

GUIDELINES FOR CHILD SEXUAL ABUSE INVESTIGATION PROTOCOLS

Washington State

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TABLE OF CONTENTS

Legislative Direction.....	1
Introduction.....	3
Legal Standing.....	5
Protocol Development	7
Protocol Contents	9
I. Mission Statement	11
II. Agency Roles and Responsibilities	13
III. Suspect and Witness Interviews	15
IV. Child Interviews.....	17
V. Medical Evaluation, Evidence, and Treatment	21
VI. Complex Cases.....	23
VII. Information Sharing.....	25
VIII. Methods of Protecting Children During Investigation.....	27
IX. Training and Qualifications of Interviewers.....	29
X. Case Closure	31
Resources	33
Appendix A. Work Group Members	39
Appendix B. Legislation	43

LEGISLATIVE DIRECTION

The 1999 Legislature passed legislation concerning investigations of alleged child sexual abuse (SB 5127¹). The key features are as follows:

- ✓ Each county, under the leadership of the county prosecutor, must develop a written protocol for handling criminal child sexual abuse investigations that is based on state guidelines. These protocols must be in place by July 1, 2000 (RCW 26.44.180).
- ✓ Each agency involved in investigating child sexual abuse shall document its role in handling cases and how it will coordinate with other agencies and shall adopt a local protocol based on the state guidelines.
- ✓ Persons responsible for investigating child sexual abuse shall be provided with ongoing specialized training (RCW 74.14B.010).
- ✓ DSHS employees must document and preserve, in a near verbatim format, any questions and answers posed when interviewing children about alleged sexual abuse. These employees shall retain their original notes of the interview unless such notes are entered into the electronic data system (RCW 26.44.035).
- ✓ DSHS is to establish three pilot projects that rely on different methods and techniques for conducting and preserving interviews of children alleged to be victims of sexual abuse.
- ✓ Law enforcement agencies shall prohibit all officers from investigating an allegation of abuse or neglect involving a child for whom the officer is, or has been, a parent, guardian, or foster parent.

As part of this legislation, a multidisciplinary work group was directed to develop state guidelines related to child sexual abuse investigation. The guidelines are to be used by counties in developing local protocols. The legislation designated that work group members include representatives from law enforcement, Child Protective Services, and prosecutors. In addition, the group was directed to consult with victim advocates, the judiciary, medical professionals, the defense bar, child-serving agencies, mental health experts, and advocates for people with developmental disabilities. A listing of work group members is included as an appendix.

The work group was assisted by two experts, Lucy Berliner, Director of the Harborview Center for Sexual Assault and Traumatic Stress and Patricia Toth, a private consultant. Ms. Berliner advised the group on the scientific evidence regarding memory and suggestibility of child witnesses, and Ms. Toth reviewed multidisciplinary investigation protocols from across the nation.

The report from the Office of the Family and Children's Ombudsman, "1998 Review of the Wenatchee Child Sexual Abuse Investigations," was a valuable resource to the group. Roxanne Lieb and Janie Maki from the Washington State Institute for Public Policy staffed the effort, with Larry Dressler serving as the facilitator.

¹ Chapter 389, Laws of Washington, 1999.

INTRODUCTION

These guidelines are intended to assist prosecutors and other agencies in developing local protocols for the investigation of child sexual abuse cases.

Protocols are to be established with the following goals:

- Provide a clear framework for planning and conducting an investigation;
- Ensure optimum coordination and maximum communication among participants, while maintaining role distinctions;
- Encourage understanding and respect for the different goals and responsibilities of participants, and avoid conflicts that may interfere with the efficiency, timeliness, and reliability of the investigation;
- Increase requisite skills through training, coordination, and critical review of actions taken;
- Increase the overall reliability of the investigation;
- Protect the important interests of children and suspects; and
- Minimize the number of interviews of alleged victims.

This document specifies both state requirements and advisory comments. The guidelines are the minimum state requirements for local protocols; the advisory comments are suggestions to guide local decision-making.

Unless otherwise noted, references to "child" or "children" apply to persons under 18.

The term "protocol committee" refers to the multidisciplinary group convened in each county to develop local protocols.

LEGAL STANDING

The purpose of this document is to assist counties in developing local protocols for the investigation of complaints of child sexual abuse and thereby improve the reliability and integrity of investigations and protect the interests of victims, suspects, and communities. The following guidelines set forth minimum standards and direct attention to issues that may arise during such investigations and thus need to be considered when adopting protocols. They should serve as a blueprint for interagency cooperation and interaction.

In no case are these guidelines intended as legal authority for the admissibility or non-admissibility of evidence developed in the course of an investigation. Similarly, these guidelines should not be used as the basis for the dismissal of any charges or complaints arising from a report of child sexual abuse.

An investigation of child sexual abuse is a complex process, and because investigators often have no control over events as they unfold, there can be no clear definition of the perfect investigation or interview. It is essential that investigators and clinicians have freedom to exercise judgment in individual cases. In situations where minimum standards are not met in a particular investigation, consideration should be given to the extenuating circumstances which gave rise to such non-compliance. However, practitioners should be familiar with these guidelines and be prepared to justify their conduct and judgment in individual cases.

