



Trauma-Informed Approaches to Victims of Technology Facilitated Abuse

Kathleen Nolan, *Senior Attorney*

Agenda

- Unique issues faced by victims of Technology Facilitated Abuse
 - Poly-victimization and digital crime
- Pre-Trial Challenges
- Trauma-Informed Trial Prep
- Picking up the Pieces

Unique Challenges

Terminology

- **Child Pornography vs. Child Sexual Abuse Material**
- “The word pornography does not reflect the severity of the acts committed upon children, and this is why we use the term child sexual abuse material. It’s essential, as a law enforcement officer, that you use the right terms to help evoke the seriousness of the crime”
 - National Center for Missing and Exploited Children (2020)

Terminology

- **Victim vs. Survivor**
- “We appreciate the wisdom shared by survivor advocates, explaining they live in a space of duality, feeling both victorious by surviving child sexual abuse, yet continuously victimized by the memorialization and distribution of their child sexual abuse material”
 - National Center for Missing and Exploited Children (2020)

Unique Issues

- What issues impact victims of technology facilitated abuse that are unique to this type of offense?
- Online exploitation, human trafficking, online harassment ect.



Unique Issues

- Survivors of CSAM live with an additional, debilitating fear: that the photos and videos of their sexual abuse as a child, shared on the internet, will forever remain online for anyone to see.
- Victims will continue to find their images online well into adulthood.

Source: *Be the Solution: Helping Victims of Child Sexual Abuse Material: A Guide for Law Enforcement*. National Center for Missing and Exploited Children, 2020.

Unique Issues

- The way that law enforcement officers and prosecutors deal with victims of CSAM, both on first contact and subsequent interviews and discussions, can have an enormous effect on how the victim begins and moves through the healing process.
- Sufficient support can help the victim find strength to work with law enforcement throughout the investigation and help them move towards healing.

Source: *Be the Solution: Helping Victims of Child Sexual Abuse Material: A Guide for Law Enforcement*. National Center for Missing and Exploited Children, 2020.

Unique Issues

- Fear that images will be seen by people they know.
- Fear that images will remain online forever.
- Feelings of re-victimization every time image is shared.
- Worry they will be recognized in the real world.
- Extreme actions taken to destroy materials.
- Financial loss.
- Not ready to disclose.

Issues Examined: Disclosure and Fear





Issues Examined: Disclosure and Fear

- CAC interview
- No disclosure from either girl.
- Confronted with the tutu video, both deny.
- 8-year-old twin girls create a complicated issue of identification.
- Never disclosed...



Issues Examined: Disclosure and Fear

NEWS

Wood River sex offender asked teen to pose nude over Facebook, and a child welfare agency noticed, charges say

Sanford J. Schmidt, sschmidt@thetelegraph.com

Dec. 19, 2019 | Updated: Dec. 19, 2019 8:55 p.m.

Colt D. Allison, 35, was charged after the National Center for Missing and Exploited Children discovered online messages in which Allison allegedly asked the teenager to pose in two different lewd positions. The center obtained the information from its “CyberTipline”.

The discovery led Wood River police and the Illinois Department of Children and Family Services, a prosecutor said. From that information, they discovered the identity of the girl and the identity of the suspect. The juvenile was interviewed at the Madison County Child Advocacy Center.

Issues Examined: Disclosure and Fear

- Victim pulled out of school.
- CAC interview conducted
- Did not know why she was there.
- Initial denial, confronted with images.
- Eventual plea with VIS read but ongoing therapy needed.



Continuum of Care

- NCMEC examined best practices in assisting CSAM survivors and families as they navigate the multiple systems involved from law enforcement to courts to mental health to medical and beyond.
- To eliminate a gap in services, NCMEC looked into the Continuum of Care model as a guide. Often used in medical care, this approach to child-helping professionals created a comprehensive collection of resources, information, and guidance that can create a safety net for CSAM survivors through long lasting trauma.

Source: *Be the Solution: Helping Victims of Child Sexual Abuse Material: A Guide for Law Enforcement*. National Center for Missing and Exploited Children, 2020.

Continuum of Care

NCMEC'S CONTINUUM OF CARE

Survivor Input



Source: *Be the Solution: Helping Victims of Child Sexual Abuse Material: A Guide for Law Enforcement*. National Center for Missing and Exploited Children, 2020

Unique Issues

- Lots of adults have failed these children. Remember you are another adult...

