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The investigative windows of opportunity

*by Detective Mike Johnson
Plano Police Department/Collin County CAC
Plano, Texas*

The single most important advantage a Multidisciplinary Team or lone investigator has in any type of child abuse investigation is the investigative "window of opportunity."

Simply defined, these are the precious minutes which occur either during or immediately after the initial outcry. This is the optimum time to conduct investigative functions and to glean the most detailed information. For every hour that goes by after the initial outcry without investigative intervention, information critical to case evaluation is lost. As days pass, critical information may be lost forever.

Each child abuse case presents six "windows of opportunity:"

Forensic interview of child abuse victims

Children typically outcry for a multitude of reasons, which can be characterized in two areas: the purposeful outcry and the accidental outcry. The purposeful outcry usually occurs when the child, for the protection of herself or a sibling, tells someone that the abuse is occurring. This outcry is frequently accompanied by a heightened emotional state in the child, who may state that she is "tired" of the abuse. Conversely, the accidental outcry occurs when the child makes offhand statements or the abuse is observed by a parent, sibling, or another person. Although the child isn't prepared to make the outcry, the resulting crisis has the same accompanying heightened emotional state, which allows investigators to obtain more detailed information.

The window of opportunity for conducting this interview is immediately after the child makes the outcry. In other words, if the outcry is made in the school setting at 10 a.m., the window of opportunity begins at 10:01 a.m. With each minute that goes by without intervention, several factors begin to occur, none of which are helpful to the investigation:

1. *The process of multiple interviews.* The child may be consoled by counselors, nurses, or school personnel who may not be trained in the importance of this information or in the area of forensic interviewing. All of these "unofficial" interviews can cloud the pure information that should be obtained from the child during the forensic interview.
2. *The family's access to the child.* School personnel may notify the child's parents—the non-offending one and the potential perpetrator—who will then have access to the child. Additionally, siblings in the household have been known to be unsupportive of child abuse victims due to the emotional upheaval that the child's outcry causes in the home.
3. *An "alienation of affection" may set in.* The child comes to understand very quickly that her outcry has caused a considerable amount of emotional reaction from those around her.

Interview of the Non-Offending Parent

Interviews with the non-offending parent can yield incredible amounts of detailed information that can be corroborated by investigators. The investigative window for this interview begins with the first person who speaks with the non-offending parent about the abuse allegations. The professionals who do this, typically from law enforcement and child protective services, are in a position to observe the non-offending parent's first reaction (including surprise or non-surprise) and make a critical assessment decisions. Every day that goes by after the outcry increases the chance that the non-offending parent will be made aware of the allegations by the child or school officials, thus depriving the investigator of the opportunity to be present during the parent's initial reaction.

The emotions of the non-offending parent during these early stages can be used to accomplish numerous investigative functions. It is during this time that the non-offending parent is often most cooperative, providing detailed information about the incident and surrounding circumstances or cooperating

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Windows of opportunity

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search warrant. Investigators who miss this window of opportunity risk having the non-offending parent contacted by the perpetrator or defense counsel, both of whom will always suggest non-cooperation with investigators.

Investigators often fail to realize that the strength of the victim is tied directly to the strength of the mother, who is frequently the non-offending parent. To demonstrate this, I often ask this question: "If you had to choose one type of person on whom to spend all of your clinical treatment budget, would you choose the victim, the non-offending parent (mother) or the sibling, especially if your goal is finding resolution in the criminal justice process?" The answer I usually get is the "victim," but that's not accurate. If you don't support the non-offending parent's issues, she won't bring the victim in for treatment or encourage the victim's progress.

The non-offending parent is often dealing with issues such as humiliation, anger, abandonment, mistrust, loss of affection, jealousy, and questions about her parenting skills. She may be in need of job training, welfare, emotional support, etc. Despite these factors, we typically direct all of our resources toward the victim and leave the mother with no one to turn to except the perpetrator, who may be actively trying to win her back. If she reunites with the perpetrator, then you have lost your victim because the perpetrator will work to persuade the mother to be uncooperative and pressure the victim to recant. If we strengthen the non-offending mother, she will make sure the child's needs are met. Therefore, the best answer to the above question is that treatment should be provided to all three: the victim, the non-offending mother, and the siblings.