PROTOCOL DEVELOPMENT

As directed in SB 5127, each prosecuting attorney shall convene a multidisciplinary group to develop a written protocol for conducting and managing criminal child sexual abuse investigations. The prosecutor shall invite participation from each law enforcement agency responsible for investigating child sex abuse cases within the county (including tribal police, military criminal investigators, or federal authorities where appropriate), Child Protective Services (CPS), assistant attorneys general (in counties where the attorney general represents the state in dependency actions), and the county's victims' advocacy program.² The prosecutor may choose to include other appropriate members of the community.

After the protocol is finalized, the group shall meet at least once every two years to review the protocol and modify it as needed.

Advisory Comments

Prosecutors may wish to consider inviting the participation of additional members of the community, including child interviewers, medical personnel, victim treatment providers, school personnel, developmental disabilities personnel or advocates,³ and other persons involved in the administration of justice.

It may help individual investigators to receive copies of the local protocol, or parts of it, in a form designed for quick reference in the field: for example, laminated sheets that fit into a pocket or purse.

Individual work group members are willing to assist communities in developing local protocols. Please consult Appendix A for contact information. The Washington Association of Prosecuting Attorneys is collecting county protocols and can be contacted for copies at (360) 753-2175.

² The state's Office of Crime Victims Advocacy certifies advocacy programs for sexual assault victims and can identify contact people for each county. They are located within the Department of Community, Trade and Economic Development, PO Box 48300, Olympia, WA 98504-8300; (360) 753-1141.

³ The Division of Developmental Disabilities, Department of Social and Health Services, (360) 902-8444, can provide a list of Developmental Disabilities County Coordinators.

PROTOCOL CONTENTS

Each county protocol shall include the following:

- I. Mission statement describing the overarching purpose and goals that will guide investigations.
- II. Identification of participating agencies and personnel, their basic responsibilities and legal requirements, and the qualifications and minimum training requirements for each participant.
- III. Suspect and witness interviews and methods of documentation.
- IV. Child interviews and methods of documentation.
- V. Medical evaluations, evidence, and treatment.
- VI. Procedures for the investigation of complex cases.
- VII. Information sharing.
- VIII. Methods of protecting children during the investigation.
- IX. Training and qualifications of interviewers.
- X. Case closure.

I. MISSION STATEMENT

This section shall describe the purposes of the county protocol and reference the guiding principles endorsed by participants in child sexual assault investigations.

Requirements

1. A mission statement shall be included in the protocols.

Advisory Comments

The originating legislation (SB 5127) references the following purposes that may help guide discussion within the protocol committee about a mission statement:

- *Minimize the trauma of all persons who are interviewed during abuse investigations;*
- *Provide methods of reducing the number of investigative interviews necessary, when possible;*
- *Assure, to the extent possible, that investigative interviews are thorough, objective, and complete; and*
- *Recognize the needs of special populations.*

II. AGENCY ROLES AND RESPONSIBILITIES

The agencies and/or professionals that investigate child sexual abuse cases have different roles and responsibilities. It is important that professionals recognize and respect the knowledge, training, and responsibilities of other participants and refrain from engaging in activities outside the scope of their function or which interfere with the duties of other participants.

Requirements

1. Protocols shall define the roles and responsibilities of the key participants, including the specific statutory requirements and necessary time frames for key investigatory action. At minimum, they shall clearly define the investigatory roles and responsibilities of CPS, law enforcement, prosecutors, and assistant attorneys general (when appropriate).
2. Protocols shall define the procedures that investigators are to follow in cases involving joint investigations, including:
 - Who conducts the interview;
 - Who observes the interview;
 - Who is responsible for documenting the interview;
 - Which agency is the custodian of the documentation; and
 - How team members, other than the custodian, are to access this documentation.
3. Protocols shall define which agencies have authority to determine when a case requires joint investigation by an identified multidisciplinary team and the manner in which the team can be convened (for example, in complex cases).
4. Protocols shall outline a process to follow if disputes arise among the agencies during an investigation.

Advisory Comments

The role definitions may cover how investigative decisions are made, a description of functions and duties, identification of which agency will take the lead in various actions and functions, and methods to coordinate actions.

Protocols may define cases that are appropriate for multidisciplinary investigation, in addition to cases covered under Section V (Complex Cases).

A protocol committee should consider defining the roles and responsibilities of professionals other than CPS, law enforcement, and prosecutors.

A protocol committee should also consider outlining the methods by which participants will advise other involved professionals (for example, medical providers) regarding legal developments and updates of scientific research.

III. SUSPECT AND WITNESS INTERVIEWS

Investigations are to be conducted in a fair and objective manner. Information should be obtained from all reasonably available sources, including suspects, when possible. Investigations should be conducted with an open mind and explore alternative hypotheses. Investigators must strive to avoid interview techniques that risk eliciting confessions from innocent people.

Requirements

1. Law enforcement shall always attempt to interview all suspects.
2. A complete and detailed interview shall be conducted of any person to whom the initial report of sexual abuse was made to determine facts relevant to the investigation.
3. In cases where CPS is involved and required to interview a parent or guardian who is also a suspect, the protocol shall provide for coordination of this interview between CPS and law enforcement, shall seek to avoid interference with the criminal investigation, and allow both agencies to meet their statutory and policy requirements.