I was so young and I trusted you pretty quickly because at the time I literally had nobody to talk to. Being in the system in general caused a lot of issues for me in general and I was always scared to move , scared to leave everyone I knew , I was scared to be with strangers . You took it upon yourself to come into my life to "help me" but instead you caused pain for me that will never go away. No matter how hard I try I will never forget what you've done to me,

K.S., 17 years old

Poly-victimization

- What is Poly-victimization?
 - Poly-victimization refers to experiencing multiple types of victimization (e.g., child maltreatment, witnessing family violence, sexual violence) and not just multiple episodes of the same kind of victimization (i.e., revictimization).

Source: Mitchell, Moschella, Hamby & Banyard, *Developmental Stage of Onset, Poly-Victimization, and Persistence of Childhood Victimization: Impact on Adult Well-Being in a Rural Community-Based Study*, *Child Maltreatment*, Vol. 25(1) 20-31, 2020.

Digital Poly-victimization

- What is digital poly-victimization?
 - Digital victimization is victimization that is perpetrated with the assistance of computerized technology, such as desktops, the internet, or cell phones. New terms have been coined to capture these emerging phenomena including cyberbullying, sexting and phishing.
 - Many commonly used trauma measures do not include digital victimization such as the adverse childhood experiences scale and the Child Trauma Questionnaire.

Source: Hamby, Blount, Smith, Jones, Mitchell & Taylor,, *Digital poly-victimization: The increasing importance of online crime and harassment to the burden of victimization* , Journal of Trauma & Dissociation, Vol. 19, 382-398 (2018)

Digital Poly-victimization

- Challenges to this research.
 - Technology is rapidly changing.
 - Referenced a 2008 and 2010 study that discusses AOL, chatrooms and IMing, which are all dated.
 - Even references to “computers” can seem dated now as communication moves to phones and tablets.

Source: Hamby, Blount, Smith, Jones, Mitchell & Taylor,, *Digital poly-victimization: The increasing importance of online crime and harassment to the burden of victimization* , Journal of Trauma & Dissociation, Vol. 19, 382-398 (2018)

Digital Poly-victimization

- Results.
 - Digital poly-victimization is a significant component of the true burden of victimization. Analysis indicated DPV contributed to a variance in PTSD and anxiety/dysphoria symptoms.
 - Those with an in-person victimization history were more likely to experience at least one digital victimization than those who reported no in person victimization.
 - Age played a significant factor in response to DPV.

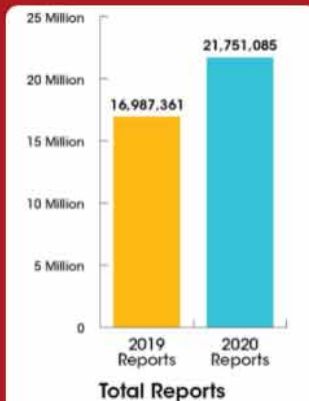
Source: Hamby, Blount, Smith, Jones, Mitchell & Taylor,, *Digital poly-victimization: The increasing importance of online crime and harassment to the burden of victimization* , Journal of Trauma & Dissociation, Vol. 19, 382-398 (2018)

Unique Issues

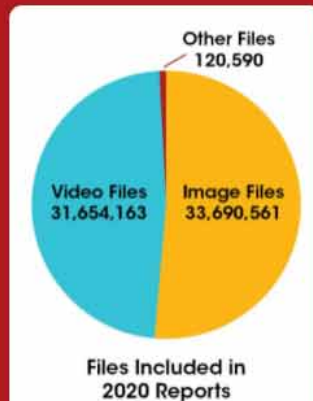
- Rely on your Multidisciplinary Team.
- Use the resources you have and reach out for outside help if you need additional resources in the continuum of care.
- Lots of good material out there for investigating technology facilitated crimes and trauma informed approaches to investigations.

