

Roles and Responsibilities

The team concept draws its strength not just from the additional investigative personnel it brings to the task but also, and more important, from the richness that comes from the combined knowledge and skills of multiple disciplines and the diversity of authority invested in the member agencies. When we establish teams and

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crosstrain their members, we are not seeking to make police officers of the social workers or social workers of the cops. Indeed, for the team concept to work properly, it is vital that team members maintain their individuality and function within broad role constraints.

All team members do not participate in each aspect of the investigation, but together they coordinate the total process, drawing from the resources available. First, teams quickly find obvious areas of overlap where the team roles become

interchangeable (e.g., interviewing children). With these tasks, the team has flexibility to assign responsibility based on personal and professional strengths and experience. Second, in other areas (e.g., interviewing suspects) one agency will logically take the lead by virtue of its organizational authority and specialized training and experience. A third category is also present in which the unique legal authority vested in a specific agency or subset of agencies (crime scene searches by law enforcement) requires that it or they be the only ones involved in certain activities. The roles of each member must be understood by the other team members at the beginning. Failure to do so invites conflict over who is responsible for which aspect of the investigation and the resulting loss of efficiency and effectiveness.

The roles of the team members are varied and can be broken down by discipline. Where the same activity appears without comment in more than one discipline, assume that the team can assign that duty based solely on individual experience and skill. Of course, when dividing duties among team members, it is critical to remember that the team member performing that task is doing so not only on behalf of his or her individual agency but also on behalf of the team. It is important that the member know and gather the information needed by the other disciplines to avoid the need for repeated contacts.

Investigative teams take many forms and involve different agencies, depending on the jurisdiction and the specifics of the case. As a general rule, the primary field investigators of the teams discussed in this book are composed of child protection staff and law enforcement officers. Depending on the case, the team also may include state or federal law enforcement agencies. Functioning behind the scenes are the prosecutor and the attorney who represents the CPS agency in juvenile or family court in any dependency action. Many teams also include a mental health professional who may only provide guidance or assist in team coordination or actually see the child in a forensic or extended assessment role. These disciplines represent the principal team members. Other professionals may assist in the investigation temporarily and become members of an extended team, including medical professionals performing sexual abuse examinations, other mental health professionals working with the child, and even the substitute care provider for a child in foster or residential care.

Box 3.1: The Role of Child Protective Services

The child protective services agency and worker:

1. accepts reports of abuse
2. interviews alleged child victims
3. interviews siblings or other possible child witnesses
4. interviews nonoffending parent(s)
5. interviews other adult witnesses and collateral contacts
6. interviews the alleged offender if the team determines this to be appropriate (such an interview is typically performed by law enforcement personnel)
7. arranges medical examination and psychological examinations of child and parents, if needed
8. performs risk assessment (an analytical process to assess the likelihood of future abuse)
9. develops a safety plan to protect the child in his or her home or the home of a relative or family friend
10. petitions the juvenile or family court (through the attorney representing the agency) for custody to place the child in foster care
11. secures a foster home or other appropriate placement
12. develops a case plan to meet the child's needs and reduce the risk of future abuse
13. arranges community services to support the plan such as counseling or financial support for the mother if the offender has moved out of the home
14. evaluates the service delivery process and the progress or lack of progress by the involved family member
15. testifies in court proceedings (juvenile, family, or criminal court as well as grand juries if appropriate) and makes recommendations to the court about the long-term plan for permanence for the child

In many communities, the CPS worker comes to the team with more experience and training in interviewing children than is typical of law enforcement officers, who come to the team from patrol work or other investigative duties (see Box 3.1). With the rapid growth in reports in recent years and the corresponding increase in knowledge and training, the expertise of investigative interviewing among CPS workers has improved (Faller, 1990). For these reasons, child protec-

tion workers often take the lead in interviewing alleged victims and other child witnesses. It should be noted that the individual expertise of specific team members varies, and the law enforcement member of the team may actually have far more training and experience in talking with children. In that case, the team would have the officer take the lead in the interview. As we will see later, joint interviews with both law enforcement and CPS present can be very effective if handled right.

The assessment of risk is one area in which child protection generally takes the lead, with input from other team members. Such risk assessment systems as Action for Child Protection's Child at Risk Field are designed to attempt to structure the decision-making process in a way that minimizes the likelihood of repeated abuse or overreaction by an inexperienced worker. Some systems—such as those in Florida, Tennessee, and Illinois—also serve to guide the service delivery process throughout the life of the case. There is nothing magical about these efforts. They are simply examining the various factors that place the child at risk, first in isolation (i.e., infants are inherently at greater risk than teenagers, given that all other factors are equal) and then in combination (i.e., an infant in the hands of a psychotic father with a history of sexual assault who lives on a remote farm). (See Box 3.2.)