Advisory Comments

Local protocols should address ways to utilize appropriate investigative tools at the earliest possible point in the investigation in order to preserve essential evidence. Investigative tools may include the following:

- *Search warrants;*
- *Documentation and processing of crime scenes and other evidence;*
- *Trace evidence;*
- *Biological evidence;*
- *Suspect medical exam;*
- *Interview of corroborative and alibi witnesses;*
- *Single party consent warrants (telephone recordings).*

The interview of the person to whom the initial report of sexual abuse was made should cover the following:

- *The circumstances under which the report occurred;*
- *What precipitated the report;*
- *What each party said;*
- *The demeanor of the child and/or witness; and*
- *Who was present during the report.*

As with all investigations, the investigative process should be sensitive to a person's ability to understand his or her rights and to effectively communicate. To that end, a protocol committee may want to identify available resources to assist investigators when there appear to be developmental or language barriers.

IV. CHILD INTERVIEWS

The goal of the investigative interview is to obtain a statement from a child, in a developmentally-sensitive, unbiased and truth seeking manner, that will support accurate and fair decision-making in the criminal justice and child welfare systems.

There is consensus among researchers and practitioners on the underlying principles that should guide investigative interviews with children who may have been abused. Reports about events are most likely to be accurate when they are generated freely by the child.

Requirements

1. Care shall be taken to conduct a thorough, open-minded, and sound interview that enhances free recall. This is accomplished by maximizing the use of techniques that will elicit reliable information while minimizing the use of highly leading or coercive questions that could change or contaminate the child's memory of the event(s).
2. Persons who conduct investigative interviews shall be aware of a child's developmental level with regard to language and cognition. A child with special needs may require additional considerations when being interviewed.
3. Interviews of children under 10 years of age, and older children with obvious and significant developmental delays, pose additional challenges for an investigative interviewer and therefore should be conducted by persons with the training required in RCW 43.101.224 and 74.14B.010.

Local protocols shall identify the circumstances under which an interview of a child under 10 years of age, and older children with obvious and significant developmental delays, who are suspected of being victims of sexual abuse, may be conducted by persons who do not have the training required in the statute.

Interviews conducted in these circumstances may well be reliable. Therefore, the interviewer's training and experience should not preclude use of an interview for evidentiary purposes. For every interview, the focus on the reliability and admissibility of the interview should be based on the interview and the evidence as a whole.

4. Due to the varying and complex nature of child sexual abuse investigations and the circumstances faced by investigators, interviews and other aspects of the investigation may need to occur in field settings or other circumstances that are less than optimal. The interviews are to be conducted with consideration to the emotional comfort of the child.
5. Documentation of interviews shall be accurate and detailed. RCW 26.44.035 requires that CPS's written records of child sexual abuse interviews, at a minimum, be near verbatim records for what is referenced in the statute as the "disclosure interview." When CPS is questioning a child about possible sexual abuse or when a child makes a spontaneous statement about sexual abuse to CPS, the workers must document in a near verbatim manner the questions asked and any response by the child that pertains to alleged sexual abuse.

Advisory Comments

The committee should consider requiring that all investigative interviewers prepare near verbatim records of interviews of children concerning possible sexual abuse in cases when the children are under 10 and also for older children with obvious and significant developmental delays.

The committee should consider ways to ensure that, whenever possible, in-depth interviews of children under 10 years of age are conducted by persons who have received training in accordance with the required elements referenced in RCW 74.14B.010.

Options for interview documentation include, but are not limited to, a written statement, taping (audio or video), stenography, note taking, and near verbatim records.⁴

The protocol committee may wish to also address the following:

- *How to balance the importance of a prompt interview with the need for qualified interviewers who are not always immediately available.*
- *What will happen when personnel with specialized training in child sexual abuse investigations are not available.*
- *How to minimize potential for contamination of the child by the suspect, caregiver, or other person.*
- *Special considerations for cases involving a 72-hour shelter care hearing and the need for more immediate action.*
- *What happens with children placed in protective custody or other children with safety considerations.*

⁴ A comprehensive review of the advantages and disadvantages of taping child interviews can be found in a January 1997 publication by the Washington State Institute for Public Policy, *Protocols and Training Standards: Investigating Allegations of Child Sexual Abuse* (Document Number 97-01-4101). Copies are available from the Institute by calling (360) 586-2677.

V. MEDICAL EVALUATION, EVIDENCE, AND TREATMENT

Requirements

1. The protocol shall identify qualified providers or agencies with personnel who have received specialized training in conducting forensic evaluations of children, as well as those who have access to specialized equipment such as a photocolposcope. These providers may include physicians, advanced registered nurse practitioners, physician assistants, and sexual assault nurse examiners. The providers may be individuals or agencies that employ persons with this specialized training.
2. The protocol shall set forth the process for decision-making regarding whether and when children are to be examined by competent medical personnel. This process may include consultation with a qualified provider prior to determining whether a medical evaluation is indicated.

Advisory Comments

The protocol should acknowledge the possibility that emergent medical care and evaluation of evidence may be indicated in some cases. In such cases, the medical evaluation may need to be performed prior to convening a multidisciplinary team or group.