Child Exploitation Investigations

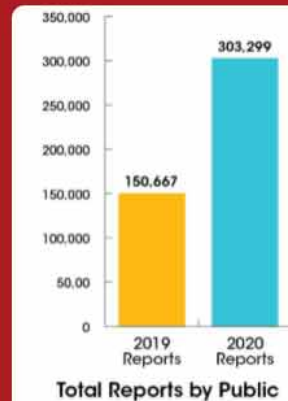
By the Numbers



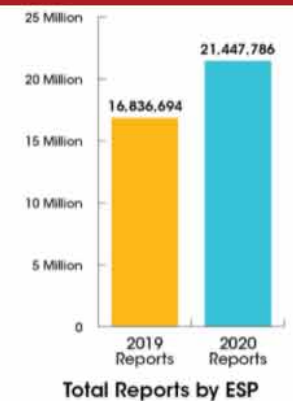
In 2020, reports to the CyberTipline increased by 28% from 2019.



The 21.7 million reports of child sexual exploitation made to the CyberTipline in 2020 included 65.4 million images, videos and other files. These materials contained suspected child sexual abuse material (CSAM) and other incident related content.



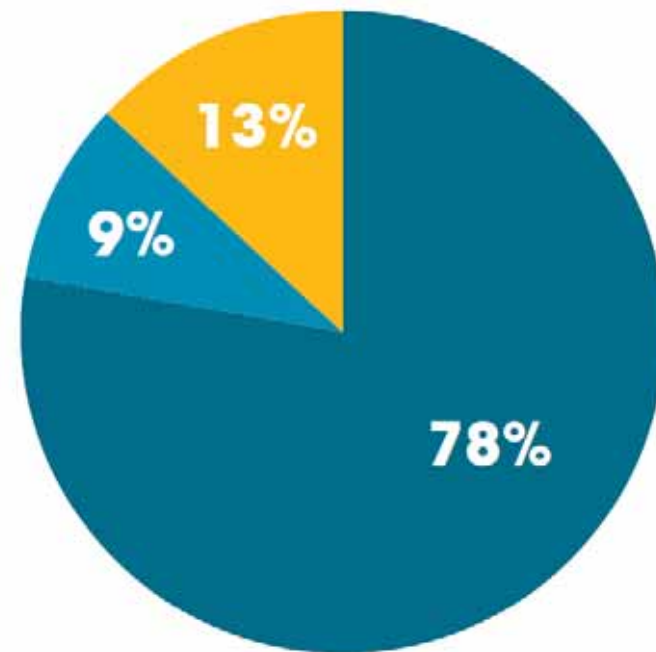
Electronic Service Providers make the majority of reports, but reports of online sexual exploitation from the public more than doubled in 2020.



About the Child Victims

- Majority of reported child victims were girls (78%)
- Almost 1 in 4 reports (23%) indicated that the offender had additional child victims
- 9% indicated the child victims had vulnerabilities prior to or at the time of the report
 - Mental health, developmental disorder, history of online exploitation, history of abuse

Overall Child Gender Breakdown



FEMALE • MALE • UNKNOWN

<https://www.missingkids.org/content/dam/missingkids/pdfs/ncme-c-analysis/Online%20Enticement%20Pre-Travel1.pdf>

Pre-Trial Challenges

Pre-Trial Challenges

- #1 Rule: Trust.
- Start building trust immediately.



Pre-Trial Challenges



- Use this as an opportunity to build trust.
- Establish early on that you are working for the best interests of the victim.
- Start working with a team from the start.
- Trust = Success

Pre-Trial Challenges

- Victim cooperation is often the biggest obstacle to Pre-Trial preparation for human trafficking cases.
- Combatting distrust of law enforcement.



Pre-Trial Challenges

- Can you prove the case without the victim?
- Trial testimony has a strong possibility of re-traumatization.
 - Defense attorney calling them a liar, prostitute, ect.
- Look to statutes that don't require a victim.
 - Money laundering, conspiracy, promotion of prostitution
- Work to corroborate case like you would a sexual assault, homicide or domestic violence case.



Reducing the Need for Victim Testimony in Human Trafficking Cases



Notes From the Field

June 25, 2020

By: [Detective Joseph M. Scaramucci, McLennan County Sheriff's Office](#)

The way we investigate human trafficking cases in McLennan County, Texas, has evolved

[Article Listing](#)

[Corrections](#)

Pre-Trial Challenges



- Be conscious of mental health struggles.
- Work cooperatively with community service providers and mental health advocates.
- Understand that online exploitation victims face a long journey to acceptance and recovery.

