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CHILDREN'S  
LAW OFFICE

# Insights

A glimpse into timely topics affecting the investigation and prosecution of child abuse in South Carolina

## Practical Tips for Finding Corroborating Evidence in Cases of Child Sexual Abuse

*The following article is a slightly modified reprint of an article recently published by Victor Vieth, Director of the National Center for Prosecution of Child Abuse.*

The outcome of many child abuse cases is determined by an evaluation of the child's credibility. When a victim believes her testimony is the state's only evidence, the child experiences increased stress. When a child's statement stands alone, it is easier for the defense attorney to attack the child's allegation on memory and suggestibility grounds.

To reduce a child victim's stress, strengthen the state's case, and ensure justice, child abuse investigators and prosecutors must find and offer the jury evidence corroborating a victim's statements. The following rules will aid in the search for corroborating evidence.

*Do not think too narrowly.* In many cases, investigators fail to locate corroborating physical evidence because their definition of physical evidence is too narrow. Many investigators think of physical evidence only in terms of hair, fibers, blood and semen. Since this type of physical evidence is not present in most cases of abuse, an officer confined to this narrow definition will routinely come up empty handed. Instead, an officer should think of physical evidence as any object or item that corroborates any aspects of the victim's report of abuse.

*Search the victim's statement for clues.* Working as part of a multi-disciplinary team, carefully analyze the statement of the child. Consider whether there is anything the child has said that can be corroborated. Even in brief interviews, a child abuse victim may be asked hundreds of questions that produce a large amount of information.

If the victim says her father read a particular bedtime story before the sexual encounter, search the suspect's house and seize the book. If the child describes her house as being blue, photograph the house to document the

child is accurate in her description of its color. If a child claims he was sexually abused by his grandfather during a camping trip, find evidence documenting the trip. There may be a campground registration or photographs of the trip. Search the grandfather's house for a tent, camping equipment, and fishing rod. If a child says she missed school as a result of abuse, obtain attendance records. If a child claims a particular song was playing on the radio during the abuse, go to the radio station and obtain a copy of the play list.

When child abuse investigators define "physical evidence" more broadly, corroborating physical evidence can be found in most cases.

*Do not assume a victim's statement cannot be corroborated.* A young child may be developmentally incapable of giving a coherent answer to every question posed to her. When this happens, an officer may be tempted to use the child's inability as an excuse not to investigate. In one case, a three-year-old girl told an officer she was molested at a neighbor's house. The child said the abuse took place in a room with the "gigantic eagle." In the suspect's bedroom, the officer found a bedspread depicting a large eagle. The room was photographed and the bedspread was seized as evidence. By investigating and not summarily discounting the child's statement, the officer was able to enhance the credibility of the child. If the officer had failed to examine the crime scene, a defense attorney could have attacked the victim as a child who fantasizes about gigantic eagles. The defense attorney may have asked the jury "what else is she fantasizing about?"

*Search for evidence that brings the crime to life.* Seize clothing or other items that bring the crime home to the jury as a real event. If a child claims her father reached under her Winnie-the-Pooh pajamas and fondled her vagina, seize the pajamas and put the clothing into evidence. The pajamas document the small stature of the child at the time of the abuse and the ease with which a perpetrator could reach beneath the garment for sexual purposes. More importantly, the pajamas will make the assault less abstract for the jury. When the jurors see and touch the pajamas, it puts them at the scene of the crime and allows them to picture the child's ordeal. This is why thousands of Americans flock to museums to be near Babe Ruth's bat, Judy Garland's ruby slippers, or the remnants of the Titanic. Seeing the item connects us to an individual or an event in a powerful, personal way.

*There is always a crime scene.* The location of the child's victimization is a crime scene that needs to be inspected. Even if there is no reason to believe that blood, semen or other evidence can be found at the site of the abuse, the crime scene must be photographed. The photographs will give the jury a picture of the child's world. If the child's room is barren and completely lacking in toys, decorations

*Continued on page 2 . . .*

### Team-Building Workshop Offered in February 2000

The Children's Law Office sponsors a two-day training for local multi-disciplinary teams to work on coordinating investigations of child abuse. As advertised in our last newsletter, the next team training will be February 24 and 25, 2000, in Charleston.