The protocol committee may wish to consider the potential benefits of a medical consultation/evaluation, including:

- *A medical history from the child that may yield additional pertinent information;*
- *Physical findings that substantiate the concerns about child sexual abuse;*
- *Reassurance for the child/family about the child's physical well-being;*
- *Referral of the child for counseling as appropriate; and*
- *Clarification of ongoing risk issues for the child.*

VI. COMPLEX CASES

Some cases may involve multiple victims who are not living in the same household, children who have been identified as potential victims but who have not indicated they have been abused, multiple perpetrators, or multiple jurisdictions. These cases pose special challenges to investigators, particularly the risk of contaminating the investigation. Such cases require an immediate and coordinated response. For purposes of the state guidelines, these cases are termed "complex cases."

Requirements

1. The protocol shall establish the criteria for defining and identifying a complex case.
2. The protocol shall establish a procedure for convening an investigative team or group as soon as possible after the initial identification of the matter as a complex case. It shall state which parties have authority to convene a team or group meeting and the response time for other participants. Cases designated as complex cases shall always be staffed under this procedure without regard to the initially perceived merits of the case. Core members of the team or group are to include at least the following:
 - Law enforcement (including tribal, military, federal agencies when appropriate);
 - Prosecutors;
 - CPS (when appropriate);
 - Assistant attorney general (when appropriate and available in the county);
 - Victim services.
3. When appropriate under the circumstances of a specific case, other agencies/professionals/entities involved in the case are to be included in the team or group (for example, non-profit organizations, child care, school, medical personnel).
4. The protocol shall identify agencies in other jurisdictions that have qualified persons who are trained and experienced in the investigation of child sexual assault cases and are willing to assist in investigating complex cases.

Advisory Comments

Once the investigative team or group is convened, the members should carefully plan and coordinate the investigation. Among other topics, the following issues should be discussed and decided:

Interviews

- *Who will take the lead in the investigation?*
- *Who will conduct the interviews of the children?*
- *Who will contact and/or interview the suspects?*
- *What steps will be taken to avoid contamination of possible victims: for example, using multiple interviewers, provision of only limited case information to interviewers, assurance that interviews are conducted pursuant to accepted interviewing protocols or standards?*
- *How will the investigation be handled if children report details that may have bearing on other potential victims?*
- *Can this information be used without compromising the investigation or contaminating the other witnesses? If so, how can it be used?*
- *Will potential victims be kept from speaking with other potential victims and if so, how may that impact their well being?*
- *How will the interviews be documented?*

External Communication

- *How will parents/guardians and children who may have been at risk of victimization be notified?*
- *What information will be provided to them?*
- *Who will be identified as the person these individuals are to contact regarding the investigation?*
- *Which person will be designated to speak with the media?*

Other

- *Are other resources needed by the team or group members?*
- *When should periodic meetings be scheduled to analyze and review progress, update information, and debrief the investigation?*

VII. INFORMATION SHARING

Law enforcement, prosecutors, assistant attorneys general, and CPS should be able to share appropriate information with each other. An effective, well-defined process for sharing appropriate information among agencies provides the following benefits:

- Minimizes repetitive investigative interviews, thereby reducing trauma to the child;
- Prevents duplication and overlap of effort;
- Improves the quality and efficiency of the investigation;
- Increases the likelihood that the child is protected; and
- Allows for a broad range of perspectives and facts to be used in determining the investigative approach.

Requirements

1. The protocol shall address how and when information will be shared among members of the investigating agencies. Information sharing should ensure confidentiality, integrity of the criminal investigation, protection of the child, and protection of individual rights.

Advisory Comments

In drafting the county protocol, each agency participant, as well as the protocol committee, should consider the following questions:

- *Under what circumstances can investigatory agencies share information with each other?*
- *What criteria will be used to decide not to share information (for example, public disclosure laws)?*
- *To whom will agencies fully disclose investigative information?*
- *To whom will agencies selectively disclose investigative information? For example, what information will be shared with community representatives on a multidisciplinary team, victim advocates who work in community-based organizations, and other relevant parties?*

In some cases, a dependency case may occur while a related criminal investigation is pending; these occasions pose additional issues for information sharing. The local protocols may address ways to take protective measures to prevent premature release of information (for example, release of law enforcement investigations pursuant to shelter care hearings).

VIII. METHODS OF PROTECTING CHILDREN DURING INVESTIGATION

The safety and well-being of the child should receive priority during any investigation of sexual abuse. All reasonable steps should be taken to prevent unnecessary trauma to the child during an investigation.

Requirements

1. Protocols shall address coordination among law enforcement, CPS, and other involved agencies on decisions as to placement of the child, removal of the suspect from the home, or other steps to protect the child.
2. Protocols shall address legal responsibilities and duties of law enforcement and CPS in making decisions regarding placement of a child in protective custody and ongoing placement.
3. Protocols shall specify how children and families are to be notified of their legal rights.
4. Protocols shall address ways to minimize the number of interviews of the child.

