

# BACK TO BASICS: INVESTIGATING CHILD HOMICIDE

## THE CHILD ABUSE PROSECUTION PROJECT'S 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.

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**GOLDEN RULE:** Every child fatality could be the result of child abuse. Proceed with each incident as if it were a homicide. Failure to do so could result in the loss or degradation of crucial evidence that could be used down the line to prosecute the case. Remember these cases are usually proven by circumstantial evidence.

### Arriving at the Scene

First Responders (Fire Department, EMTs, Paramedics, Patrol Officers, etc.)

First responders should keep the following in mind when arriving on scene:

**Who** was in the house when you arrived? Who was with the child at the time of the reported event? Who discovered the child? Note the demeanor of the caregivers.

**What** did the child look like when you arrived? What was the child wearing? Were there marks or injuries on the child prior to resuscitation? What happened? Obtain details. What did the caregiver do after the event or after finding the child?

**When** did the reported event or trauma happen? When was the child last seen active and well? When was the child last seen alive? Note that these are two distinct questions.

**Where** was the child located when you arrived? Where was child found by caregiver? Inspect for blood, vomit, feces, bottles, etc. nearby. Be observant about the environment around the child - are there any drugs/drug paraphernalia, could the child have accessed medications or toxic substances?

**Why** did the caregiver/other call 911? If delayed, who was the first person called? Why was there a delay?

**How** exactly was the child injured (if caregiver reported an injury)? Was the injury witnessed? By whom?

### Information First Responders Should Get from Caregivers

- **Obtain basic information about the child**
  - Age
  - General health
  - Any medical problems (chronic diseases, recent illnesses, hospital visits, etc.)
- **Get a narrative** from when the child was last seen healthy to when the child was in this state
- **Obtain basic information about all of the child's caregivers** and their relationship to the child

### Documentation of Your Involvement

- Document what you **did** at the scene
- Document what you **observed** at the scene
- Document what you did **NOT observe** at the scene if it seems relevant
- Document **what the caregivers told you**
- Make sure that you **do not move or remove** anything from the location



# Investigation

Investigators (law enforcement agencies--police, sheriffs, DAs; child protective services; coroner/medical examiner's investigators)

## Crime Scene

- Patrol officers need to preserve the scene for other investigators
  - Ensure no one is contaminating the crime scene or removing evidence
  - Log who came in when and where
- Do you need a search warrant?
  - Consult with the prosecutor's office to determine the scope of the warrant and items to be seized
- Document the scene
  - Take photographs/videotape the scene before moving anything or removing evidence
  - Take measurements
  - Seize any evidence potentially relevant to the crime, including:
    - Dangerous instruments, such as
      - Belts
      - Blunt objects
      - Sharp instruments, etc.
    - Bloodstained materials
      - Clothing
      - Rags
      - Diapers
    - Bedding
    - Clothing child was wearing at time of incident
    - Baby bottles
    - Drugs/paraphernalia
    - Medications
- Document what you did **NOT observe** at the scene if it seems relevant
- Document **what the caregivers told you**

**PRO TIP:** Interviews done within hours of the child's discovery can be vital to the outcome of cases. You need to establish a timeline and who had exclusive access to and control of the child. These interviews should help you identify the responsible party/parties and assist in ruling out other caregivers or responsible parties.

## Interviews

### Parents and Caregivers

- Meet with caregivers separately
- Establish narrative about what happened from caregivers
  - Establish a precise timeline (hour by hour) for the last 24-48 hours or from the time that the child was last known to be well. For the purposes of this timeline, establish:
    - When was the child last seen well?
    - What was the child's sleep/nap schedule?
    - What were the child's hour-by-hour activities? Get as many details as possible.
      - What did the child do? Watch TV (what was on)? Play games (which games)?
    - What did the child eat? What time were meals?
    - Did the child complain of anything?
    - What did the caregiver(s) do during the last 24-48 hours?
    - Ask the caregiver to identify all individuals who visited the home or saw the child over the last 24-48 hours.
    - Determine whether caregiver has cell phone and/or computer. Try to obtain all passwords and determine whether written consent or search warrant is required (see *Technology and Records* section below)
    - Ask the caregiver if there was prior CPS/ACS involvement

- Establish a timeline (day by day) for the last week:
  - Where has the child been within the last week?
  - Who did the child see? Did the child visit any relatives? Day care? Neighbors?
  - Did the child stay or spend time with any friends or relatives outside the home?
  - Was the child in the care of any other adults during the week?

### **If the caregiver provides a history of trauma or injury:**

- Establish precise details of the trauma or injury.
  - **Where** did the injury occur? At home? Playground? Etc.
  - **Who** was at the scene at the time of the injury? Who was with the child at the time of the reported injury? Was the injury witnessed? Who discovered the child?
  - **What** happened? What did the child look like? Did the trauma result in any visible marks or injuries? Where on the child's body? Did the caregiver treat the injuries in any way? What happened after the injury? Get a medical history of the child as well (was the child premature? Any medical issues at birth? When was last doctor's visit and what was the reason? Etc.)
  - **Did** the caregiver dial 911? When? If delayed, why? Who did they call first?

### **If there is a potential smothering/suffocation or no evidence of trauma and the child dies suddenly, determine the following:**

- When was the child last seen alive?
- Where was the child put down? Were there blankets or pillows or anything around the child?
- What was the child wearing?
- What position was the child in when found?
- What position was the child put down in?
- What did the caregiver do in response to finding the child? CPR? Etc.
- Who did the caregiver call?
- Do recorded video reenactment with caregivers (consider using a doll for reenactment).
- Has the parent/caregiver ever had a child die suddenly and unexpectedly? If yes, obtain all applicable information.