Because of the workshop format, we have space for only 30-35 participants. *Jurisdictions must apply as a team*, with, at a minimum, the solicitor's office, local DSS, and local law enforcement agencies represented.

You should receive an application for the team training soon, or you may call Charles Phipps at 803/777-1646 for more information.

**... Corroborating Evidence, continued**

and color, the jury may sense the coldness of the child's environment. If the room is decorated with the trimmings and trappings of childhood, the jury may sense the lost innocence that took place in the room. The photographs can also be used to aid the child's testimony. For instance, the child can use the photographs to point to locations in the house where various acts took place.

In addition to photographing the crime scene, check the room to determine the ease with which abuse could take place undetected. Is there a working lock on the child's door? How far is the child's room from other sleeping quarters in the house? How thick are the walls? Thick walls may explain a father's boldness in abusing a child while others are awake. If the walls are the equivalent of paper, the child's statement "daddy told me not to make a noise" is all the more compelling.

*Search for evidence of motive.* Many abused children love their perpetrators and have expressed their love by drawing pictures, sending letters, and making projects for them. Look for these drawings or projects in the suspect's house and place of work. A child's artwork is often displayed on refrigerators and office doors. Find out what present the child made or gave her father on a special occasion such as a birthday, Christmas celebration, or Father's Day. Artwork and other expressions of affection document that the child has no incentive to falsely accuse the suspect. A prosecutor may be able to place these items into evidence to show the child's state of mind at the time the project was made. A prosecutor can then argue to the jury: "If you have ever been in love, you know this to be true. Rational human beings do not commit perjury in order to send to prison someone they love. The child's artwork proves she is not trying to hurt her father. She simply wants a father who doesn't hurt her."

*Use the suspect to corroborate the victim's statement.* Even if the defendant is adamant in denying the abuse, he will often admit many of the important details surrounding the abuse. If the victim gave the police one hundred pieces of information and you can show, through the defendant, that at least ninety percent of the information is accurate, this enhances the child's credibility. Just as you did with the victim's statement, analyze in detail the suspect's statement. Investigate any claims made by the defendant to see if they are true. If the investigator finds wives and girlfriends who refute the defendant's claim of impotency, the prosecutor can now show the defendant to be a liar and the jury may wonder what else the accused has lied about. Beyond this, make a concerted effort to obtain an outright confession from the suspect.

Properly trained investigators can and do obtain confessions in a high percentage of child abuse cases.

*Conclusion.* In the short run, it may be time consuming to thoroughly investigate a child's allegation of abuse. In the long run, however, a thorough investigation will save time. An investigation that produces corroborating evidence will enhance the child's credibility, lessen the defendant's desire to go to trial, and will hasten the arrival of justice.

**Selected Sources**

Sandra K. Hewitt, *Assessing Allegations of Sexual Abuse in Preschool Children* (1999)

John E.B. Myers et al., *Psychological Research on Children as Witnesses*, 28 Pacific L. J. 1 (1996)

Victor I. Vieth, *In My Neighbor's House: A Proposal to Address Child Abuse in Rural America*, 22 Hamline L. Rev. 143 (1998)

*The original version of this article, complete with footnotes, is available from the Children's Law Office or directly from the National Center for Prosecution of Child Abuse.*

**National Training and Assistance**

The author of the previous article is the Director of the National Center for Prosecution of Child Abuse, an organization affiliated with the National District Attorneys Association. NCPCA is a powerful resource for law enforcement officers and prosecutors.

For more than a decade, NCPCA has provided the best available basic training for child abuse investigators and prosecutors. Their week-long course is vital for a person recently assigned these cases. In addition, NCPCA offers a one week trial advocacy course for prosecutors and a one week interviewing course, both of which are reported by many prosecutors to be the best such courses in the country.

NCPCA also is able to help with individual cases. For example, they often have transcripts and other materials on out-of-state experts who come into South Carolina to testify in cases of child abuse. Solicitors and investigators should contact NCPCA to receive the organization's newsletter and notices of upcoming training.

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