

Corroborative Points Investigative Technique

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Investigation Based Upon. . .

- ☆ Details, Details, Details
- ☆ Corroboration
- ☆ Confession

Investigator's Note

- ☆ Always remember there are two stages to every trial:
Guilt/Innocence and Sentencing
- ☆ All evidence presented to a judge or a jury, to be compelling,
needs to appeal to the five senses three times
- ☆ An Investigator's job is the identification and collection of evidence.
A Prosecutor's job is getting that evidence before a judge and a
jury.
- ☆ Are you able to testify as an expert?

Investigative Window of Opportunity

- ☆ Is the optimum time to perform an investigative
function and glean the most detailed information
- ☆ Failure to appreciate this "window" will cause
information critical to case evaluation to be lost

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Child Protection Teams Must Realize

- ☆ Children *outcry* for a multitude of reasons
- ☆ Children are not "respectful" of work schedules
or procedures
- ☆ CPT's must be ready to mobilize when a child is
ready to tell
- ☆ A CAC provides an environment which is
conducive for the child to tell

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Outcry

- ☆ First person victim tells of abuse, whether
reported or not
- ☆ Legal exception to hearsay rule – first person
usually above the age of 18 that child tells of
abuse – person may be able to testify about that
conversation

Each Child Abuse Case Presents Six “Windows”

- ☆ Forensic interview of victim
- ☆ Interview of non-offending parent
- ☆ Perpetrator interview
- ☆ Medical evaluation
- ☆ Crime scene evaluation
- ☆ Interview of collateral witnesses
- ☆ DV battering incident*

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Direct Evidence

In child sexual abuse cases, that evidence which has the ability to prove a case in a criminal court of law.

- ☆ Victim's ability to testify and identify
- ☆ Eyewitness
- ☆ Confession/Incriminating statements
- ☆ Direct link evidence
 - ◆ Videotape of crime
 - ◆ DNA

Circumstantial Evidence

Does not have the ability of direct evidence, but . . .

“It sho’ looks bad”

Constellations of Circumstantial

Need constellations of circumstantial, along with direct.

Excited Utterance

- ☆ The statement must relate to a startling event or condition
- ☆ The statement must be made while the declarant was under the stress of excitement
- ☆ The excitement must have been caused by the event or condition

Federal Rule of Evidence 803(2)

Present Sense Impression

- ☆ The statement must describe or explain an event or condition
- ☆ The statement must be made while the declarant was perceiving the event or condition or immediately thereafter

Federal Rule of Evidence 803(1)

Statements for Purposes of Medical Diagnosis or Treatment

- ☆ The statement must be made for the purposes of medical diagnosis or treatment
- ☆ The statement must describe medical history, past or present symptoms, pain or sensations, or the cause thereof as it relates to diagnosis or treatment

Federal Rule of Evidence 803(4)

Narrative of Case Report

- ☆ Source and circumstance of outcry/disclosure
- ☆ Agency intervention
- ☆ Victim interview
- ☆ Investigation
- ☆ Medical evaluation
- ☆ Therapeutic evaluation
- ☆ Perpetrator arrest

Outcry

- ☆ Source(s)
- ☆ Circumstance
 - ◆ Delayed
 - ◆ Accidental
- ☆ Investigative Window of Opportunity

Source and Circumstance of Disclosure

- ☆ Triggering event of disclosure
- ☆ Purposeful or accidental?
- ☆ Child's emotional representation during disclosure – "excited utterance"
- ☆ Child's behavior, i.e., rocking, dissociation

Source and Circumstance of Disclosure

- ☆ What exactly (child's words of disclosure)
- ☆ Adults reaction to disclosure
- ☆ Adult's response or lack thereof
- ☆ Others child spoke to

Law Enforcement/CPS Intervention

- ☆ Date of Case Assignment
- ☆ Date of Contact
- ☆ Date of Interview
 - ◆ Victim
 - ◆ Non-Offending Parent

Investigation

- ☆ Application of Corroborative Points

Medical Evaluation

- ☆ Per Protocol – why or why not?
- ☆ Date of evaluation
- ☆ Who conducted evaluation
- ☆ Brief result
- ☆ Location of medical reports, if applicable

Clinical Evaluation

- ☆ Per Protocol
 - ◆ Victim
 - ◆ Non-Offending Parent
 - ◆ Siblings
- ☆ Start Date
- ☆ Therapist's Name
- ☆ Therapeutic Referral

