detention orders or other appropriate court paperwork to the removal site and explain the paperwork to the adversarial parents. In some jurisdictions, law enforcement has “summary removal” authority—that is, the child may be removed from the home based on the circumstances of the case as it develops and without paperwork in hand.

Common Mistakes To Avoid

Law enforcement officers may inadvertently escalate a situation when placing a child in protective custody. Experienced officers have learned to avoid three common mistakes:

- **Making premature accusations.** Making an accusatory statement to a parent, guardian, or custodian that a child is being taken into protective custody because someone has abused the child places the police officer in a situation of serious liability. A more appropriate statement is, “Because of questionable injuries, marks, or allegations about inappropriate activity, the child is being taken into protective custody until a complete and thorough investigation into the situation can be conducted.”
- **Attempting to rationalize a child’s removal.** Some officers attempt to rationalize with the parent about their decision to remove a child. However, the best tactic is to remove the child and leave the situation as quickly as possible, after ensuring that everyone’s rights are protected. The fact is that no amount of explaining will lessen the pain, fear, and anger involved in removing a child. Officers should be aware that heightened emotions can lead to a dangerous escalation of the situation.
- **Failing to provide all required forms.** Police officers must be familiar with all forms that the parents must complete at the time their child is placed in protective custody. For example, many states require that the parents receive a form explaining that the child has been placed in protective custody within 24 hours after the child has been removed from the home. The form must state that the placement was made in accordance with a particular statute and must describe the parents’ rights in the matter. States vary in regard to who should provide this form to the parents. Law enforcement officers and social service workers must know what is required in their state.

Removing a Child

If a law enforcement officer has been called to assist in removing a child, it is the officer’s responsibility to ensure that the child is removed expeditiously with as little trauma or danger to the child and the social worker as possible. Safety issues must be considered, as law enforcement is present to protect social services personnel and the child.

- The law enforcement officer should meet with the social worker at a neutral location before proceeding to the residence. The social worker should explain the situation in general, describe the layout of the residence, and specify who is expected to be there so the officer and social worker can determine a plan of action before arriving at the scene.
- Any items the child will need, such as medication, should be removed with the child.

Impact of Removal on a Child

Physical removal from the home is extremely traumatic for the child. Because the law enforcement officer and social worker are relative strangers to the child, they need to keep the following in mind:

- Debating the situation with a parent or caretaker will cause the child to become more nervous, upset, distraught, or emotionally unstable.
- In most situations, children will not leave their parents willingly, even if they have been physically or sexually abused. They may not understand what is best for them and may try to resist the law enforcement officer.
- Officers should not respond to a child's outbursts with anger or displeasure. Instead, they should behave as positively—or at least as neutrally—as possible. They should do everything they can to help the child adjust to a new and potentially frightening living situation.
- Once the child has been removed from the residence and has had a chance to calm down, the officer should explain that the child has not done anything wrong and was removed for his or her own protection.

Conclusion

Child abuse is a multidimensional problem that requires a multidisciplinary team approach for successful intervention. This means that all professionals involved—law enforcement, CPS, mental health workers, medical personnel, and attorneys—must communicate and coordinate with one another. A child's best interests can be served only when the various professionals who are involved understand and respect each other's roles, are knowledgeable about their state statutes and local guidelines, and have adequate training in their fields. Sensitive and consistent application of established policies and procedures is essential for an effective alliance in responding to child abuse.

Supplemental Reading

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Organizations

Federal Bureau of Investigation

935 Pennsylvania Avenue NW.
Washington, DC 20535-0001
202-324-3000
www.fbi.gov

Forensic examination of evidence can be useful in cases involving child sexual abuse. Tests that may be considered include:

- DNA profiling of bodily fluids and biological stains.
- Comparative examination of foreign hairs and fibers with those of a suspected source.
- Chemical analyses for petroleum jelly or lotion residues.

Direct questions about submission of these types of evidence to your local crime laboratory or to the FBI laboratory at the number given above.

Fox Valley Technical College

National Criminal Justice Training Center
P.O. Box 2277
1825 North Bluemound Drive
Appleton, WI 54914-2277
800-735-3882
www.fvtc.edu/public

Courses are available for training law enforcement on child abuse investigations, covering the following areas:

- Recognition of signs of abuse.
- Collection and preservation of evidence.
- Preparation of cases for prosecution.
- Techniques for interviewing victims and offenders.
- Liability issues.

National Center for the Prosecution of Child Abuse

National District Attorneys Association
99 Canal Center Plaza, Suite 330
Alexandria, VA 22314
703-549-9222
703-836-3195 (fax)
ncpca@ndaa.org
www.ndaa.org/ncpca.html

The center provides training on the investigation and prosecution of child abuse and child deaths. The national trainings include advanced trial advocacy courses for prosecutors, law enforcement, medical and mental health professionals, forensic interviewers, child advocates, and allied professionals.

National Children's Advocacy Center

Training Department
210 Pratt Avenue
Huntsville, AL 35801
256-533-0531
training@nationalcac.org
www.nationalcac.org

The center sponsors satellite video training conferences on a range of topics, including interviewing children, medical aspects of child abuse, team-building for multidisciplinary teams, and the connection between domestic violence and child sexual abuse. Continuing education credits are available.

Regional Children's Advocacy Centers

Northeast Regional Children's Advocacy Center
www.nrcac.com

Midwest Regional Children's Advocacy Center
www.mrcac.org

Southern Regional Children's Advocacy Center

www.nationalcac.org/southern-regional-child-advocacy-center/about-srcac.html

Western Regional Children's Advocacy Center

www.westernregionalcac.org

Regional Children's Advocacy Centers provide a wide range of training, technical assistance, consultation, and information to established and developing children's advocacy centers.

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