Box 3.2: Risk Factors in Sexual Abuse

The following risk factors are particularly relevant in sexual abuse cases:

1. a history of sexually abusive behavior that demonstrates sexual interest and the capacity to act on that interest
2. the presence of someone with an abusive capacity in the home or the degree of their access to the child
3. the degree of isolation present in the child, factors that influence impulse control, and the influence of inhibitions such as substance abuse, mental illness, or significant mental retardation
4. the level of belief primary caretakers have that the risk of abuse is real and that the child needs protection from a specific person whom they have previously trusted
5. the ability of a nonoffending parent to protect the child

Good risk assessments also consider family strengths that may balance some of the risks. The final risk judgments take all these factors into account and drive the safety plan decisions (e.g., what must change for the child to remain in the home or be safe at a relative's home?) or the judgment to legally remove the child from the home. Risks and strengths also guide the service delivery that targets specific risk-reduction services such as addressing substance abuse or building on strengths such as a mother's ability to accept responsibility for protecting the child. Ultimately, risks and strengths drive decisions about reunification or termination of parental rights.

The worker's interview with nonoffending parents is designed to gather facts about the alleged abuse and to provide information for the risk assessment process. The child protective services worker also may wish to seek out other relatives or collateral contacts to gather data for this process. Even elements of the confrontation interview with the alleged offender will be useful to the risk analysis.

The CPS staff also will play a dominant role in establishing a safety plan, if necessary. This is the plan of protection for the child during the investigative process. For example, CPS may quickly assess the safety of a temporary relative placement after an initial disclosure, or it may determine the practicality of an alleged perpetrating father voluntarily moving out of the home until the investigation is complete.

□ Understanding the Limits of the Role of Child Protection

Some team tasks may exceed the statutory authority of the child protection agency and turn the CPS staff into agents of law enforcement. For example, when the team is present in the home and the officer has a search warrant or a consent to search, then CPS workers should not participate in the search because it goes beyond their statutory authority and as such may expose them to personal legal liability.

In a similar vein the officer must not attempt to avoid search limitations by having CPS workers ask parents to let the workers take evidence with them only to turn it over to law enforcement once out the door.

Another area that presents potential problems is the interview with the alleged perpetrator. Although certainly nothing is wrong if the team decides to have the CPS worker conduct the interview with the alleged offender, it does not alter the need to inform the suspect of his or her legal rights per *Miranda*, if the interview is conducted in a custodial setting or one in which a reasonable person would believe that he or she is not free to leave. If the suspect is otherwise entitled to *Miranda*, then the courts have viewed the CPS worker as an agent of law enforcement and have excluded confessions secured by CPS [*People v. Kerner*, Ill. Apprd., 528 NE 2nd 1223 (1989); *Cates v. State No. 031-088* (Texas, 1989); and *Tenn. v. Loveday*, Ct of Criminal Appeals, East (1990)]. The team must set limits on the roles of team members consistent with statutory authority, case law, and common sense.

□ The Role of Law Enforcement

The law enforcement officer generally:

1. responds to calls in an appropriate manner (that is, one commensurate with the urgency of the call), stabilizes the crime scene, and takes initial statements as appropriate;
2. performs criminal history record checks on alleged offenders;
3. collects and preserves physical evidence (e.g., trace evidence or instruments used in the assault);
4. interviews child victims or witnesses consistent with the team's decision;
5. conducts photo lineups or live lineups to confirm the identification of perpetrators, if necessary;
6. interviews adult witnesses in cooperation with CPS;
7. facilitates the use of technological investigative tools such as monitored telephone conversations;
8. interviews alleged perpetrators;
9. takes suspects into custody, when and if appropriate;
10. presents criminal cases in lawsuits:
 - a. to obtain warrants;
 - b. to grand juries, if used in jurisdiction;

- c. at preliminary hearing, if appropriate;
- d. in criminal court;
- 11. testifies in juvenile or family court, if necessary, to ensure the child's protection; and
- 12. takes child into protective custody if the CPS worker assesses that the risks require the child's removal.

Law enforcement brings to the team expertise in collecting and preserving evidence, examining crime scenes, taking statements, and securing confessions. The law enforcement officer also is able to make arrests and is best able to present the criminal case in the appropriate forums because of his or her training and familiarity with criminal law and procedures (Pence & Wilson, 1992). The law enforcement agency also has greater access (directly or through the state law enforcement agency) to technological equipment and the skilled personnel who use it. This includes a range of devices, from sophisticated pinhole surveillance cameras, to simpler telephone monitoring and recording equipment, to the equipment needed to reduce the background noise that makes an audiotape of a child interview difficult to hear.