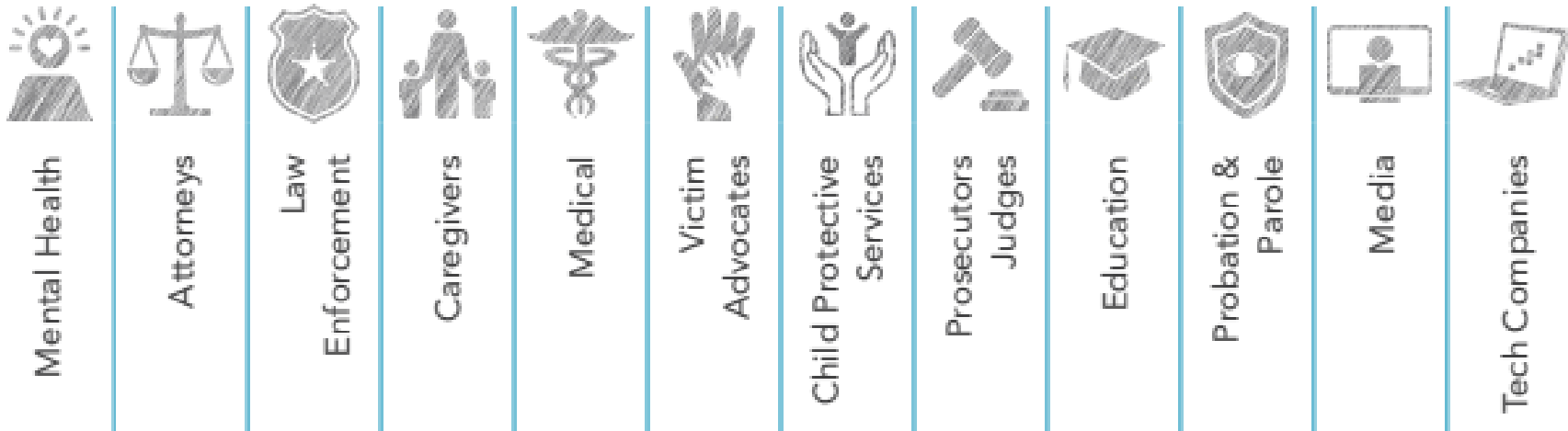
Pre-Trial Challenges

- Community service involvement can help your prosecution be successful.
 - Mental Health
 - CAC's (case workers, staff)
 - Schools, teachers, educators.
 - Medical
 - STD testing, pregnancy education, ongoing health issues.

Continuum of Care

NCMEC'S CONTINUUM OF CARE

Survivor Input



Source: *Be the Solution: Helping Victims of Child Sexual Abuse Material: A Guide for Law Enforcement*. National Center for Missing and Exploited Children, 2020

Pre-Trial Motions

- Motion in Limine on prior abuse
 - Rape shield
 - Abuse by another perpetrator
- Motion in Limine regarding mental health issues
- Motion in Limine barring subpoenas
 - Requests for school records
 - Requests for medical records
 - Requests for DCFS records
- Motion in Limine to bar irrelevant testimony
 - Witness opinions
 - Testimony regarding child's ability to be truthful
 - Specific acts of bad conduct

Pre-Trial Motions

- Consider an Expert
- And by consider, I mean get an expert.



Pre-Trial Motions

An expert can provide context, information and understanding to your jury.

9 Q. Does it make it -- does children's response to
10 sexual abuse change when the perpetrator is someone that they
11 know or trust?
12 A. Okay. Sure. Yeah. When children trust an adult
13 and that trust gets violated, the abuse or other things that
14 can happen, it's so confusing and devastating for that child.
15 If doesn't make sense to them, they don't have the ability to
16 make sense of it, and if they don't have the coping skills to
17 disclose that abuse when it happens immediately, it becomes
18 kind of a spiral downward, it's a slippery slope of self blame,
19 you know, just a lot of psychological struggles for that
20 child.

Pre-Trial Motions

An expert can discuss and explain how a child's environment affects their perception of abuse.

6 Q. If children are in a chaotic environment and they
7 find some stability, what is their response to that?

8 A. Typically that's something they would gravitate
9 toward. It's that human desire for attachment, that human
10 desire for acceptance. We like to get positive praise from
11 people, we like to get positive attention from people.

12 Q. If there's something that happens in the course of
13 that relationship that makes children uncomfortable, is it
14 difficult for them to walk away from that stability?