Advisory Comments

Agencies involved in the protocol should consider ways to:

- *Maintain and protect a child in the child's home by use of protection orders or no contact orders when consistent with the safety of the child.*
- *Identify agencies that can assist with protection issues.*
- *Protect the child from retaliation or efforts to influence statements or testimony to exculpate or inculcate anyone.*
- *Ensure access to advocacy services (for example, protocols can reference the Child Witness Bill of Rights and rights of victim advocates⁵).*
- *Ensure access to treatment and health services.*
- *Keep child and family apprised of status of investigation and any legal proceedings.*

⁵ RCW 7.69.030.

IX. TRAINING AND QUALIFICATIONS OF INTERVIEWERS

Requirements

1. Each protocol shall identify ways to provide appropriate training for all officers, CPS workers, and child interviewers who have primary responsibility for interviewing children to determine if they have been sexually abused. The goal should be to ensure that all such persons receive training in accordance with the required elements referenced in RCW 74.14B.010. The training must incorporate the following elements:
 - Minimize the trauma of all persons interviewed during the investigation;
 - Provide methods to reduce the number of interviews;
 - Ensure, as much as possible, that investigative interviews are thorough, objective, and complete and are guided by research-based practices and standards;
 - Recognize needs of special populations, such as persons with developmental disabilities;
 - Require investigative interviews be conducted in a way most likely to permit those interviewed the maximum emotional comfort; and
 - Address record retention, retrieval, and documentation.

These training goals are not intended to establish or alter the qualifications necessary to conduct interviews of children as set forth in Section IV.

Advisory Comments

It may be unrealistic to expect all agencies to always employ or have on duty personnel who meet the training requirement. Therefore, each county should consider ways to have access to interviewers who have received training under RCW 43.101 or the equivalent. The county may want to hire an interviewer, participate in a multi-county child advocacy center, or consult with trained and experienced interviewers in other jurisdictions.

X. CASE CLOSURE

A formal process for case closure offers two benefits:

- Each agency has a clear understanding of when its work is completed.
- Periodic critiques of completed work allow communities to continuously improve their multidisciplinary investigations.

Requirements

1. Protocols shall define the procedures for determining when it is appropriate to close a case.
2. The protocol shall specify the methods and time frames agencies will follow in notifying other parties of case closure decisions.
3. The protocol will describe how, when, and by whom alleged victims and their representatives are to be notified of case closure decisions.

Advisory Comments

A criminal investigation may be closed while a dependency or family law case or investigation arising out of the same underlying incident is ongoing. Protocols should recognize and mitigate the impact of closure on other actions or investigations. Local guidelines should delineate between formal closure (such as a decline decision by a prosecutor) and informal closure (such as a case on inactive status) and define situations when victims or alleged suspects need to be notified.

For complex cases, the involved members of the multidisciplinary team should meet after case closure to discuss what was learned during the process and potential areas for improvement.

Victims and victim representatives often benefit from learning when a case has been formally closed, and every effort should be made to notify them by letter, telephone, or in person.

RESOURCES

BOOKS, ARTICLES, AND OTHER PUBLICATIONS

Aldridge, Jan, and Sandra Cameron. 1999. "Interviewing Child Witnesses: Questioning Techniques and the Role of Training." *Applied Developmental Science* 3(2):136-147.

Boles, Anita B., and John C. Patterson. 1997. *Improving Community Response to Crime Victims: An Eight Step Model for Developing Protocol*. Sage Publications. \$49.95 (Snohomish County was the original test site for this effort.)

Bourg, W., R. Broderick, R. Flagor, D. Kelly, D. Ervin, and J. Butler. 1998. *Oregon Interviewing Guidelines for Center Based Interviewers*. State Office of Services to Children and Families, State of Oregon.

Davies, Graham M., and Helen L. Westcott. *Interviewing Child Witnesses Under the Memorandum of Good Practice: A Research Review*. Police Research Series Paper 115; Policing and Reducing Crime Unit, Research, Development and Statistics, Clive House, Pety France London SW1H9HD.

Ells, Mark. 1998. *Forming a Multidisciplinary Team to Investigate Child Abuse*. OJJDP Portable Guide to Investigating Child Abuse, November. Pages 8-11 address "Writing a Protocol." A free copy of this and the other 11 titles in this series of portable guides can be obtained by calling OJJDP's Juvenile Justice Clearinghouse at (800) 638-8736 or emailing at <puborder@ncjrs.org>.

Kolbo, Jerome R., and Edith Strong. 1997 "Multidisciplinary Team Approaches to the Investigation and Resolution of Child Abuse and Neglect: A National Survey." *Child Maltreatment* 2(1):61-72.

National Victim Center. 1999. *Looking Back – Moving Forward: A Guidebook for Communities Responding to Sexual Assault, March 1999*. A paperback copy is available from the National Criminal Justice Reference Service at (800) 851-3420. (This guide was based on work of the Snohomish County Prosecutor's Office in their establishment of sexual assault protocols.)

Pence, Donna, and Charles Wilson. 1994. "Team Investigation of Child Sexual Abuse: The Uneasy Alliance." *Interpersonal Violence: The Practice Series*. Sage Publications. 6(4):43-52 addresses "Investigative Protocols." \$24.95

Poole, Debra A., and Michael E. Lamb. 1998. *Investigative Interviews of Children: A Guide for Helping Professionals*. American Psychological Association, May. \$39.95

Sorenson, E., B. Bottoms, and A. Perona. 1997. *Handbook on Intake and Forensic Interviewing in the Children's Advocacy Center Setting: National CAC Interview Guidelines*. Washington, DC: National Children's Alliance.

