



PROTOCOL

A QUARTERLY PUBLICATION

[HTTP://WWW.STATE.ID.US/DLE/POST/POST.HTM](http://www.state.id.us/dle/post/post.htm)

Peace Officer Standards and Training Academy

Michael N. Becar, Director

CASE CONFERENCE: Sarah's Case

The Case: Sarah

Sarah is a nine year old fourth grader. She has half siblings, George, 6, and Sissy, 3. Her mother, Joanne, was married to Sarah's father but they are currently divorced, and Sarah has limited contact with her father. George and Sissy each have different fathers, who have little contact with the children.

Joanne is very religious and attends a Christian-based church three times a week. The children also attend, and are not allowed to play with friends from outside of the church. Joanne met Leroy, a deacon, through the church. After their first date, Leroy moved into the house with Joanne and the children and reorganized the household, setting bed times and meal times and determining how Joanne's AFDC check would be spent.

Leroy beats the children with his belt, leaving red marks and sometimes bruises. When Joanne complained, he replied, "Spare the rod and spoil the child." During one beating, Sarah was inadvertently struck in the eye by the buckle of the belt, causing her eyelid to swell and obscuring her vision. The two younger children are afraid of Leroy, and try to obey him, although this is difficult as he frequently changes the house rules. Sarah, however, talks back to him and threatens to "tell her daddy on him." Leroy has decided that Sarah is possessed by the devil and is a bad influence on the other children. On one occasion, Sarah talked back to Leroy and he forced her to eat raw horseradish. When she vomited the horseradish, he forced her to eat the vomited horse radish, causing her to vomit again. Leroy forces Sarah to sleep in the basement on a rug instead of in her bed so that she will not roam around at night and poison the minds of the younger children. He made her eat out of a dog dish on the basement floor so she could learn humility and become closer to God.

Leroy has persuaded Joanne that this is the best way to handle Sarah and her insubordination to him and to God. They both have begun to see Sarah as the cause of all the family's problems.

Sarah's teacher noticed Sarah's swollen eye, and that she seemed sad and often fell asleep in class. After an initial reluctance, Sarah told her teacher the situation in her home. The teacher reported Sarah's allegation to the CPS authorities, who removed Sarah from the home, but left the two younger children. Joanne and Leroy have said that the CPS workers are agents of the devil, and are not cooperating with treatment.



LOOK FOR

Malicious or Not?
Proving Criminal Intent in
Cases of Child Homicide

2

Preparing a Child for
Court

6

Continued on page 9



PROTOCOL is published quarterly by Peace Officers Standards and Training Academy. This publication is made possible through a grant from the Department of Health and Welfare. The opinions expressed herein are solely those of the author and do not necessarily represent the views of Peace Officers Standards and Training Academy

If you would like to contribute an article or have any questions or comments regarding PROTOCOL, please write to P.O. Box 700, Meridian, ID. 83680 Attn. Vicki Pence

Malicious or Not? Proving Criminal Intent in Cases of Child Homicide

by Charles A. Phipps

Rarely has the difficulty of proving criminal intent in a child homicide case been more clearly exemplified than the proceedings involving British au pair Louise Woodward. Woodward was indicted for the murder of 8-month-old Matthew Eappen while in her care. The Commonwealth's case included incriminating statements made by the defendant and substantial medical evidence indicating the baby died as a result of a violent shaking and impact that led to fatal brain injuries. Although the jury convicted Woodward of murder, the trial judge ruled that the conviction for murder amounted to a substantial miscarriage of justice, reduced the conviction to involuntary manslaughter, and released the defendant after sentencing her to time served.

At the heart of his opinion is the trial judge's belief that Louise Woodward did not act with malice:

"I believe that the circumstances in which Defendant acted were characterized by confusion, inexperience, frustration, immaturity and some anger, but not malice (in the legal sense) supporting a conviction for second degree murder. Frustrated by her inability to quiet the crying child, she was 'a little rough with him,' under circumstances where another, perhaps wiser, person would have sought to restrain the physical impulse."

This type of justification is not unfamiliar to child abuse prosecutors. Juries and judges would like to believe a child's death results from accidental or perhaps slightly "rough" behavior, not that the death is the result of a caretaker who intends to kill or cause great bodily harm to a child.

Although the definitions of murder and manslaughter and accompanying mental states vary in each state, the requisite mental state for murder is uniformly more specific than the mental state for manslaughter. For example, murder may require proof of intent to kill or inflict serious bodily injury, while manslaughter may require proof of an accidental killing committed contrary to the intention of the party. The following suggestions encourage prosecutors to consider whether evidence is available to prove the requisite mental state for murder in cases of child homicide.