Interview of Collateral witnesses

As with the non-offending parent and the perpetrator, the investigators who ask the first questions have the window of opportunity with collateral witnesses. This is especially critical because the information provided by many of these witnesses can be tainted by the perpetrator, defense counsel, non-offending parent, or others. The witnesses may align themselves with the non-offending parent, the perpetrator or the child, thereby making their information less objective and more subjective.

Investigators are continually challenged to identify and interview collateral witnesses. This is one of the weakest areas in all child abuse investigations. Defense attorneys know this and frequently try to use it to their client's advantage by charging that the investigators were not acting as objective fact-finders but as subjective believers who spoke only with witnesses they believed would complement the state's case.

Character witnesses suggested to investigators by defense attorneys should be interviewed or at least a statement attempted. If investigators refuse to interview a character witness, defense counsel is in an excellent position to portray the investigative process as biased against his client. This area is referred to as "fertile ground" for impeaching the credibility of the investigator and the investigation.

Perpetrator

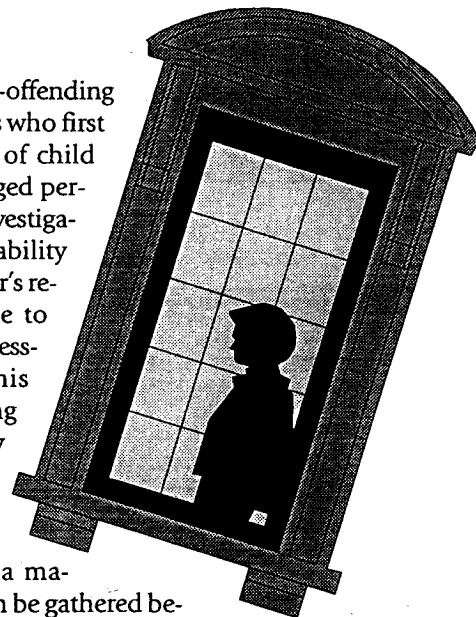
As with the non-offending parent, investigators who first broach the subject of child abuse with the alleged perpetrator have the investigative advantage. The ability to see the perpetrator's reaction is invaluable to the investigator's assessment. However, this raises an interesting dilemma for many investigators regarding when the interview should take place. Should a majority of information be gathered before approaching the perpetrator, or should the investigator interview him in the earliest stages? In my experience, after the forensic interview of the child is completed and the non-offending parent and witnesses have been interviewed, the next most critical function is the interview with the perpetrator. Ideally, especially with cases involving in-home abuse, this should be accomplished within 1-3 hours after the forensic interview of the child and the interview of the non-offending parent.

Most perpetrators could be described as manipulative, controlling, and narcissistic. A long delay in interviewing the perpetrator gives him time to work on an alibi or an excuse as to why he could not have committed the offense. It also allows him a chance to access those involved in the outcry (including the victim, non-offending parent, or school officials) to determine how much of the allegation was revealed. It has been my experience that perpetrators will only confess to what they think the investigators already know. In a related issue, child protective service workers and law enforcement need to have a mutual agreement about what details of the allegation should and should not be discussed during interviews conducted with the perpetrator by CPS workers.

Finally, a delayed interview gives the perpetrator time to contact a defense counsel. Nancy Lamb, an attorney in Elizabeth City, North Carolina, and I present training sessions on "Combating Defense Strategies in Child Sexual Abuse Cases." Ms. Lamb's research found that on numerous occasions, defense counsel stated that an accused perpetrator should never speak to investigators. According to Ms. Lamb, they specifically recognize that any statement made by the perpetrator, including a confession, is always detrimental to the defense of their client.

