

Investigation and Prosecution of Child Abuse

I

THIRD EDITION



APRI

National Center for Prosecution of Child Abuse



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[Redacted]

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Foreword

Having served as both a juvenile prosecutor and an elected District Attorney, I am aware of the many critical issues and challenges facing today's child abuse prosecutors. As a District Attorney, I had the privilege in the early 1980s of starting the first Children's Advocacy Center. This effort led to better investigations and prosecutions of child abuse in a multidisciplinary setting. Later, as a United States Representative, I championed the cause of children by marshalling congressional support for both my National Children's Advocacy Center in Huntsville, Alabama, and the National Children's Alliance, a coalition of Children's Advocacy Centers from across the nation that is headquartered in Washington, D.C.

In 1985, the United States Congress approved an authorization for the American Prosecutors Research Institute (APRI) to establish a National Center for Prosecution of Child Abuse (NCPCA). NCPCA provides front line investigators and prosecutors with quality training at the national, state, and local levels as well as technical assistance in individual cases. Equally important, NCPCA produces quality publications that provide practical guidance to those called on to handle these complex cases. Perhaps its most important publication is this manual, *Investigation and Prosecution of Child Abuse*. Now in its third edition, the manual will be of invaluable assistance to prosecutors and allied professionals in the field.

I want to commend the attorneys and staff of the National Center for Prosecution of Child Abuse for their tireless efforts in producing this important work, as well as the many authors who contributed to this project. It is my hope that it provides valuable guidance to all those who selflessly serve children in need.

Congressman Robert E. "Bud" Cramer, Jr.
United States House of Representatives

Preface

Since its inception 18 years ago, the American Prosecutors Research Institute's National Center for Prosecution of Child Abuse (NCPCA) has become a beacon for prosecutors seeking training, research, and one-to-one advice on these complicated and gut-wrenching cases. Aimed at providing a central resource for improving responses to child physical, sexual, and fatal abuse as well as criminal neglect, NCPCA serves child abuse professionals nationwide and internationally.

When *Investigation and Prosecution of Child Abuse* was first published in 1987, prosecutors had for the first time a current and comprehensive guide to handling some of the toughest cases many had ever faced. Praised for its thoroughness, practicality, and readability, the manual was widely known as the child abuse prosecutor's "bible." In 1993, the manual was revised and expanded.

Since that time, child abuse cases have generated a great deal of case law, along with an outpouring of medical, psychological, and other important research. This third edition of *Investigation and Prosecution of Child Abuse* has been updated and expanded to address many of these changes. I have no doubt that the third edition will be invaluable to prosecutors striving to keep abreast of these developments.

I am deeply grateful to the dedicated staff of the National Center for Prosecution of Child Abuse for the many hours spent putting this publication together. In addition, NCPCA attorneys travel to 30 or more states each year, training as many as 14,000 child abuse prosecutors and investigators. NCPCA also responds to several thousand requests for technical assistance, publishes a monthly newsletter, and produces law review articles, book chapters, and other scholarly works.

No organization means as much to front-line child abuse prosecutors as does NCPCA. NCPCA has demonstrated that accountability for offenders goes hand-in-hand with interdisciplinary cooperation and child abuse prevention efforts. Through the leadership of APRI's National Center for Prosecution of Child Abuse and the dedication of America's child abuse prosecutors and investigators, the world will be a safer place for children.

Newman Flanagan
President, American Prosecutors Research Institute
Executive Director, National District Attorneys Association

Acknowledgments

As I travel around the country, I'm amazed at the number of child abuse prosecutors and investigators who tell me they still have on their shelves and still frequently refer to the second edition of *Investigation and Prosecution of Child Abuse*. To many in the field, the manual continues to be referred to as the "bible" of our professions.

In the 10 years that have passed since the publication of the second edition, much has happened in the field of child protection. Advanced technologies enable perpetrators to commit old crimes in new ways. Defenses abandoned over the past decade have given way to new tactics to discredit victims and those who seek to protect them.

Although new defense tactics and new methods of committing the crime of child abuse will be a constant, negative pattern in this field, there have been many positive developments as well. Prosecutors are getting involved earlier in these cases and, in many jurisdictions, are present when child victims are being interviewed in the local child advocacy center. As a whole, the profession is better trained, and many parts of the country report marked improvement in the ability to handle these cases.

In recognition of the changing landscape and in response to the demand from those of you on the front lines, we offer this third edition of the manual. It is my fervent hope that these pages will assist you in the high calling of protecting children in need.

I am grateful to the contributors to this manual who built on the work of contributors to earlier editions. In alphabetical order, these contributors are Jeff Brickman, Mary-Ann Burkhart, Cindy Christian, Dan Davis, Paul DerOhnessian, Carl B. Hammond, Mindy Mitnick, John E. B. Myers, Rob Parrish, Robert Reece, Domenic Trunfio, Bill Walsh, and Robin Wilkinson. I am also appreciative of my colleagues at the National Center for Prosecution of Child Abuse both past and present for their hard work on this project. In particular I wish to thank Dawn Wilsey for assisting with myriad administrative details in the publication of this book. I am also grateful to Brian Holmgren and Laura Rogers for the many hours spent in selecting and editing the appendixes. I am indebted to Mary-Ann Burkhart for her careful reading of each chapter to ensure all information was substantively correct.

Finally, a special thanks to Minnesota prosecutor Michelle Zehnder-Fischer for her diligent reading of the manuscript and her efforts to turn it into polished prose.

I have been blessed to work with and to otherwise know many of the best and brightest child protection professionals in the world. This magnificent manual is a testament to the selfless labors of so many of them. If there are any errors or weaknesses in this manual, the blame rests squarely with me.

Victor I. Vieth

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Introduction to the Third Edition

The Benefits of Working as a Multidisciplinary Team

A premise of this manual is that successful prosecution of child abuse requires different practices than those used to respond to other types of crime. One of the major differences is the critical role that information from a variety of individuals and agencies—law enforcement, child protective services (CPS), medical personnel and mental health professionals—plays in building strong child abuse cases. Experts who deal with children, abuse issues, courts, and trials on a daily basis agree that the optimal response to child abuse involves a coordinated multidisciplinary approach to share information and establish agency responsibilities.

The process of developing a shared investigative approach can itself be beneficial. It can reduce the number of interviews a child undergoes, minimize the number of people involved in the case, enhance the quality of evidence discovered in the investigation, make more efficient use of limited resources, educate each agency concerning the needs and interests of the other agencies involved, and minimize the likelihood of conflicts among those agencies. At the same time, it can diminish the defense's ability to play one agency against another. Not only does a multidisciplinary approach directly assist the victim and family, but it provides the impetus for improving the overall approach to child abuse. Independent investigations, in contrast, often overwhelm the child; result in evidence being ignored, lost, or tainted; disrupt the lives of those who might otherwise cooperate; and produce other problems detrimental to the search for truth. If independent investigations must be made, the police and CPS should at least coordinate activities and attempt to share their interview session or sessions with the child.