Time required to commit the fatal act.

While an infant who is beaten or shaken and thrown may be fatally injured in a matter of a few seconds, medical literature also indicates a fatal shaking may take approximately 20 seconds and involve as many as 40-50 shakes. Similarly, medical literature on suffocation indicates that a parent must deprive a child of oxygen for approximately 60-80 seconds before the child loses consciousness, and the

entire episode may last two to four minutes. Evidence that the act leading to a fatal injury continues for this length of time suggests an actor knows what he or she is doing and has the opportunity to stop before serious consequences develop.

Amount of force required to commit the fatal act.

Abusive trauma to a child's internal organs or head that results in death requires significant force. In shaken baby cases, many medical experts equate the force necessary to kill a child with the force of an automobile accident or a fall from an upper story window. As stated by the American Academy of Pediatrics: "[T]he act of shaking/slamming is so violent that competent individuals observing the shaking would recognize it as dangerous." The amount of force employed in an individual case provides strong evidence that a violent act is not committed inadvertently. It is important to educate juries and judges that normal activities such as bouncing children playfully do not cause fatal injuries.

Serious nature of the injuries.

Many courts recognize that the serious nature of a child's injuries is, by itself, evidence that the person who caused the injuries knew or should have known he or she was inflicting great bodily harm. As stated by a Missouri appellate court in a shaken baby case: "The serious nature of [the victim's] brain injury is, in and of itself, a basis for inferring [defendant] knew that his actions would be practically certain to result in [the victim's] death."

Evidence of prior injuries.

Evidence of prior injuries may be admissible not only to prove that an incident was not an accident, but also to affirmatively prove the defendant had the requisite mental state for the crime charged.

Statements Of the defendant.

Prompt and effective questioning of a suspect may produce at

least partial admissions of the conduct alleged. For example, judicial opinions discussing cases in which an infant was shaken report a variety of admissions, including throwing or squeezing a child, shaking a child "mildly" in anger, and shaking to revive a child. Any admission of shaking or otherwise injuring a child helps establish that the act occurred. One effective questioning technique is to ask the defendant to demonstrate - preferably on videotape - how he or she struck, shook, or threw a baby. Medical testimony then can

In spite of a prosecutor's best efforts in proving a defendant's mental state, a trial judge or appellate court may set up insurmountable obstacles to proving murder in child homicide cases.

explain to what degree the defendant's explanation is consistent with the degree of injury inflicted upon the child.

Similarly, a defendant's failure to promptly seek medical attention for the child or failure to give medical professionals a full and accurate history provides strong evidence of the defendant's mental state. For example, if a defendant gives a fictitious history to emergency medical personnel and then later admits that he or she did, in fact, shake or strike the child, the prosecutor may use the initial deceit to show the defendant's consciousness of guilt or to show the defendant's willingness to further endanger the child's welfare by withholding information vital to the child's treatment.

Demonstrative evidence.

Medical experts often find it difficult to explain the mechanism of injury - especially in shaken baby cases - in terms that are understandable to a

jury. Some physicians use an in-court demonstration with a doll to show the mechanism of shaking. While one federal court has reversed a conviction based on a demonstration of the amount of force involved in shaking an infant, other courts allow such demonstrations. Prosecutors should be aware of relevant case law and make appropriate use of demonstrative evidence. Another useful aid is a videotaped or computer generated simulation of an infant who is shaken.

In spite of a prosecutor's best efforts in proving a defendant's mental state, a trial judge or appellate court may set up insurmountable obstacles to proving murder in child homicide cases. In jurisdictions with recurrent problems, prosecutors should consider encouraging legislatures to enact special homicide statutes. As developed in numerous jurisdictions, these statutes take two basic forms. One type of child homicide statute simply lists a child physical abuse offense as an enumerated felony in a felony murder statute. The second type of law creates as an offense the killing of a child in the course of being physically maltreated - regardless of whether the conduct amounts to a felony.

Both types of statutes alter the traditional mental state element for the crime of murder, and in its place require either proof of the intent required to prove the underlying felony, or human life, or a proof of recklessness, extreme indifference to life, or a similar mental state. These statutes may ease the difficulty of proving an intent to kill while establishing a crime and penalty proportionate to the violent act of killing an infant.

