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To Protect and Serve . . . the kids.

News for the Child Abuse Investigator

CHILDREN AS WITNESSES

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Testifying in criminal cases is a difficult process for any witness. The stress of testifying is intensified when the witness is a child who is asked to discuss sexual acts committed by an adult the child loves. While many prosecutors have long observed that a child victim's participation in a criminal prosecution can have a positive effect on the child, a recent study supports these observations and provides useful recommendations for minimizing trauma to child witnesses.

In a study published in the August 1997 issue of the *Journal of Interpersonal Violence*, researcher Jim Henry surveyed 90 child victims of intrafamilial sexual abuse about their experiences with child protective services, law enforcement, and the juvenile and criminal courts.¹ Henry reports the following important findings:

- Seventy-two percent of the children felt their involvement in the child protection system was more positive than negative.
- Eighty-three percent of the children stated they were glad they told and would tell again. Thirteen percent were not sure they would tell again and of the four percent who said they definitely would not disclose again, only one blamed the system for betraying her. The other children expressed concerns about family matters as the source of their hesitation about or decision not to disclose in the future.
- Children indicating they may or would not again report their own abuse nonetheless indicated they would advise an abused friend to tell an adult.
- Forty-one percent of children said they trusted a professional very much and 40 percent indicated they trusted a professional some.
- Children who developed a trusting relationship with at least one system professional experienced less trauma than those who did not develop a trusting relationship.

Henry's study demonstrates that professionals possess the power to influence the effect that system intervention has on child victims and reminds prosecutors of several important lessons.

First, prosecutors must recognize their vital role in earning and maintaining the child's trust. Instead of attempting to comfort children with promises that cannot be kept, prosecutors should speak candidly with children and prepare them for all possible outcomes and implications of the adjudication. Children are then prepared for the future instead of being left shocked and bewildered by an unforeseen turn of events. As Henry states, "[w]ithout this preparation, it is likely that children will experience betrayal when painful and stressful events occur."²

Prior to trial, a prosecutor should show child witnesses the courtroom and allow them to sit in the witness box.³ Some children are too small to see over the witness box and if this is known in advance, a prosecutor can seek special accommodations for the child. If possible, introduce children to court reporters and other courtroom personnel they may see in the courtroom. Ask the court reporter to show your child witnesses how the stenographic machine works. Perhaps the court reporter can type the child's name and the name of any family pets and then give the child the sheet with this information. Show the child where the judge, jurors, and others will sit. If identification is not at issue, show the child where the perpetrator will sit. If your courtroom has microphones, ask the child to practice speaking into one. In this way, the child will not be surprised by the amplification of his voice in the courtroom.

Second, Henry's study provides additional support for the widely recognized benefits of the team approach to investigating and prosecuting child abuse. Henry concluded that the number of interviews with a child increased the level of trauma. With multidisciplinary teams and inter-agency cooperation trauma can be minimized by limiting interviews while at the same time maximizing information obtained from the child.

Third, professionals need to know how to communicate with children. Trust is directly related to communication and if professionals interviewing children do not treat them in an appropriate manner, trust will be lost. Henry concludes that a trusting relationship "may serve to mitigate the impact of previous betrayal and offer sexually abused children new opportunities to feel safe and secure, the necessary building blocks for psychological and emotional recovery."⁴

Finally, Henry reminds prosecutors that the criminal prosecution itself is an important element in reducing trauma to children. Successful intervention by society vindicates children who have been abused and plays a role in children's healing. As Henry observes:

The necessity of disclosure, despite the aftermath of emotional pain, psychological stress, and personal loss, is undoubtedly evident from children's responses. This information provides system professionals with a mandate to develop interventions that encourage disclosure and the right to personal safety. It clearly demonstrates that the system is frequently successful in supporting victimized children following their disclosure.⁵

¹Jim Henry, *System Intervention Trauma to Child Sexual Abuse Victims Following Disclosure*, 12 *J. Interpersonal Violence* 499 (1997).

²*Id.* at 509

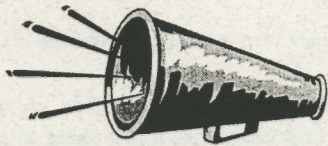
³Whenever a prosecutor discusses with a child the facts of a case, a police officer or other professional should be present in the event the child reveals new information. In this way, a prosecutor can avoid becoming a witness in the case.

⁴Henry, note 1, at 509.

⁵*Id.* at 510-11.

For other studies examining the effect of the court process on children, see Lucy Berliner & Jon R. Conte, *The Effects of Disclosure and Intervention on Sexually Abused Children*, 19 Child Abuse & Neglect 371 (1995) and Julie Lipovsky, *The Impact of Court on Children*, 9 J. Interpersonal Violence 238, 245 (1994).

ANNOUNCEMENT



New Resource Attorney

The Children's Law Project is pleased to announce the hiring of Charles Phipps as Resource Attorney. Charles is a graduate of George Washington Law School and has worked for the past five years as a staff attorney with the National Center for Prosecution of Child Abuse. His responsibilities include training, technical assistance and preparation of written resource materials related to prosecution of criminal child maltreatment cases. He will also provide technical assistance and support to selected jurisdictions in the development of interagency protocols and/or multidisciplinary teams for the investigation of child abuse.

Upcoming Training

The Sexual Trauma & Counseling Center, located in Greenwood, and the Children's Law Project will sponsor a training session on sexual abuse May 12-13 at Piedmont Technical College. Topics will include child interviews, non-offending parents, medical evidence, and investigation. For more information, call (803) 777-1646.

Pending Legislation

The following bills are pending in the South Carolina legislature:

Unlawful Conduct Towards a Child (H.3603)

This bill would amend §20-7-50 to revise the definition of persons who could be charged with unlawful conduct towards a child. In addition to parents or persons having custody of a child, this section would apply to anyone who resides in the house of a child, has recurring access to a child, or has been given responsibility to care for a child. Placing the child in a situation likely to lead to abandonment would be added to the current offenses, which include placing child at unreasonable risk of harm, causing bodily harm to a child, and abandonment.

This bill was introduced last year by Representative Allison and many co-sponsors. It passed the House in April and is currently in the Senate Judiciary Committee.

Obscene Materials To Minors (H.3291)

This bill would add a new section making it a misdemeanor to disseminate or display indecent material to minors in any manner. Indecent material is defined in the bill. §16-15-345 would be amended to revise the penalties for dissemination of obscene material to minors so that an adult offender could be imprisoned for up to ten years, rather than five, or fined up to \$5000, or both. If the minor is 12 or younger, the penalties would be up to fifteen years or \$10,000 or both. §44-53-391(c), concerning sale or possession of drug paraphernalia, would be amended to revise penalties for first, second, and third offenses.

This bill was introduced last year by Representative Kelly and others. It passed the House in April and was sent to the Senate, where it is in Judiciary Committee.

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