

QUESTIONS/PROTOCOLS FOR INVESTIGATION OF CHILD ABUSE

You are familiar with the Lane County Protocols For The Investigation of Child Abuse. These are essentially rules for investigating child sex abuse cases. They are required by law. These rules were developed by a "multidisciplinary team," that is, by professionals in law enforcement, in the DA's office, and in CSD

To be qualified to interview children, you must be trained in the protocol, and the training in Lane County is accomplished by viewing the Child Abuse Training Tape prepared by the Multidisciplinary Child Abuse Team

Are you familiar with that training tape. Eugene Police Detective Les Rainey lectures on that tape about these protocols and how to apply them in conducting interviews of children who may have been sexually abused.

Do you recall detective Rainey, on the training tape, telling you that while the protocols are intended as guidelines, if you deviate from them you will have to explain and justify why it was necessary to deviate. (p.2)

So I'd like to talk with you now about any deviations from the protocol which you did in investigating this case.

Protocol says that if a law enforcement agency gets a report of child sex abuse, and determines there is reason to believe that a crime has been committed, the law enforcement agency must "immediately notify CSD of the report." (p. 3) That wasn't done.

You were assigned to investigate the case, right. The protocol says the law enforcement investigator assigned to the case will attempt to speak to a trained member of CSD. The CSD worker and law enforcement investigator will formulate an investigative plan and act upon it. " (p. 3). You didn't attempt to speak to a trained member of CSD? Did you ever speak with a trained member of CSD to formulate an investigative plan to act upon? Isn't the reason for this protocol the belief that "the team approach is the most effective," (Rainey/2) and that teaming people from different agencies gives a broader base of knowledge and experience to the investigation.

Now, the protocols recognize that each case involving child abuse allegations is different, but there are "some basic principles that apply to each case," and I'd like to talk with you about those now. (p.4)

1. First basic principle is to respond immediately to the complaint. That was done in this case. One of the reasons to respond immediately is to prevent evidence from being lost or destroyed. That would be things like physical evidence of a sexual act with the child, such as seminal fluid on the child's clothing, or perhaps medical evidence of sexual contact from the child's body.

Physical evidence is very important in child sex abuse cases, maybe more important than in cases involving adult victims. Because generally no witness besides the child--corroborate that the act occurred.

So it's very important to find out from the child--assuming the child discloses sex abuse--when the last sexual contact occurred, where it occurred and what the child and the suspect were wearing--so you can search for physical evidence.

Now, in this case, based on what you have in your report, you did not ask Aimee when the sex abuse happened. After she told you it happened in a tree that had fallen down, you did not ask any follow up questions to narrow down the location. And you did not ask her what she was wearing, or what Mr. Obremski was wearing. So was your primary concern at that time just getting enough information to arrest Mr. Obremski, rather than getting information to look for physical evidence?

Okay, the second basic principle, in the protocol says "Each case of child abuse should be investigated following an investigative plan. That plan should include: A prompt and thorough interview of the victim, preservation of physical evidence, a thorough interview of witnesses and a prompt and a prompt and professional interview of the suspect." (p.5)

You conducted a prompt interview of Aimee, but did you conduct a thorough interview of her? (IF YES, Then do you know why she had to be re-interviewed by the DA investigator, Ray Broderick, the next day?).

We already know that you didn't get enough information from Aimee to be able to identify any physical evidence.

Did you conduct thorough interviews with the other witnesses--the child's relatives? Did you ask about the child's background--the type of home she comes from, the type of people her parents are, whether there have been other traumatic incidents in the child's life, like domestic violence, loss or separation from a parent? What did you do to determine if the child's mother or other relatives have "other motivations other than the welfare of the child" for reporting the abuse. You are told to do that on the training tape, are you not. (Rainey/1) "It's important to ascertain what the motivation of the source is for reporting this abuse and it's important as well to keep a very wary attitude about it." That is because false reports don't happen all the time, but they happen often enough. (Rainey/1).