Reprinted from UPDATE-National Center for Prosecution of Child Abuse. Vol 11, Number 1, 1998

Upcoming Training

Summer Seminars by the Sea

Presented by The Center for Child Protection Children's Hospital-San Diego **When:** Seminar I August 3-7, 1998 Seminar II August 10-14, 1998 **Where:** Seminar I-The Westgate Hotel, San Diego CA. Seminar II-Holiday Inn on the Bay, San Diego CA. **Cost:** \$340 **For Information:** Registration Coordinator, Center for Child Protection, MC 5017, Children's Hospital, 3020 Children's Way, Sand Diego, CA 92123-4282. 619-495-4940

Twelfth International Congress on Child Abuse and Neglect, Protecting Children: Innovation and Inspiration.

Presented by the International Society for Prevention of Child Abuse and Neglect **When:** September 6-9, 1988 **Where:** Auckland, New Zealand **Cost:** Prior to July 1, 1998 ISPCAN Members NZ\$590 New Members NZ\$725 (including 1998 membership if ISPCAN) Non Members NZ\$650 **For Information:** The Conference Company POSTAL ADDRESS: PO Box 90-040, Auckland New Zealand STREET ADDRESS: 44 College Hill, Ponsonby, Auckland, New Zealand Phone: +649 360 1240 Fax: +649 360 1242 Email: info@tcc.co.nz Internet: <http://www.nzhealth.co.nz/ispcan98>

The Second National Conference on Shaken Baby Syndrome.

Presented by Primary Children's Medical Center, Child Abuse Prevention Center, and SBS Prevention Plus **When:** September 13-15, 1998 **Where** Salt Lake City, Utah **Cost:** n/a **For Information:** contact The Child Abuse Prevention Center of Utah 2955 Harrison Blvd., #102, Ogden, UT 84406 801-393-3366 or by email at capcente@ix.netcom.com

14th Annual Midwest Conference on Child Sexual Abuse and Incest

Presented by the University of Wisconsin-Madison Department of Professional Development and Applied Studies and Family Sexual Abuse Treatment Inc. **When:** October 5-8, 1998 **Where** Marriot-Madiston West, Middleton, Wisconsin **Cost:** n/a **For Information:** Contact UV-Madison, Professional Development and Applied Studes, 610 Langdon St. Rm 326, Madison, WI 53703-1195, 608-263-5103 or 1-800-442-7107

Northeast Regional Child Maltreatment Conference, "Challenging Our Response to Child Maltreatment: Intervention, Prevention or Both?"

Presented by the Massachusetts Society for the Prevention of Cruelty to Children and the Massachusetts Chapter, American Professional Society on the Abuse of Children and The Northeast Regional Children's Advocacy Center. **When:** November 12-14, 1998 **Where:** Providence, Rhode Island **Cost:** n/a **For Information:** Send name, address, telephone number and fax number to - NE Regional Child Maltreatment Conference, Planning Committee Tufts University School of Medicine, Office of Continuing Education, 136 Harrison Ave, Boston, Ma 02111

The Twelfth National Conference on Child Abuse and Neglect, Engaging America's Communities

Presented by The National Center on Child Abuse and Neglect (NCCAN) **When:** November 16-21, 1988 **Where:** Cincinnati, Ohio **Cost:** n/a **For Information:** 8484 Georgia Ave., Suite 1000, Silver Spring, Maryland 20910-5604 Phone: 301-589-8242 Fax: 301-589-8246

MARK YOUR CALENDARS!!!!

For the Upcoming POST Training...

September 8-9, 1998
Boise, Boise Center on the Grove
CHILD DEATH INVESTIGATION

Speakers include Dr. Roger Byard, Pediatric Forensic Pathologist of the University of Adelaide, Australia, foremost expert in the field of child death investigation, author of *Sudden Death in Infancy, Childhood and Adolescence*, and Dr. Randy Hanzlick Associate Professor of Forensic Pathology, Emory University School of Medicine; Forensic Pathologist, Center for Disease Control and Prevention, Atlanta Georgia. This two day workshop will cover 'Death scene investigation in sudden infant death - What to look for', 'What the pathologist needs', 'Causes of sudden and unexpected death in childhood', 'What is SIDS?' and 'How reliable is the autopsy?', 'Features of abuse in childhood', Munchausen Syndrome by Proxy', 'Accidental death in childhood', 'Preventative Pathology' 'Guidelines for Death Scene Investigation and CDC Protocol', 'Sudden Unexplained Infant Death Questionnaire' (SUIDQUEST)
POST training hours, CLE and CEU's will be available for these workshops.



