

# BACK TO BASICS: DRUG-FACILITATED SEXUAL ASSAULTS AGAINST A CHILD

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## THE CHILD ABUSE PROSECUTION PROJECTS' BACK TO BASICS SERIES

The Association of Prosecuting Attorneys, Child Abuse Prosecution Project is pleased to offer its Back-to-Basics Series, a "to-do" list for both new and experienced child abuse prosecutors and their multi-disciplinary teams.

This project was supported by Grant # 2015-CI-FX-K004 Awarded by the Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, U.S. Department of Justice. Points of view or opinions in this publication are those of the author and do not represent the official position or policies of the United States Department of Justice

**To join our mailing list or for information on conferences and events, please contact us:**

### Mary-Ann Burkhart

Project Director, Child Abuse Prosecution Project, Association of Prosecuting Attorneys  
[maryann.burkhart@APAInc.org](mailto:maryann.burkhart@APAInc.org)

### Aimee Peterson

Project Associate, Child Abuse Prosecution Project, Association of Prosecuting Attorneys  
[aimee.peterson@APAInc.org](mailto:aimee.peterson@APAInc.org)

## STANDARD FOR ALL CASES:

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| <ul style="list-style-type: none"><li>• Review discovery</li><li>• Check elements of your charging document for what you have to prove</li><li>• Send subpoenas</li></ul> | <ul style="list-style-type: none"><li>• Review testimony with all witnesses</li><li>• Prepare trial memo</li><li>• Consider motions in limine</li><li>• Prepare jury instructions</li></ul> |
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**1. Meet with victim** (depending on age, consider whether it's appropriate to provide them a copy of their statement and/or interview)

- Did the victim take the drug knowingly or unknowingly?
- If victim knowingly consumed – consider how to approach in voir dire?
- Put the blame on defendant – where it belongs

**2. Immediately check for any available surveillance** (before its gone)

**3. Immediately identify any relevant electronic devices** – phones, laptops, cameras looking for texts, pics, videos, social media posts

- Seize
- Search Warrants

**4. Identify any third party witnesses to both victim's and defendant's demeanor – before, after or both** (these individuals may/may not have been identified or interviewed by LE - make sure they are)

**5. Meet with toxicologist** – learn everything you can about the drug

- Methods of delivery
- Half life
- Can we extrapolate what the level of intoxication was at a specific time
- What are the expected effects
- What variables determine the speed of onset and the extent of the effects

**6. Is child hearsay available in your jurisdiction?**

- If so, pull relevant statutes/case law
- If not, can wanted testimony come in through other means

**7. Is the forensic interview admissible?**

- Under what theory
- Have theory ready

**8. Was there a medical examination and if not, should there be?**

- Be able to explain why not

**9. Is there forensic evidence that proves sexual contact occurred?**

- If not be able to explain why not - expert testimony

**10. What do you know about the defendant?**

- Where would the defendant have obtained the drug?
- How familiar is the defendant with the effects of the drug?

**11. If the defendant claims consent** (and consent would be a defense), consider whether the value of his admission regarding sexual contact outweighs the fact he/she may not have to testify if you admit the statement