### **Other Individuals**

- Interview everyone else who had access to the child
- Interview everyone else who had knowledge of the child
- Interview all relatives
- Interview neighbors
- Interview day care, nannies, etc.

### **Establish Exclusive Custody**

- Identify and interview all caregivers
- Obtain detailed information from each interviewee
- Compare interview data with medical data by reviewing with medical experts
- Determine the timeframe of injuries from your expert
- Make sure that the investigation includes accounting for anyone else who might have cared for the child during that time period - eliminate them as a possible source of any injuries the child may have sustained

# Professionals Involved with the Case

## Child Protective Services

- Have they been contacted? If not, immediately notify them
  - If your jurisdiction has a critical incident protocol for the Multidisciplinary Team (MDT), initiate immediately
- Identify and contact assigned CPS worker at beginning of investigation
  - Inquire and obtain information about current investigation
  - Collaborate on current case including providing information that would assist their investigation
  - Prior history and involvement, including domestic violence and child abuse
- Obtain records for current and all previous cases
- Maintain continuous communication with agency throughout investigation

## Medical Professionals

- Talk to medical provider(s)
  - First responders/EMTs/Paramedics/Ambulance workers
  - Emergency department providers
  - Pediatrician (hospital providers and primary care physician)
  - Attending physician caring for the child and other relevant specialists
  - Nurses
  - EMS
  - Hospital social worker
- Obtain the following information:
  - What injuries were identified by the clinical physicians?
  - What medical diagnoses were made by the clinical physicians?
  - What is/was the leading diagnosis made by the hospital provider?
  - What is the basis of this diagnosis?
  - Are there other potential diagnoses (i.e. what are other potential causes for these injuries) and what rules these out?
- Obtain all medical records
  - Birth records, including mother's prenatal records
  - All pediatric medical records, including well and sick visits, ED and urgent care visits
  - Hospital records (including previous hospitalizations)
  - Radiographs, including skeletal surveys, CT and MRI scans, and other x-rays
  - Laboratory records
- Identify the following information:
  - Determine whether the child had any underlying medical problems.
  - Was the child healthy or ill in the days or weeks leading up to death?
  - Was the child seen by any providers in the days or weeks leading up to the child's death?

## Medical Examiner/Pathologist/Coroner

- Detective/investigator must attend autopsy
- Assigned prosecutor should attend autopsy, if possible
- Provide ME/pathologist/coroner with all medical records, including hospital, primary care, and birth records
- Speak to ME/pathologist/coroner about initial clinical findings obtained from clinical physicians, including pending results from the hospitalization
- Speak to ME/pathologist/coroner about their initial findings and interpretations
  - Review photographs, slides, x-rays with ME/pathologist/coroner
  - Discuss possible causes of death and additional testing required and/or pending
- Determine and provide additional information that would assist with the ME/pathologist/coroner's final conclusions
- Facilitate visits to the location where the child died for ME/pathologist/coroner
- Should the ME/pathologist/coroner give an opinion that seems contradictory to the investigative information or to common sense, ask them to provide authoritative and credible medical evidence to support their opinion.

**Pro Tip:** In addition to the treating physicians and pathologists, determine whether your case requires other medical experts to evaluate and provide assistance/testimony. Potential experts include child abuse pediatricians, neurologists, toxicologists, burn specialists, ophthalmologists, odontologists, or others.

## Technology and Records

- Obtain and listen to all 911 calls
- Identify the sources of technology that are likely to contain evidence, including: cell phones, computers, email accounts, cloud storage, text messages, digital photographs, social media accounts, cell phone geolocation, surveillance footage/nanny cams
  - Identify the specific carriers/companies responsible for the records of these resources
  - Send letters of preservation to all potential companies with identifying information to request they preserve records while you prepare formal process
- Seek appropriate search warrants/court orders/written consent from owner of device (i.e. cell phone, computer, etc.)
- Run criminal, domestic incident reports, and child abuse history searches for all relevant parties
- Run the address and prior addresses to determine if the police department had previous contact with that family

## Once You Have Identified a Suspect

- Preparation is essential before conducting a suspect interview
  - Review case file and all available information
- As with all criminal cases, this is a search for the truth
- Great deliberation should be given to timing and specifics of conducting the suspect interviews
  - Do not interview potential suspects until you have a command of the facts and have spoken to the medical professionals
  - Determine which investigator/prosecutor is in the best position to get the most information from the suspect
  - Ensure entire interview session is videotaped
- One must get a detailed account of the suspect's narrative and compare that narrative to the other information obtained during the investigation
  - That includes speaking to the medical professionals to see if the suspect's narrative of events explains the medical findings
  - Do a taped reenactment of what happened using a doll
  - Compare the suspect's narrative to other witness interviews
  - Compare the evidence collected, including the technological data, to the suspect's narrative
- Do not arrest or authorize an arrest prematurely
  - Speak to the medical professionals and other members of the MDT
  - Consult with national and regional organizations for guidance and technical assistance
  - Any arrest decision should be made after careful deliberation and discussion between investigator and prosecutor

**REMEMBER:** These are challenging cases and not every case can be proven beyond a reasonable doubt. Communication, collaboration, attention to detail, and thorough investigation provide the best opportunity for determining the truth and obtaining justice.

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