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SAO 19

MISSION STATEMENT

“Of all the tasks of government the most basic is to protect its citizens against violence.”

- John Foster Dulles

My two primary passions as a career prosecutor:

- 1. Family/Domestic violence.**
- 2. Crimes of violence against children.**

- I have been prosecuting these crimes for over 35 years.
- I have taught and lectured on these topics both publicly and directly to law enforcement.
- I was a member of the 19th Circuit Domestic Violence fatality review Team.
- I have been on the 19th Circuit's local Child Abuse Death Review Committee since 2012.
- I represented the FPAA on the State Child Death Review Committee for 9 years.
- I have been a member of Advisory committee for SAAP of the Treasure Coast.
- I have been a member of the SART.
- On the Child Advocacy Center advisory board.

Have you ever been the victim of a crime?

VICTIM RIGHTS

Article I Section 16, Florida Constitution- **Marsy's Law**

b) To preserve and protect the rights of crime victims to achieve justice, and ensure a meaningful role throughout the prosecution, and ensure the crime victims' rights and interests are respected and protected by law in a **manner no less vigorous** than the protections afforded criminal defendants...

Preparing the Child Victim

1. Remember this is an ordeal that has the real potential for long-term traumatic effects.
 - a. Engage your advocates in the process as soon as possible.
 - b. Utilize the services of the CAC.
2. State Attorney:
 - a. Try to maintain regular contact to develop trust.
 - b. We try to keep same team in place thru prosecution.
 - c. We take them over to the courtroom to acclimate them.
 - d. Make facility/therapy dog available.
 - e. Courtroom shall be (partially) cleared victim under 16.
 - f. Strive to be victim centric!

Some laws to keep in mind

1. Section 914.16, Florida Statutes- To prevent psychological damage to child victim from repeated interviews requires Chief Judge to develop rule on interviews when:
 - a. The child is under 16;
 - b. Crime involves Sexual Battery, Lewd, Child Abuse, and Computer Transmissions.

- i. AO 2021-02: The three (3) interview rule:
 - a. What an interview is not:
 - 1. Initial cursory contact by LEO and/or DCF to assess validity of complaint;
 - 2. Info obtained for medical or psychological diagnosis or treatment
 - 3. Contact with DCF legal, victim services, guardian's attorney and ASAs to carry out legal duties;
 - 4. Court proceedings;
 - 5. Initial contact with school system;
 - 6. Preparation for deposition, hearing or trial.

b. Limitations on Interviews:

- i. **Shall** be conducted in a setting and manner designed to minimize traumatic effects; (think police station v. CAC)
- ii. One investigative interview. Every effort should be made to video record. Should be coordinated between LEO, ASA, DCF and CPT; (CAC is designed with this in mind)
 - * LEO may conduct additional non-duplicative interview to clarify or expand on developments in the investigation.
 - * Should be video/audio recorded
- iii. All efforts must be made to limit to no more than 2 people in the room;
- iv. The State Attorney Hearing;
- v. Discovery deposition;
- vi. Additional interviews if good cause shown.

How should the interview be conducted?

1. We have a CAC which satisfies all the requirements of the Administrative Order:

- * Child friendly atmosphere minimizing trauma.
- * Interview video taped.
- * Interview can be monitored so as to limit people in room, so all agencies can participate.
- * CPT provides a qualified forensic interviewer every time.

2) Law enforcement should be present and participating by providing input.

LAWS TO CONSIDER, Cont.

2) Section 92.55- Discovery Deposition of Child

a. Before defense may conduct deposition of child under 16yoa in a sexual offense must get permission from the court.

b. Court must consider:

i. Mental and physical age and maturity

ii. Nature and duration of offense

iii. Relationship of victim to offender

iv. Complexity of issues involved

v. Availability of evidence through other means. **Specifically, was there a forensic interview.**

c. If the victim is under 12, there is a presumption that depo is not appropriate.

i. Must have a forensic interview to qualify.

ii. State is not seeking death.

LAWS TO CONSIDER, Cont.

- 3) Child Pornography is now called Child Sexual Abuse Material (CSAM):
- Significant penalty enhancements for possession of more than 10 images; L and L molestation; Use of child in sexual performance (Life with 25 yr MM); Selling buying Minors (30 yr MM); Transmission of CSAM
 - Possession of child like sex doll is now an F3
 - Sex Offenders including possession of CSAM prohibited from residing within 1000ft of school, day care facility and public pool.
- 4) Section 800.035- Indecent exposure while observing a child:
- Exposing sexual organ in lewd and lascivious manner to child under 16yoa- Child's awareness irrelevant. F3

LAWS TO CONSIDER, Cont.