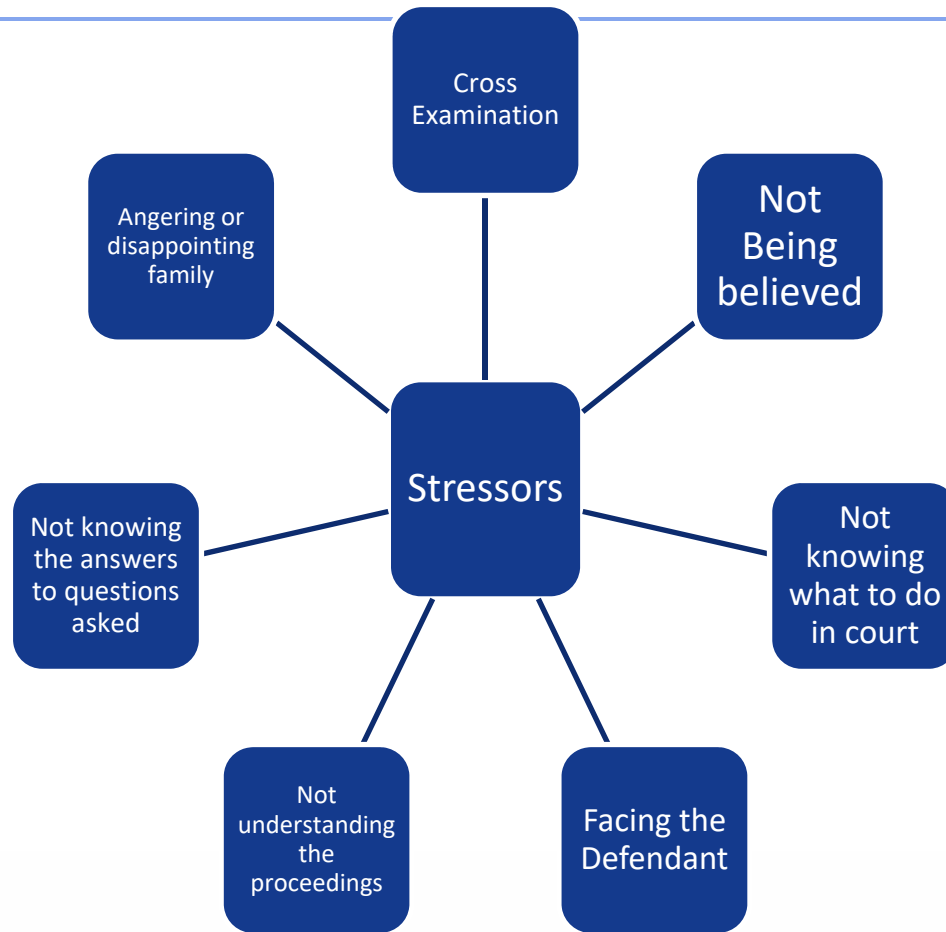
15 A. It's probably not likely that they would walk away
16 from it, because if they've grown up in a chaotic environment
17 and they have even some stability, again, some is better than
18 none, so we kind of weigh out in our minds what we're willing
19 to either give up or sacrifice for kind of the positives that
20 we perceive.

Trauma Informed Trial Prep

Trauma Informed Trial Prep

- #1 Rule: Trust.
- If the family and victim do not trust you, it will be incredibly difficult to achieve our goal.
- Start building trust immediately.