Sternberg, Kathleen J., Michael E. Lamb, Phillip W. Esplin, Yael Orbach, and Irit Hershkowitz. "Using a Scripted Protocol to Improve the Quality of Investigative Interviews." Unpublished paper distributed by Kathleen Sternberg, National Institute of Child Health and Human Development, Bethesda, MD, (301) 496-0420.

U.S. Department of Justice. 1999. *Eyewitness Evidence: A Guide for Law Enforcement*. Washington D.C.: Office of Justice Programs, National Institute of Justice, October.

Washington State Office of the Family and Children's Ombudsman, *1998 Review of the Wenatchee Child Sexual Abuse Investigations*. Available by calling (206) 439-3870 or (800) 517-7321.

ORGANIZATIONS PROVIDING TECHNICAL ASSISTANCE

Washington State Organizations

Peer Review Network for Child Abuse Investigation Interviews, provides peer consultation for Washington State investigators. Laura Merchant, Harborview Center for Sexual Assault and Traumatic Stress Education and Training Program, 325 Ninth Ave. MS: 359947, Seattle, WA 98104, phone: (206) 521-1800, Fax: (206) 521-1814, email: lmerchan@u.washington.edu.

University of Washington, Consultation Medical Network, (800) 826-1121. Medical consultation available on child abuse.

Washington Association of Prosecuting Attorneys, 206 – 10th Ave. SE, Olympia, WA 98501, (360) 753-2175, Tom McBride, Executive Secretary. WAPA is the repository for state protocols related to child sexual abuse investigations.

Washington Coalition of Sexual Assault Programs, (360) 754-7583.

National Organizations

American Prosecutors Research Institute, National Center for Prosecution of Child Abuse, (703) 739-0321, for technical assistance, publications, monthly newsletter, and training related to the investigation and prosecution of child abuse.

Clearinghouse on Child Abuse and Neglect Information, (800) 394-3366, for information related to all aspects of child abuse.

Juvenile Justice Clearinghouse, (800) 638-8736, for publications related to juvenile justice, including child abuse intervention.

National Children's Alliance, 1319 F Street NW, Suite 1001, Washington D.C. 20004-1106, (202) 639-0597, and **Western Regional Children's Advocacy Center**, (800) 582-2203, for information and training regarding the establishment of children's advocacy centers.

Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice, Fox Valley Technical College, (800) 648-4966, for information about no-fee multidisciplinary training courses, including "Team Investigative Process for Missing, Exploited and Abused Children."

SAMPLE PROTOCOLS

State Protocols and Guidelines

Kentucky: *Model Protocol for the Operation of Local Multidisciplinary Teams*, developed by the Kentucky Multidisciplinary Commission on Child Sexual Abuse, 35 pages, 1996.

Michigan: *A Model Child Abuse Protocol, Coordinated Investigative Approach*, developed by the Governor's Task Force on Children's Justice, 14 pages, Revised Edition published in 1998; original edition published in August 1993.

Michigan: *State of Michigan Governor's Task Force on Children's Justice and Family Independence Agency Forensic Interviewing Protocol*, developed by Debra Poole, Ph.D. for the State of Michigan Governor's Task Force on Children's Justice Combined Committee and Family Independence Agency, 32 pages, August 1998.

Minnesota: *Coordination of Child Protection Cases: A Guide for Child Protective Services, Law Enforcement and County Attorneys in Minnesota, Second Edition*, published by the Children's Justice Act Grant Project and Family and Children's Services Division of Minnesota Department of Human Services, 117 pages, 1996.

Nebraska: *Model Protocol for the Investigation of Child Abuse and Neglect Cases*, developed by the Protocols Task Force of the Nebraska Commission for the Protection of Children, 11 pages, July 1992.

New Hampshire: *Child Abuse and Neglect: Protocols for the Identification, Reporting, Investigation, Prosecution and Treatment*, produced by Attorney General's Task Force on Child Abuse and Neglect, 407 pages, April 1993.

New Jersey: *Child Abuse and Neglect: A Professional's Guide to Identification, Reporting, Investigation and Treatment*, produced by the Governor's Task Force on Child Abuse and Neglect, Second Edition – December 1996, available on the Internet at www.state.nj.us/humanservices/gtfmdel.html; First Edition published in 1988.

County Protocols and Guidelines

Small county: **Humboldt County, California:** *Guidelines for a Multidisciplinary Team Response to Child Abuse*, 18 pages, April 1999.

Mid-size county: **Madison County, Alabama:** *Multidisciplinary Child Abuse Team Investigative Protocol*, 10 pages, May 1999.

Large county: **Maricopa County, Arizona:** *Multidisciplinary Protocol for the Investigation of Child Abuse*, 50 pages, developed by the Interagency Council of the Maricopa County Children's Justice Project, revised version published in July 1999; original document published in July 1995.