In defining team roles, the discussion within the team should consider all investigative agency personnel that the child and family will encounter. Although not formally part of the investigative team, patrol officers often become involved in these cases through their response to domestic calls. In some jurisdictions, they are routinely dispatched as first responders. In fact, 78% of the law enforcement agencies responding to a national survey by the Police Foundation

reported that they sent a patrol unit to the scene to conduct an initial investigation when a call came in to the dispatcher. Only 14% of the respondents sent a specialized unit as a first responder, even though 92% reported having one or more "specialists" in either a criminal investigation unit or in the juvenile services division (Martin &

Besharov, 1991). If this practice occurs within a community attempting to establish teams, it is important that the patrol officers have clearly defined roles and related training. In Montgomery County,

The team defines roles for all investigative agency personnel.

Maryland; San Francisco; and Washtenaw County, Michigan, for example, patrol officers contact abuse specialists as soon as it is apparent that they are dealing with probable allegations of abuse. "This arrangement has produced fewer victim interviews and stronger cases. Also, the frequency of contacts among a few persons in each agency has fostered closer cooperation and the development of trusting relationships between police and child protective agency personnel" (Martin & Besharov, 1991).

With these experiences in mind, the role of patrol officers needs to be clearly defined. The dispatcher should have a protocol that defines when a patrol unit should be sent to the scene before the team. This could include incidents in which the speed of arrival is vital to child protection (i.e., the child is being abused at the moment the call comes in). Patrol officers need to have clear guidance on when to call the team and who at the law enforcement agency will contact child protective services. The uniformed officer also should be prepared to protect the crime scene, stabilize the situation by calming the family, assess any emergency medical needs for the child or others, and assess any risk of violence. The officer also should identify any possible witnesses on their arrival. But as a general rule, initiating a preliminary investigation should be avoided until the team is on the scene.

The officer on the team is then in a position to coordinate with CPS as to who takes the lead in talking with the child(ren), interviewing witnesses, and conducting a specialized search when there is consent to search or a search warrant. This team member often selects the time and place for the confrontation with the offender and conducts the actual interview.

□ The Role of the Prosecutor

The prosecutor will serve primarily in an advisory role helping guide the field investigators until the case is ready for disposition. The prosecutor will:

1. actively participate in developing the case's overall investigative strategy;
2. assess the evidence collected to determine its potential utility in court;

3. assist in drafting search warrants;
4. participate in suspect interview when appropriate;
5. give guidance on legal issues, such as statute of limitations problems and jurisdictional issues;
6. determine appropriate charges and the best means of charging (arrest vs. grand jury);
7. negotiate bail or plea agreements and restrictions;
8. prepare witnesses for court or oversee a court school program for children; and
9. present the state's case at trial.

In most jurisdictions, prosecutors function behind the scenes of investigations. Their familiarity with the law and potential defense tactics puts them in an excellent position to help develop investigative strategies. In some communities the prosecutor is much more involved in the investigative phase of the case. However, in most communities, the prosecutor really steps into the forefront when the case moves into the prosecutory phase where he or she assumes the central role in any plea negotiations, in ensuring that the child is prepared for court, and in presenting the state's case at trial, while at the same time seeking ways to reduce the trauma of this process to the child.

□ The Role of the Child Welfare Agency Counsel

The legal representation of child protective service agencies varies dramatically around the country. Many agencies employ their own counsels, while others use county attorneys, the states' attorneys general offices, or, in some cases, attorneys who work out of prosecutors' offices. No matter how his or her role is configured, this professional plays a vital role in the team's effort to protect children.

This attorney's responsibilities include the following:

1. reviewing evidence to determine if sufficient reason exists to remove the child from the home, if that is what the CPS worker (and sometimes supervisor) feels is necessary;

2. preparing or supervising the preparation of petitions to the court for removal of a child, when necessary;
3. preparing petitions for no contact orders where appropriate;
4. presenting the state's case in juvenile or family court;
5. giving general legal advice about civil cases;
6. negotiating visitation arrangements with parents' attorneys, if necessary; and
7. preparing injunctions to prevent continued access to children by abusers, if needed.