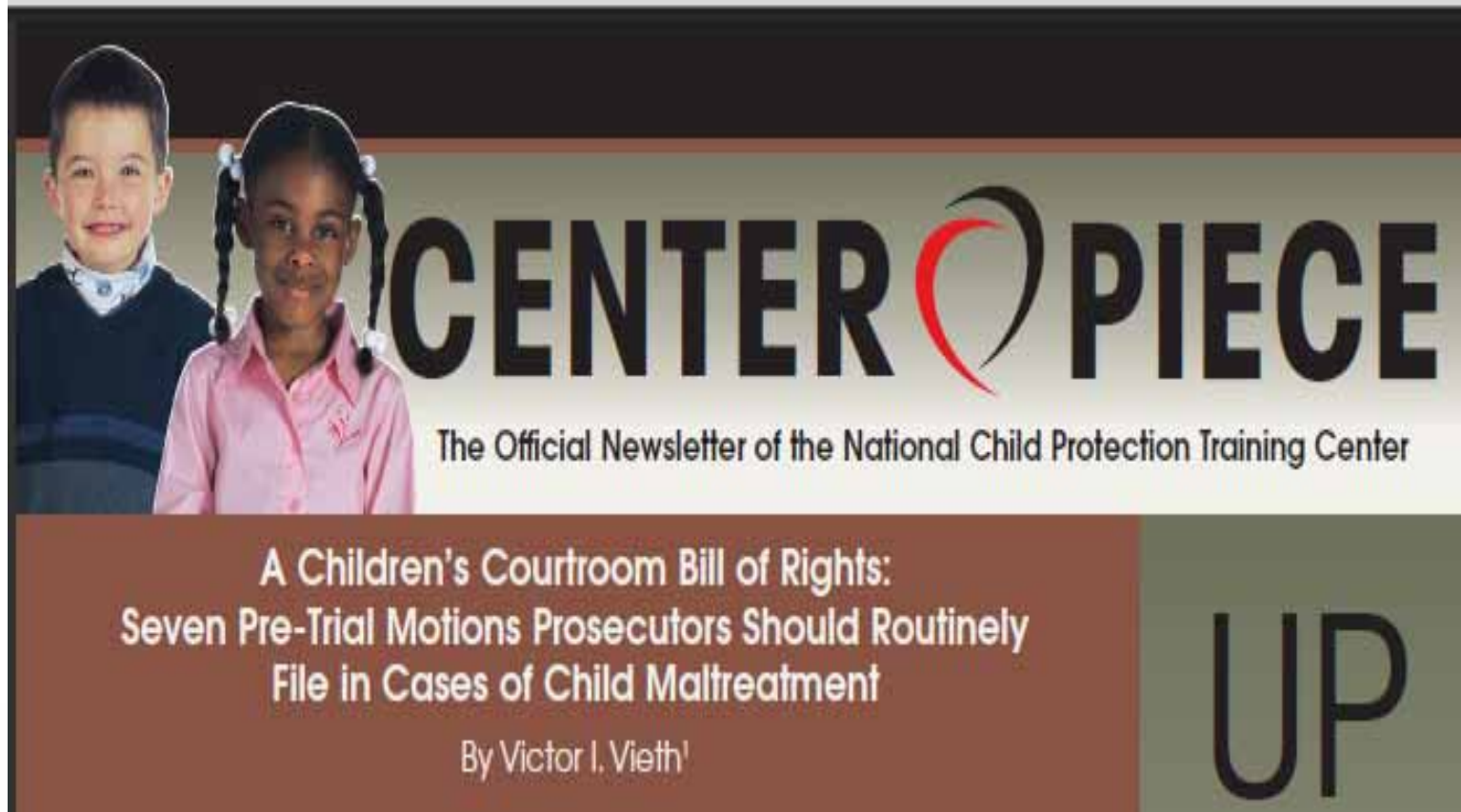
Factors Causing Court-Related Stress

- Do your best to understand where they are coming from.
 - Family relationships
 - Financial relationships
 - Distrust of the system
 - Shame

Factors Causing Court-Related Stress

- Explore things that they are worried about.
- May be a fact or circumstance victim believes will negatively impact the case or their credibility.
 - Dinners, gifts, “consensual” acts.
 - Continued feelings of attachment.

Pre-trial motions



CENTER PIECE

The Official Newsletter of the National Child Protection Training Center

**A Children's Courtroom Bill of Rights:
Seven Pre-Trial Motions Prosecutors Should Routinely
File in Cases of Child Maltreatment**

By Victor I. Vieth¹

UP

Support Person

- Discuss with family and victim who support person will be.
- Does your courtroom look different for COVID?
- Ensure child knows where the support person will be in the courtroom.
- Research shows that the presence of a support person helps children to respond to direct and cross examination questions. Moreover, a number of state legislatures and a substantial body of case law approve of such support. (Vieth, 2008)

Research on Support Person

- In a study of 218 child witnesses, researchers found a support person helped children respond to questions on direct examination
- Support person cannot prompt or coach a child
- Support person who is also a witness may have to testify first

Allowing Comfort Items and Support Animals



Research Supporting Support Animal

- Seventeen states have laws in place to allow the use of an animal for witness support.
- In February, 2021 the American Bar Association passed a resolution urging the passage of statutes and laws allowing facility dogs for witness support.
- The resolution states “The American Bar Association urges federal, state, local, territorial and tribal governments and foreign governments to enact laws authorizing courts to allow specially trained dogs (called facility dogs) to assist victims/vulnerable witnesses in their participation at any stage of the criminal justice system, including during their testimony in any judicial proceedings, and, to ensure the health and well-being of the facility dogs” .