APPENDIX A. WORK GROUP MEMBERS

LAW ENFORCEMENT

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APPENDIX B. LEGISLATION

VETO MESSAGE ON SB 5127

May 18, 1999

To the Honorable President and Members,
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to section 1, Senate Bill No. 5127 entitled:

"AN ACT Relating to investigations of abuse or neglect;"

Senate Bill No. 5127 requires specialized training for law enforcement officers and caseworkers who investigate allegations of child sexual abuse. It also prohibits a law enforcement officer from participating in an investigation of alleged abuse concerning a child for whom the officer is a parent, guardian or foster parent.

The training required by SB 5127 is not adequately funded by the operating budget for the 1999-2001 biennium that I signed on May 14, 1999. To fully implement the required training, the legislature must appropriate at least \$537,000 in supplemental funds next year.

The process of investigating child abuse allegations and prosecuting alleged perpetrators is complex and must adhere to many laws and procedures. Section 1 of SB 5127 is sufficiently vague that it could be misconstrued to alter existing law. Vetoing it does not weaken the substance of this bill.

For these reasons, I have vetoed section 1 of Senate Bill No. 5127.

With the exception of section 1, Senate Bill No. 5127 is approved.

Respectfully submitted,

Gary Locke
Governor

CERTIFICATION OF ENROLLMENT

SENATE BILL 5127

56th Legislature
1999 Regular Session

Passed by the Senate April 20, 1999 YEAS 41 NAYS 3

President of the Senate

Passed by the House April 15, 1999 YEAS 97 NAYS 0

CERTIFICATE

I, Tony M. Cook, Secretary of the Senate of the State of Washington, do hereby certify that the attached is SENATE BILL 5127 as passed by the Senate and the House of Representatives on the dates hereon set forth.

Passed Legislature - 1999 Regular Session

State of Washington

56th Legislature

1999 Regular Session

By Senators Kohl-Welles, Hargrove, Long, Heavey, McCaslin, Stevens, Zarelli, Prentice, Kline, Winsley and Costa

Read first time 01/13/1999. Referred to Committee on Judiciary.

AN ACT Relating to investigations of abuse or neglect; amending RCW 74.14B.010 and 26.44.035; adding a new section to chapter 43.101 RCW; adding new sections to chapter 26.44 RCW; adding a new section to chapter 43.20A RCW; and creating new sections.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

{+ NEW SECTION. +} Sec. 1. The state of Washington affirms the importance of ensuring that crimes involving child sexual abuse are investigated thoroughly and objectively. Children who have been victims of crime deserve to have those who committed the crimes against them brought to justice. Those who may have been accused should expect that investigative agencies will make every effort to conduct thorough and impartial investigations.

The best approach to investigations of child sexual abuse crimes involves a coordinated effort by investigative agencies that minimizes repetitive investigative interviews and improves the quality of the investigations. The legislature intends to improve the training and resources available to individuals who conduct these interviews and to increase the accuracy of risk assessments and determinations of fact associated with interviews.

{+ NEW SECTION. +} Sec. 2. A new section is added to chapter 43.101 RCW to read as follows:

(1) On-going specialized training shall be provided for persons responsible for investigating child sexual abuse. Training participants shall have the opportunity to practice interview skills and receive feedback from instructors.

(2) The commission, the department of social and health services, the Washington association of sheriffs and police chiefs, and the Washington association of prosecuting attorneys shall design and implement state-wide training that contains consistent elements for persons engaged in the interviewing of children for child sexual abuse cases, including law enforcement, prosecution, and child protective services.

(3) The training shall: (a) Be based on research-based practices and standards; (b) minimize the trauma of all persons who are interviewed during abuse investigations; (c) provide methods of reducing the number of investigative interviews necessary whenever possible; (d) assure, to the extent possible, that investigative interviews are thorough, objective, and complete; (e) recognize needs of special populations, such as persons with developmental disabilities; (f) recognize the nature and consequences of victimization; (g) require investigative interviews to be conducted in a manner most likely to permit the interviewed persons the maximum emotional comfort under the circumstances; (h) address record retention and retrieval; and (i) documentation of investigative interviews.

{+ NEW SECTION. +} Sec. 3. The Washington state institute for public policy shall convene a work group to develop state guidelines for the development of child sexual abuse investigations protocols. The work group shall consist of representatives from the department of social and health services, the Washington association of sheriffs and police chiefs, and the Washington association of prosecuting attorneys.

The work group shall solicit input from a mental health professional certified under chapter 18.19 RCW, a physician licensed under chapter 18.71 RCW with substantial experience in child sexual abuse examinations, a member of the Washington state bar whose practice is primarily defense-oriented, the attorney general, a superior court judge, a child development specialist, a representative from an agency serving the developmentally disabled, an advanced registered nurse practitioner licensed under chapter 18.79 RCW, a representative from a child serving agency, and a victim's advocate.

The work group guidelines shall include issues to be addressed within local protocols adopted pursuant to this act. Those issues shall include multivictim cases, cases involving multiple suspects, information sharing between the department and law enforcement, methods to reduce the number of investigative interviews, and documentation of investigations.

The work group guidelines shall be provided as a resource to local agencies in developing local protocols mandated under this act.

The guidelines developed by the work group shall be presented to the legislature not later than December 1, 1999.