Portable Guides Available From POST

Law Enforcement Response to Child Abuse and Understanding and Investigating Child Sexual Exploitation are now available from POST. Also still available are *Burn Injuries in Child Abuse* and *Criminal Investigation of Child Sexual Abuse*.

To order return to: POST Academy, Attn. Vicki, POB 700
Meridian, Id 83680.

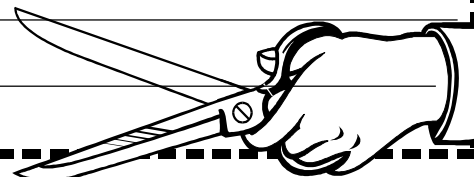
Please Send Me the Following Pamphlets:

- Burn Injuries in Child Abuse
- Criminal Investigation of Child Sexual Abuse
- Law Enforcement Response to Child Abuse
- Understanding and Investigating Child Sexual Exploitation

Mailing Address: _____

Agency Name: _____

Team Name: _____





Preparing a Child for Court

by Paul Stern
Senior Deputy Prosecuting Attorney Snohomish Co, Washington

One measure of our growth as child abuse professionals is our willingness to learn from children. I have found that many professionals working with abused children within the criminal justice system assume that testifying in court is going to be traumatic for the child. Perhaps one of the reasons we make this assumption is because we have had our own unpleasant experiences testifying. Accordingly, we work hard to determine ways to make this process easier for children.

Fortunately, recent research has helped prosecutors and child advocates develop methods that minimize children's trauma from the courtroom experience. Researchers have advised prosecutors about methods of preparing children to testify and about techniques that can enhance the child's sense of safety in the courtroom. Prosecutors have also been urged to use innovation and creativity to help ease the stress on the child, hopefully avoiding, the potential negative impact of the court.

But as we learn more and experiment more, I find that sometimes the things we do may make us feel better but may not affect the performance or anxiety level of the child.

A Case Study

What follows is the description of one particularly egregious child sexual assault case. Many of the professionals' actions had a positive effect on the child's anxiety and performance in court, but other steps that may have made the professionals feel better seemed more a hindrance than a help for this particular child.

The Assault

Kim was 6 years old when she was abducted from a bowling alley in Everett, Washington. She had been playing about 15 yards from her mother when a man grabbed her and put her into his car.

The man drove her to his house and raped her vaginally. Afterwards, he drove her to a secluded wooded area in the mountains and strangled her. Medical testimony would later establish that Kim was

strangled for more than a minute. After she passed out, the man left her there and drove away.

When she regained consciousness, Kim began to walk for help. She walked until her feet blistered and bled. A passerby eventually found her and drove her to safety.

The Pretrial Preparation

A child interview specialist interviewed Kim several times. In every encounter, the specialist was completely professional. The police were supportive and sympathetic to the child. Kim had an experienced and dedicated advocate with her during all interviews. When she attended a live lineup to identify the man who abducted her, Kim was accompanied by her mother, her advocate, two police detectives, and the prosecutor.

During a pretrial interview with defense counsel, Kim was again

accompanied by her mother, her advocate, and the prosecutor. Although counsel was nonthreatening and kind, Kim refused to answer any questions about the assault.

Throughout both the investigation and the trial, Kim's mother was very supportive of her daughter and appeared to accommodate all her needs.

In various pretrial hearings, the defendant, being held in Jail on \$1,000,000 bail, threatened to kill his appointed lawyers, and they were eventually removed from the case. The defendant also specifically and repeatedly threatened to kill the judge, the prosecutor, and various witnesses. (He was subsequently charged with the felony of Intimidating a Judge.) Many pretrial court proceeding were interrupted by the defendant's angry outbursts, including his yelling death threats and kicking tables.

As the trial approached, there was great concern for Kim's emotional safety. She would be asked to testify at trial, just a few yards from the man who had abducted, raped, and tried to murder her. Further it was unclear how the defendant would behave during Kim's testimony.

All of the professionals working on this case believed it was going to be very traumatic for Kim to testify at trial.

Prior to the trial, Kim met with the prosecutor and the victim advocate inside the courtroom. Kim was shown where everyone would sit and was told precisely what was expected of her. She was told that she simply had to answer some questions. Care was taken to make sure she realized that she didn't bear the burden of obtaining a conviction; that was the prosecutor's job, not hers.

Significantly, Kim was also told that long as she was willing, to try, she could leave the courtroom whenever she wanted. It was important that she realize that she had some control over these events.

The First Court Experience

Kim's first court appearance was at competency hearing. At the urging of victim advocates, she was provided with great support in court during, this appearance. She was allowed to sit on her mother's lap and placed in other than the witness chair away from the defendant.