Arrest/Search Warrant

- ☆ Date
- ☆ Affidavit/Affiant
- ☆ Who Executed
- ☆ Execution Results

Brainstorm Corroborative Points

- ☆ Prioritize
- ☆ Assign
- ☆ Document
- ☆ Disseminate

Corroboration

- ☆ Confession - the ultimate corroboration
- ☆ Crime scene evidence
- ☆ Medical evidence
- ☆ Independent other victims
- ☆ Dependent other victims
- ☆ Criminal history

Corroboration

- ☆ Pre-text (or one-party consent) phone calls
- ☆ Search warrants
- ☆ Sex offender typology
- ☆ Private databases
- ☆ Canvassing
- ☆ Trash runs/abandoned property
- ☆ Social history

Corroboration

- ☆ Pornography
- ☆ Background checks
- ☆ Other sexual partners
- ☆ Photo documentation
- ☆ Collateral witnesses
- ☆ Polygraph
- ☆ Audio/Video recording

Advanced Corroboration

- ☆ Auto Trac
- ☆ DNA test
- ☆ Offline search
- ☆ Voice Stress Analysis
- ☆ SCAN
- ☆ Surveillance
- ☆ SOAP (Interstate compact)

Confession

The ultimate form of corroboration...

- ☆ Partial
- ☆ Detailed
- ☆ Detailed lie

Crime Scene/Evidence Collection

- ☆ Written statements
- ☆ Photograph of victim at age of offense
- ☆ Notes, letters, Father's Day pictures, etc.
- ☆ Underwear, bedding, napkins
- ☆ Chain of custody
- ☆ Crime scene photos
- ☆ Perspective photos

Medical Evidence

- ☆ Medical history from victim or investigator
- ☆ Medical evaluation
- ☆ Forensic medical evidence protocol followed
- ☆ 72-hour rule?

Other Victims

- ★ *Canvassing* – casting a broad investigative net to identify other at risk children, victims, or witnesses
- ★ *Independent Other Victims* – not known to primary victim
- ★ *Dependent Other Victims* – known to or related to primary victim

Criminal History

- ★ Limited to state cooperation with NCIC 2000 III
- ★ Non-cooperating states (as of January 2004)
 - ◆ Hawaii
 - ◆ Kentucky
 - ◆ Louisiana
 - ◆ Maine
 - ◆ Vermont

Computerized Criminal History

- ★ TCIC CCH Texas Fingerprint and Records
- ★ Automated Fingerprint ID System
- ★ JJIS CCH Juvenile Justice Information System
- ★ Ill Interstate Identification Index
- ★ Federal Offender File
- ★ Automated Identification System

Offline/Activity Criminal History Search

- ★ State CIC analyst
- ★ Check for activity on name, vehicle, etc.
- ★ Check for partial information
- ★ Time may be dated
- ★ Must have current investigation pending
- ★ May require manual search

Criminal History

- ★ Requires local checks
- ★ State social service checks
- ★ U.S. Military branches may not be included
- ★ Federal offender file is included
- ★ Contact U.S. Postal Inspector for assistance

Pretext Phone Call/One-Party Consent

- ★ Check for legality
- ★ Age of victim/caller
- ★ MDT agreement
- ★ Logistical requirements
- ★ Content of call
- ★ Theme of call
- ★ Consider parents, friends, etc. as the caller
- ★ Consider usage in physical abuse cases also

Search Warrant

- ☆ Verbal
- ☆ Written
- ☆ Judge signed
 - Expertise
 - Evidentiary
 - Person

Private Databases

- ☆ Auto Track XP- <http://Atxp.dbt-online.com/>
Fee-based database of public records and applications
- ☆ Provides
 - Named person
 - Relatives
 - Property ownership
 - County appraisal
 - Vehicle registration
 - Voter registration
 - Marriage
 - Court records
- ☆ Has a link feature for people, addresses

Trash Runs/Abandoned Property

- ☆ Legality
- ☆ Procedure
- ☆ Photo documentation
- ☆ Evidence collection techniques
- ☆ Timeliness
- ☆ Logistics

Social History

- ☆ Assessment of a person's life
- ☆ Employment history
- ☆ Mental/medical illnesses
- ☆ Functionality of home
- ☆ Boundary assessment
- ☆ Risk assessment
- ☆ Past abuse history
 - chemical, phab, sxab, DV, neglect
- ☆ Education level
- ☆ Stability of relationships

Background Check

- ☆ Resume
- ☆ CV
- ☆ Employment application records
- ☆ Apartment applications
- ☆ Internet research/investigative search sites
- ☆ School records

Other Sexual Partners

Establishes ritual of sexual routine

- ☆ Access – verbal, mannerism, behavior
- ☆ Foreplay – lubrication, verbal, behavior
- ☆ Act – positions, activity
- ☆ Post-Act – clean-up, emotional state

Photo Documentation

A picture is worth a thousand words. . .