5) DCF **may delay** reporting to Law Enforcement:

a. Parents report child's conditions relating to deficiencies in bone development. (EDS, OI- Brittle Bone Disease, Rickets or Vitamin D deficiency);

b. DCF must request medical records and parents must provide w/in 10days;

c. CPI should consult with medical professionals experienced in the field;

* This does not otherwise impact mandatory reporting requirements of child abuse, neglect or sexual abuse to the hotline. Section 39.201

6) Section 787.06(5)(a)- Capital Human Trafficking:

* Child Under 12 yoa

* Initiate, organize, plan, finance, direct, manage or supervise a venture subjecting a child to human trafficking for sexual exploitation (794.011)

Conducting a thorough, competent and professional investigation in child physical and sexual abuse cases

1. It all starts with the interview!

- a. Need to ensure that the child appreciates the duty to tell the truth.
- b. Questions need to be asked in non-leading non-suggestive fashion.
 - Did the babysitter touch your private area?
 - Tell me what happened at the babysitters.
- c. Let the child speak. Narratives are the most useful source of information. Let them talk about school and things they like.
- d. Speak using age-appropriate terminology.
- e. Forensic interviewers should have a solid foundation in the law so as to ask the appropriate questions.
 - * “Sexual Battery” means oral or anal penetration or union w/ sexual organ or object.
- f. It is appropriate to use dolls and other demonstrative aids.

2) Why is the interview so important?

a. How you conduct the interview is a major factor in deciding if it is admissible as child hearsay.

b. Develop consistency in the child's statement or inversely identify inconsistencies.

c. Remove any anticipated defense that the child was put up to the report.

d. Generally this is your only witness.

- 4) Importance of corroboration- Child v. Adult
 - a. The indispensable controlled phone call
 - b. Physical exam
 - * Medical records
 - c. Evidence to narrow down time frames (ie. property records, phone records, W statements, school, teachers)
 - * Especially important in child death investigation
 - d. Doll reenactment!
 - e. Searching cell phones for contact via voice, text, photo, location data
 - f. Gifts to V or special treatment
 - g. Documenting crime scene by Photographs/Video- Which corroborate anything the victim said about the scene (The stump in the woods)
 - h. Lock in witnesses particularly spouses of offender who may not be supporting prosecution later in the case.
 - i. Gather DCF reports
 - j. “Williams Rule”/Similar fact evidence

- 5) Interview the defendant face to face.
 - * Interview the suspect immediately
 - * Interview the suspect multiple times prior to arrest

Difficulties Faced by the Prosecution

1. These are extremely difficult cases to prove even when a thorough investigation is completed.
 - a. Standard of proof is Beyond a Reasonable Doubt
 - b. Child victim's memories are often not complete due to the passage of time or simply due to their age or the effects of trauma.
 - c. There are often inconsistencies in statements and testimony.
 - d. Victim recantation is a frequent occurrence as a result of familial pressures.
 - e. Lack of corroboration.
 - f. Defense created motivations for fabrication.
 - g. Family does not want to subject the child to the trauma of trial.

A Success Story.

1. Tip came in from NCMEC:
 - a. Law enforcement immediately followed up.
2. They did a “knock and talk” with the suspect.
 - a. They gathered vital information which would enable them to establish her ownership of online account.
 - b. Search warrant on Snapchat was critical as our victims were 18months and 3yr old. Too young to be interviewed.
3. Search Warrant of house provided photographs of the location of bedroom where sexual assaults took place.
4. Interviewed husband and locked him in as he provided identity of defendant and victims and venue.
5. They kept her jewelry upon arrest which assisted with ID.
6. Court order obtained to take nude photos of def to compare.

7) The facts:

a. While videotaping she would have the children touch her and vaginally penetrate her, she would have them put their penis in her mouth and coached the 3yo to insert his penis in her vagina.

i. During the acts she could be heard saying “you are such a good little perv.”

b. She then distributed the videos to people who would pay for the “right” to view.

i. She would brag in messages how her 3yo could get erect.

c. Experienced prosecutor indicated that these were the most disturbing videos she has ever seen.

8) The result:

- a. Made no offer as the minimum for each charge was Life.
- b. After trial defendant sentenced to 21 consecutive life sentences plus 800 years!