Support Animal

- Involve the support animal from the start.
- Decide early if you wish to have animal present for testimony or before/after.



The Dog Not Always Visible To Jurors



- Motion for use of animal during testimony.
- Propose a jury instruction to cure any issues if jury does see the animal.

Trauma Informed Trial Prep

- Decide if you will review the video.
 - Pros/Cons
 - If you do, have a plan for before or after to ensure mental health is stable.
- Let the child know what questions you will ask.
- Let the child know what questions you think the defense will ask.
- It's ok to practice.
 - Address in jury selection.
 - Be conscious of any ethical issues that may arise.

Trauma Informed Trial Prep

- Determine which exhibits you will use and practice.
 - Don't have pictures be seen for the first time in the courtroom.
 - Use discretion with sensitive material.
- Consider a mock trial
 - Generally the last and final step pre-testimony.
 - Use office staff, CAC staff ect. for the jury.
 - Enlist a ASA not involved in the case to be defense attorney, preferably same gender.

To a Mouse By Robert Burns (1785)



The best laid schemes o' Mice an' Men
Gang aft a-gley,
An' lea'e us nought but grief an' pain,
For promis'd joy!

Picking up the Pieces

Picking up the Pieces



- Notification
- Asset forfeiture
- Restitution

Notification

- Create a plan for a trauma informed way to contact and connect victims when their images resurface.
- Consider having the conversation with victims at the resolution of their case as to how they would like to be notified.



Restitution

- In the United States, CASM survivors can seek monetary compensation through criminal restitution or civil remedies in federal and state court, and from every offender who is convicted of possessing or distributing images depicting their abuse.
- Attorneys representing victims can help guide through this process from the point where a victim is notified their image has been distributed all the way through the process for restitution and recover.

Source: *Be the Solution: Helping Victims of Child Sexual Abuse Material: A Guide for Law Enforcement*. National Center for Missing and Exploited Children, 2020.

Restitution

- Victim's attorneys have several benefits.
 - Help to build trust immediately.
 - Victims can rely on the attorney to handle notification, therefore reducing the trauma.
 - Lawyers can help reduce the burden on victims to navigate financial restitution outside of the criminal process.

Source: *Be the Solution: Helping Victims of Child Sexual Abuse Material: A Guide for Law Enforcement*. National Center for Missing and Exploited Children, 2020.

Criminal Asset Forfeiture

- This is an area ripe for expansion.
- Pursuing online exploitation cases through other criminal offenses expands the ability to forfeit criminally obtained assets.
 - Money Laundering
 - Drug Trafficking
 - Conspiracy

POSTED ON [JULY 3, 2015](#) BY [ALTON TELEGRAPH](#)

Forfeiture proceedings after child porn charges move forward

ARCHIVE

First Posted: 9/26/2014

EDWARDSVILLE — Authorities Friday filed a “verified complaint” seeking to acquire the home and car of a man accused of 18 counts of child pornography and aggravated child sexual assault.

The new document was filed after Associate Judge Neil Schroeder issued an order giving the go-ahead to county attorneys to proceed with the forfeiture of the home and car of David J. Von Bergen, 33, of 7721 Humbert Road, Alton.

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The order was issued Sept. 18 after a hearing in which the judge was asked to determine if there is enough “probable cause” to proceed.

Assistant State’s Attorney Sarah Smith said Friday the ruling means the county has offered sufficient evidence to proceed with the case.

The latest document claims that the assault victim’s mother drove the children to Von Bergen’s home, using his 2003 Buick Century. The defendants have 30 days to respond.

Smith said the defendant, David J. Von Bergen and his father, David L. Von Bergen, did not appear for a hearing on the question of probable cause. David L. Von Bergen is not accused of a crime.

Resources

- National Center for Missing and Exploited Children

<https://www.missingkids.org/HOME>

- National Sexual Violence Resource Center

<https://www.nsvrc.org/>

Questions and Comments?

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