- ☆ Polaroids
- ☆ 35mm
- ☆ Video
- ☆ CT
- ☆ MRI
- ☆ Colposcopy

Collateral Witnesses

- ☆ Any person other than victim, perpetrator, non-offending parent that has direct or indirect knowledge of abuse, including
 - friends
 - teachers
 - therapists
 - relatives

Polygraph

- ☆ Never use as an arrest determinant
- ☆ Investigative tool
- ☆ Second interrogator
- ☆ Only consider test you provide

DNA

- ☆ *Deoxyribonucleic acid* – component of every cell in the human body
- ☆ Examples: blood, saliva, skin cells, semen, hair, sweat, teeth, vaginal fluid, tissue, bones
- ☆ As individual as fingerprint analysis
- ☆ Except in cases of identical twins

Power of DNA is in its. . .

- ☆ Identification
- ☆ Collection
- ☆ Transportation
- ☆ Comparison
- ☆ Storage

DNA Usage – Nontraditional Sources

- ☆ Suspect's DNA taken from saliva in a dental impression mold matched the DNA swabbed from a bite mark on the victim
- ☆ A masked rapist was convicted of forced oral copulation when his victim's DNA matched DNA swabbed from the suspect's penis six hours after the offense
- ☆ Cigarette butts, postage stamps, the area around the mouth opening on ski masks. . .

Identifying DNA Evidence

Evidence	Possible Location of DNA	Source of DNA
baseball bat or similar weapon	handle, end	sweat, skin, blood, tissue
hat, bandanna, or mask	inside	sweat, hair, dandruff
eyeglasses	nose or ear pieces, lens	sweat, skin
facial tissue, cotton swab	surface area	mucus, blood, sweat, semen, ear wax
dirty laundry	surface area	blood, sweat, semen
toothpick	tips	saliva
used cigarette	cigarette butt	saliva
stamp or envelope	licked area	saliva
lapse or ligature	inside/outside surface	skin, sweat
bottle, can, or glass	sides, mouthpiece	saliva, sweat
used condom	inside/outside surface	semen, vaginal or rectal cells
blanket, pillow, sheet	surface area	sweat, hair, semen, urine, saliva
'through and through' bullet	outside surface	blood, tissue
bite mark	person's skin or clothing	saliva
ingernail, partial fingernail	scrapings	blood, sweat, tissue

Avoid Contamination

- ✧ Wear gloves. Change them often.
- ✧ Use disposable instruments
- ✧ Avoid touching area where DNA may be present
- ✧ Avoid talking, sneezing and coughing over evidence
- ✧ Avoid touching your face, mouth, nose when collecting and packaging evidence
- ✧ When possible, air-dry evidence thoroughly before packaging
- ✧ Put evidence into a new paper bag or envelope, never into plastic bags
- ✧ Do not staple

Alternate Hearings

- ✧ Employment
- ✧ Civil
- ✧ Preliminary/Examining/Probable Cause
- ✧ Grand Jury
- ✧ Criminal Trial

Case Report Composition

- ✧ Outcry
- ✧ Law Enforcement/CPS Intervention
- ✧ Investigation
- ✧ Medical Evaluation
- ✧ Clinical Evaluation
- ✧ Arrest/Search Warrant

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The investigative windows of opportunity

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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

continued from page 1

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

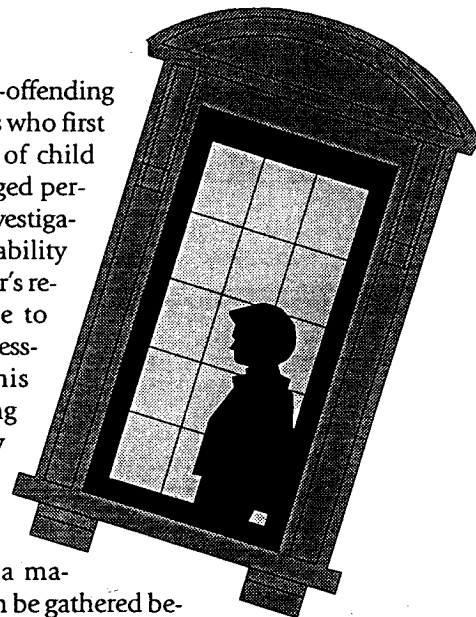
As with the non-offending parent, investigators who first broach the subject of child abuse with the alleged perpetrator have the investigative advantage. The ability to see the perpetrator's reaction is invaluable to the investigator's assessment. However, this raises an interesting dilemma for many 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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