The criminal justice process often moves slowly, and even after arrest, an offender might well be out on bail and representing a risk to the child. The dependency attorney can access the power of the juvenile or family court (depending on the state) to protect the child, and this attorney is critical in staving off efforts to force a premature reunification with the offender. This same individual may, in some cases, also be the attorney to present the team's case to an administrative tribunal as it considers a child care license of a person alleged to have committed sexual abuse within a licensed child care facility such as a day care center. In addition, this attorney will represent the team at the due process hearings, which have been established in some states for persons listed on the central child abuse registry, or in civil court when the CPS agency seeks an injunction against an individual to protect children. Ultimately, the attorney representing the CPS agency must coordinate closely with the criminal prosecutor to avoid conflicts in court orders or the use of the civil matter as a means of getting premature discovery of evidence in a criminal case.

□ The Role of the Mental Health Representative

Mental health professionals can play many important roles on investigative teams. On the conservative level, they are trained to help bridge conflicts among the team members and focus on team building and maintenance activities. They also generally come to teams with the most advanced formal clinical training on child

development and human behavior. With this background they are in a good position to help guide the actual interview strategies based on the child's developmental level.

The role of the mental health clinician in the investigative process includes:

1. providing guidance or suggestions on interviewing strategies for children that are specific to their developmental level, gender, and emotional state;
2. assisting in the interpretation of psychological information received by the team (e.g., explaining the implications of various *Diagnostic and Statistical Manual* (3rd ed., rev.) (*DSM-III-R*) diagnoses to the team as it evaluates the credibility of witnesses;
3. making treatment recommendations for children;
4. advising prosecutors on the appropriateness of community-based sentencing options for offenders;
5. conducting "evidentiary" or forensic interviews (Stephenson, 1992);
6. conducting extended assessments of the children; and
7. coordinating the team in general.

In some communities, mental health specialists take far more active roles. Whether they work for prosecutors or law enforcement (such as in Everett, Washington), a hospital-based center (as in San Diego, California), a Child Advocacy Center (Huntsville, Alabama), or for another community-based agency (Nashville, Tennessee), a specially trained mental health interviewer may be in the best position to build a relationship and secure an accurate account of what, if anything, has happened in the life of a child who seems reluctant to talk to investigators. Some specialists use a single evidentiary interview (San Diego), while others use a series of less-directive play interviews (Nashville and Huntsville). If the team wishes to include this component, it is important that the mental health interviewer clearly understands the nature of investigative questioning (a minimal use of leading questions) and the type of information needed by all involved agencies. It is important, too, that all understand the rules of confidentiality. Some well-respected mental health professionals working in the

field of child sexual abuse are uncomfortable with this role, and conflict can be avoided by clear expectations on the front end.

□ The Role of Medical Professionals

Medical professionals sometimes function as members of extended teams. This has distinct advantages: It provides a team with consistent information from a physician or specially trained nurse who understands the medical issues and can help the team understand the medical findings. As with other team members, frequent contact builds trust. The drawback to this arrangement, however, should not be dismissed lightly. The opinion of a medical clinician who is closely associated with the investigative team will be portrayed at trial by defense attorneys as biased in favor of the prosecution. Some teams prefer to develop a working relationship with a medical facility that has the needed equipment and trained staff but which remains independent of the team and its decision-making process.

The roles of medical professionals include:

1. interpreting medical findings to the team;
2. performing forensic medical examinations;
3. recording the verbal statements made by the children during the examination (which are admissible in some courts); and
4. preserving any physical evidence secured during the examination (e.g., semen) or any photographs taken of injuries.

□ Others

The core team is composed of child protective services, law enforcement, the criminal prosecutor, and the CPS agency attorney. The inclusion of a mental health specialist makes the team more balanced, often adding expertise in a critical area. The medical evaluation is critical, but it does not have to be a formal part of the team.

The team also may wish to include other key actors as an extended team from which the core investigative team can gain valuable information. For example, the foster parents with whom the child is placed can be encouraged to document any spontaneous statements about the abuse made by the child. Professionals such as teachers, residential child care providers, or therapists are part of a service delivery team for the child after he or she enters care; if approached properly by the investigators, these adults can be excellent sources for understanding the evolving disclosure from the child.

Teams can and do work in a variety of configurations. Although desirable, it is not necessary to have a large center-based team with all the disciplines mentioned in this chapter actively involved. A

single CPS worker working with a single law enforcement officer can make up a team. Teams have even worked when the only interested agencies were the prosecutor's office and the CPS agency. The key to team success is not just which individuals are on the team, but how well their respective roles are defined.

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Without clear delineation of roles, someone will undoubtedly leave something undone that others expected, or he or she will engage in an activity that the others believe is beyond the individual's scope or abilities. The importance of mutual *understanding* of roles cannot be *overstated*, and the necessity of learning how to facilitate cooperation cannot be underestimated.

Team Investigation of Child Sexual Abuse

The Uneasy Alliance

Donna Pence
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IVPS

Interpersonal Violence