The third basic principle for all investigations is to follow the interview protocols, which we'll talk about later, and in particular to limit the number of interviews of the child to one interview. Do you recall that. This principle says "in most cases it is not necessary for there to be more than one interview prior to the child's appearance before the Grand Jury." (p. 5) Goes on to says "It is specifically the plicy of these protocols that repetitive interviewing is disapproved and should be avoided whenever possible." (p. 6).

Now, that wasn't followed in this case, correct? We know Aimee's mother questioned her, then you questioned her, then Mr. Broderick questioned her the next day, then Dr. Halpert questioned her, then did she meet with the prosecutor before Grand Jury, then she was questioned in Grand jury, and then, in August, you started interviewing her again, correct? And do you know who else questioned her inbetween March and August?

Why do the protocols condemn multiple interviews? Stress for child. Trauma for child. Child believes adult wants to hear more, so begins making things up. If no abuse occurred, child nonetheless believes it did because of repeating it over and over to important adults.

Fourth basic principle concerns your report. It says "Accurate reports are critical to the prosecution of child abuse cases. A report should be written immediately after an interview, if possible, to maximize the accuracy of the investigator's account of the interview." (p. 6) You didn't write your report until the next day. What time? What else did you do on the case before you wrote the report.

The reason identified in the protocols for writing the report right away is that "it is possible to become confused as to which witness said what, so it is the policy of these protocols to

discourage multiple interviews by a single investigator prior to writing reports on each interview." You interviewed other people on this case between the time you interviewed Aimee and the time you wrote your report, correct?

Now let's talk about the protocol for the interview itself, and whether those guidelines were followed in this case.

1. Use a team approach whenever possible. You tried to do that with Det. Slater, but you decided Aimee appeared to be uncomfortable around him so he left the room. What room of the house were you in. Who else was in the room besides you and Aimee. (How about Caren Tracy).

Reason for a team approach, according to Det. Rainey on the training tape, is to "validate" the process, i.e., to have another witness to what was said, how it was said, and what questions were asked." Correct. Also allow one of you to ask the questions, while the other observes the process and documents it with notes. (R-2).

Didn't use the team approach. Did you take contemporaneous notes? Why not use DA? Why not have Slater go out of sight but continue to listen and take notes.

2. Second Guideline: the team should interview the child alone, without parents. Reason for that is to prevent the child from being influenced by the parent--by looks, body language, or prompting the child, correct?

That wasn't done in this case. The mother was there. Det. Rainey says on the training tape that "the recommendation would be that you not interview the child in the presence of the parent unless it's absolutely necessary." (R-2). What made it "absolutely necessary" in this case. Your report only says Aimee "preferred to have her mother present."

3. Third guideline concerns notes. Assuming the interview isn't electronically recorded, you have to take notes. Detective Rainey on the training tape says "you have to make some detailed notes." (R-3). You didn't make detailed notes; you made cryptic, fragmentary notes.

Those notes are supposed to include as much detail as possible concerning where the offense happened, when it happened, what happened, what the abuser said to her, what she told her mother or anyone else before you about the abuse. Correct (R-4; protocol #3).

Your report doesn't tell us where the offense happened, except in a tree that had fallen down; it doesn't tell us when it happened--not even if it was day or night; it doesn't tell us what, if

anything Mr. Obremski supposedly said to her; and it doesn't tell us what Aimee says she told her mother, and it doesn't tell us if she told anyone else before talking with you.

Did you ask her where it happened? Clarify where the tree was, had she ever been there before, who else was present, could she show you where?

Did you ask her when it happened? How long ago? Try to place it by some significant event she remembered?

Did you ask her what she told her mother--mother says Aimee said "he licked my pee-pee"; tells you "he licked my butt." This is different. We know Aimee knows her butt is different than her pee-pee, because you had her show you the different parts on a diagram.

Did you ask her if she told anyone else?