{+ NEW SECTION. +} Sec. 4. A new section is added to chapter 26.44 RCW to read as follows:

(1) Each agency involved in investigating child sexual abuse shall document its role in handling cases and how it will coordinate with other local agencies or systems and shall adopt a local protocol based on the state guidelines. The department and local law enforcement agencies may include other agencies and systems that are involved with child sexual abuse victims in the multidisciplinary coordination.

(2) Each county shall develop a written protocol for handling criminal child sexual abuse investigations. The protocol shall address the coordination of child sexual abuse investigations between the prosecutor's office, law enforcement, the department, local advocacy groups, and any other local agency involved in the criminal investigation of child sexual abuse, including those investigations involving multiple victims and multiple offenders. The protocol shall be developed by the prosecuting attorney with the assistance of the agencies referenced in this subsection.

(3) Local protocols under this section shall be adopted and in place by July 1, 2000, and shall be submitted to the legislature prior to that date.

Sec. 5. RCW 74.14B.010 and 1987 c 503 s 8 are each amended to read as follows:

{+ (1) +} Caseworkers employed in children services shall meet minimum standards established by the department of social and health services. Comprehensive training for caseworkers shall be completed before such caseworkers are assigned to case-carrying responsibilities without direct

supervision. Intermittent, part-time, and standby workers shall be subject to the same minimum standards and training.

{+ (2) On-going specialized training shall be provided for persons responsible for investigating child sexual abuse. Training participants shall have the opportunity to practice interview skills and receive feedback from instructors.

(3) The department, the criminal justice training commission, the Washington association of sheriffs and police chiefs, and the Washington association of prosecuting attorneys shall design and implement state-wide training that contains consistent elements for persons engaged in the interviewing of children, including law enforcement, prosecution, and child protective services.

(4) The training shall: (a) Be based on research-based practices and standards; (b) minimize the trauma of all persons who are interviewed during abuse investigations; (c) provide methods of reducing the number of investigative interviews necessary whenever possible; (d) assure, to the extent possible, that investigative interviews are thorough, objective, and complete; (e) recognize needs of special populations, such as persons with developmental disabilities; (f) recognize the nature and consequences of victimization; (g) require investigative interviews to be conducted in a manner most likely to permit the interviewed persons the maximum emotional comfort under the circumstances; (h) address record retention and retrieval; and (i) documentation of investigative interviews. +}

{+ NEW SECTION. +} Sec. 6. A new section is added to chapter 43.20A RCW to read as follows:

The department shall establish three pilot projects involving child sexual abuse investigations. The projects shall follow written protocols and use different methods and techniques to conduct and preserve interviews with alleged child victims of sexual abuse. The department shall provide the appropriate committees of the senate and house of representatives an interim report by December 15, 1999, and a final report by December 15, 2000. The Washington state institute for public policy shall evaluate the pilot projects and report to the legislature by December 1, 2000.

Sec. 7. RCW 26.44.035 and 1997 c 386 s 26 are each amended to read as follows:

{+ (1) +} If the department or a law enforcement agency responds to a complaint of alleged child abuse or neglect and discovers that another agency has also responded to the complaint, the agency shall notify the other agency of their presence, and the agencies shall coordinate the investigation and keep each other apprised of progress.

{+ (2) +} The department, each law enforcement agency, each county prosecuting attorney, each city attorney, and each court shall make as soon as practicable a written record and shall maintain records of all incidents of suspected child abuse reported to that person or agency.

{+ (3) +} Every employee of the department who conducts an interview of any person involved in an allegation of abuse or neglect shall retain his or her original written records or notes setting forth the content of the interview unless the notes were entered into the electronic system operated by the department which is designed for storage, retrieval, and preservation of such records.

(4) Written records involving child sexual abuse shall, at a minimum, be a near verbatim record for the disclosure interview. The near verbatim record shall be produced within fifteen calendar days of the disclosure interview, unless waived by management on a case-by-case basis.

(5) +} Records kept under this section shall be identifiable by means of an agency code for child abuse.

{+ NEW SECTION. +} Sec. 8. The legislature finds that the parent, guardian, or foster parent of a child who may be the victim of abuse or neglect may become involved in the investigation of the abuse or neglect. The parent, guardian, or foster parent may also be made a party to later court proceedings and be subject to a court-ordered examination by a physician, psychologist, or psychiatrist. It is the intent of the legislature by enacting section 9 of this act to avoid actual or perceived conflicts of interest that may occur when the parent, guardian, or foster parent is also a law enforcement officer and is assigned to conduct the investigation of alleged abuse or neglect concerning the child.

{+ NEW SECTION. +} Sec. 9. A new section is added to chapter 26.44 RCW to read as follows:
A law enforcement agency shall not allow a law enforcement officer to participate as an investigator in the investigation of alleged abuse or neglect concerning a child for whom the law enforcement officer is, or has been, a parent, guardian, or foster parent. This section is not intended to limit the authority or duty of a law enforcement officer to report, testify, or be examined as authorized or required by this chapter, or to perform other official duties as a law enforcement officer.

{+ NEW SECTION. +} Sec. 10. If specific funding for the purposes of sections 1 through 7 this act, referencing sections 1 through 7 of this act by bill or chapter number, is not provided by June 30, 1999, in the omnibus appropriations act, sections 1 through 7 this act are null and void.

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