Medical evaluation

The investigative window of opportunity for performing the forensic medical examination of a sexual assault victim is immediately after the perpetrator disengages from the assault



of the child. There is a recognized 72-hour window for conducting this medical evaluation. However, the initial hours after the assault provide the medical forensic evaluator the best opportunity for identifying marks, bruises, or tears, which immediately begin to heal, as well as for collecting other biological evidence such as semen, saliva and lubricants, which immediately begin to be absorbed, wiped or transferred away.

Crime scene evaluation

The window of opportunity for conducting the investigative function of evaluating a crime scene is immediately after the assault, before the perpetrator or others have the opportunity to disturb it. For every minute that goes by, the crime scene is altered. Whether investigators are involved in the case immediately after the incident or several months later, every attempt should be made to use as many crime scene identification techniques as possible, especially photodocumentation.

A few years ago, we had a case in which a 13-year-old boy made an accidental outcry at school that his father was sexually abusing him. When we began interviewing him, we discovered that the last incident had occurred that morning before the father left for work. However, the father had left in a hurry and forgotten his underwear beneath the boy's bed and a jar of petroleum jelly on the nightstand. Realizing that the crime scene was still intact, we rushed over to the house and received permission to search from the mother, who was extremely cooperative. As we had hoped, the items were exactly where the boy said they would be. Without these pieces of evidence, our entire case would have been different.

Gaining better access to the windows

Recognizing the windows of opportunity is a critical step, but it is useless if procedural issues prevent investigators from accessing them.

Some of the most common errors that violate the investigative window of opportunity occur at the earliest stages of outcry, typically at a school by officials who delay in recognizing the abuse and reporting it to appropriate authorities. Instead, they elect to notify the non-offending parent and/or the perpetrator. Therefore, it is crucial to establish appropriate procedures and protocols and ensure that all school officials understand them. In addition, law enforcement needs to ensure that a detective is promptly notified about each call and that the detective responds immediately, instead of waiting until the next work day. Other early violations include the lack of knowledge of child abuse phenomena and hesitation to get involved with a case because one member of the team is not available to respond immediately.

Everyone involved in a case (including the multidisciplinary

team, child advocacy center, and individual investigators) needs to review cases for procedural problems that may be causing coordination delays in the ability of investigators to respond immediately. The suggested evaluation technique for the quality of a case is to review:

1. *The exact time the child made the outcry;*
2. *Who spoke with the child before CPS or law enforcement became involved;*
3. *When the perpetrator was first notified;*
4. *When the non-offending parent was notified;*
5. *Identification of collateral witnesses and how long it took before they were contacted;*
6. *The last occurrence of the offense; and*
7. *How long it took before the crime scene was evaluated.*

Reviewing these situations will better illuminate the violations of the investigative window of opportunity. It also begins the discussion for finding the procedures to place investigators in the best possible position to access the detailed facts and information needed to protect the children in the community.

We also need to have a cooperative response system for child protective services and law enforcement. Law enforcement operates on a call for service system, which means if you call 911, a police officer will respond day or night. However, child protective services operates on a priority system in which a caller contacts a hotline and the call-taker evaluates the problem. If it meets certain criteria, a priority is placed on the call and the information is subsequently sent to the local CPS jurisdiction for evaluation by a supervisor, who will assign a caseworker to investigate. These two systems are inherently incompatible.

Both address their agencies' policies and procedures, but neither gives paramount attention to the needs of the child. Specific issues, such as risk assessment by child protective services, medical evaluation, crime scene evaluation, and interviews of important parties should take precedence. No system should violate the investigative windows of opportunity by forcing the investigators to delay their response, thus losing access to detailed information. The cases in which we have been most successful were identified and investigated within 6-8 hours, from the initial outcry to the major parts of the investigative conclusion.

Simply stated, the protection of a child hinges on the intervenor's ability to acknowledge that children disclose for a multitude of reasons, and the child protection team must be ready to mobilize on behalf of the child when the outcry is first made. Windows of opportunity are not contingent upon caseloads, schedules, or notification procedures. When the child is ready to be protected, the child protection team must be ready to respond.

Recognizing the windows of opportunity is a critical step, but it is useless if procedural issues prevent investigators from accessing them.

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