5. "It is paramount that the team agree to assume the "don't yet know" attitude regarding the occurrences of abuse until a child makes a clear disclosure. This is important, because if the interviewer assumes the abuse happened, that can contaminate the interview, correct? After Aimee made her disclosure, you arrested Mr. Obremski. Was her disclosure what you consider to be a "clear disclosure?" Even though she provided no information about when or where it happened, no detail about the abuse, like what was said, what they were wearing, what happened before or after, how she got to the fallen tree. Even though what she told you--that he licked her butt--was inconsistent with what her mother claims she said just two hours before--that he licked her pee-pee?

Let's turn to the initial phase of the interview. The protocol tells you to use a significant adult to introduce you to the child and tell the child it is alright to talk to you about anything they want. Did you do this? IF USED LOREE, the protocol says it is preferable that this not be a parent.

You identified yourself to Aimee. How did you do that, what did you tell her--not in report.

Next you are supposed to spend some time developing a rapport with the child, so the child feels comfortable with you. Did you do that? How much time did you spend? What did you say or do--not in the report, just what Aimee said.

You noted at that point Aimee was aware of who you were and why you were there. What did you mean by that? Did she know you were to talk to her about Mr. Obremski? About the sexual abuse?

Now, the protocol has eight steps that are to be used to see if the child will disclose sex abuse, correct? The protocol says "IT is important that you follow these in order. Do not skip

steps." You're supposed to follow the steps until the child makes a disclosure, then stop, correct. For example, if the child discloses when you are at step 4, you do not continue to go through steps 5,6,7,& 8.

These steps are designed to keep the interview from being leading or suggestive to the child, correct? That is very important, particularly with young children. Don't want the child saying things that aren't true, just to please the adult.

1. "I am a helper" Is there something I need to know to help you? Not in Report.

2. Ask the child to make a list of the people who they live with; this should include the suspect if the suspect lived with the child. Did that, except no mention of Obremski--cop is supposed to say I heard Russell Obremski lived with you for a while at Pasty's.

3. Ask the child to list her favorite things about each one of these people, and their least favorite things. Not in report.

4. Ask them about privacy. What does privacy mean? Tell them it means being able to be alone and to do things by yourself. Ask them what kind of things they like to have privacy for, and then ask them about each person on the list--if these people let them have privacy. Not in report.

5. Safety rules--ask if they have them and if they have ever had a problem with anyone not following those rules. Not in report.

6. Problems--Let them know that some kids have problems in their homes that include things like fighting, hitting, touching, yelling. Ask if these kinds of problems happen in their home.. Tell them its okay to talk to you about any problems so you can help them. Not in report.

7. Touching. Tell them that some children tell you about touching that happens at home or away from home that is usually not the child's choice, and different than a friendly touch, and ask if anything like that has happened to them. Not in report.

8. Paraphrase the allegation from the parent, leaving out the identity of the alleged abuser and omitting particular details about the alleged sexual act. Make a general statement regarding a concern expressed about the child, and ask if there is any reason for concern. Did

you do this? Report said "we began to talk about what she had discussed with her mom earlier in the day." What did you say?

Started the offense-specific information gathering phase of the interview by showing her a diagram of a naked girl, and asking her to name the parts. Doesn't that suggest to the child that you want to hear about her private parts? Doesn't that show you have already assumed that the sex abuse occurred? Then you ask about what she told her mother. Did you ask her about Russ. What prompted her to say she didn't like "bad Russ,"

First thing she tells you is she hates Russ. Russ is bad. She hates him. Did you ask if anyone had told her Russ was bad?

Tells you "he licked my butt." Did you ask her to explain what she meant by her butt.? (R-8). Did you ask her to explain what she meant by "licked." Did you ask her what part of his body licked her butt? Did you ask her what happened next?

You jumped straight from "he licked my butt" to where she was when this happened. She told you she was in a tree. Then you asked if Russ put her in the tree. That is a leading question, isn't it? Protocol says a leading question is any question in which the answer is a part of the question. It would have been better to ask how did you get in the tree? Or to tell her "I don't understand, I need more information."