The victim advocate sat next to Kim. The police detective stood between her and the defendant. To increase her feeling of security, at Kim's request, the detective, was dressed in uniform, with his gun exposed. The prosecutor sat positioned such that Kim could, look at him and see the judge but not have to see the defendant.

The child was asked simple questions. After each question, she would cling to her mother and refuse to respond. When told that she must speak for herself, she became distracted and playful.

"How old are you?" The prosecutor asked quietly.

"I'm one hundred," Kim said smiling.

After five minutes, it was obvious that the child would not answer questions. The failure of Kim to testify would create serious evidentiary problems for, the prosecution and would jeopardize the strength of the state's case.

The following day, the judge permitted the prosecution to try the competency hearing again.

The failure of Kim to testify would create serious evidentiary problems for, the prosecution and would jeopardize the strength of the state's case.

The Second Court Experience

This time, the prosecutor removed much of Kim's direct support. Prior to going into court, Kim, the prosecutor, and the victim advocate met to discuss Kim's feelings about being in court the day before. She said that she had been afraid but would try again. She was told that she could not sit on her mother's lap this time, but that her mother would sit next to her.

Accordingly, Kim was seated in her witness chair, still able to hold her mother's hand. The victim advocate was still in the courtroom but was seated behind the prosecutor, several yards from the child. The detective was also present but was now dressed in a business suit and seated at counsel's table. Although the child's support system was still obvious, it was no longer an overbearing presence.

Simple questions were again asked: questions about name, age, and school year. When Kim turned to her mother after the first question, she was told that she would have to answer the

questions herself. Quietly, she began to answer. With each answer, she obviously felt more confidence and comfort. She answered about four minutes of questions, clearly demonstrating her competency as a witness.

The hearing also required Kim to talk a little about the crime. During the pretrial stage, the child had repeatedly shown a reluctance to talk about her abduction and rape. Rather than asking the child to narrate these events, the prosecutor showed her a series of photographs. First, he showed her a picture of the defendant's living room, the site of the rape.

"Have you ever been here?" The prosecutor asked.

"Yes."

In turn, she was shown a picture of the strangulation site and a picture of the live lineup in which she had identified the defendant. She properly identified these photographs and finally said the man who hurt her was in the courtroom.

After the hearings, Kim felt relieved and showed obvious confidence. She was praised for her bravery and her ability to answer questions. She was told she would need to testify one more time, and she expressed a willingness to do so.

The Trial

When she returned to court for the trial, Kim seemed nervous but confident. Again, she met with the prosecutor and the advocates to discuss her feelings and thoughts. She knew she could go into a courtroom and answer questions herself. She knew no one was going to harm her or make her talk about things she didn't want to talk about. When told she could sit next to her mother, Kim said she didn't want to hold her mother's hand today; she would just answer questions

Kim sat in the witness chair before the jury, with her mother seated in a chair next to her. At no time during this testimony did Kim turn to her mother for support. She was markedly

Continued on page 8

Continued from page 7

more confident in her own ability to answer questions.

Once again, the prosecutor used photographs to direct the testimony. Without hesitation, Kim identified the pictures and answered simple questions about them. She identified the defendant from the photograph of the lineup as being in court and said he was the one who took her "to those places."

Defense counsel, very experienced in child abuse cases, would later report that he felt nothing could be accomplished by extensive cross examination. His questioning lasted a matter of minutes.

After only ten minutes, Kim's testimony was completed. Clearly stronger than she had been at any other time during the entire case, she seemed to stride from the courtroom. She had been a compelling and confident witness. Just as important, she felt good about herself.

What Can We Learn?

Several valuable lessons were learned from this case.

Preparation

First, the child, although clearly traumatized and frightened by the prospect of facing the defendant, was able to successfully testify in court due to her preparation by experienced and professional advocates. This preparation was vital to her ability to testify with such confidence.

Educated and empowered by the advocates and prosecutor, this child was able to deal with her fears and anxieties. Without the work of these professionals, the prosecution probably would have been unsuccessfully. This case, as much as anything, reflects the need for child abuse professionals to work together.

Degree of Support

Kim was best able to testify, however when her support system was distanced. When she was on her mother's lap, it was easy to avoid

answering questions. The degree of support initially provided was an inadvertent distraction; instead of responding, to questions, she played up to that attention.

These professionals felt good about providing so much support, but they actually became a vehicle that allowed the child to avoid answering. Slightly removed from them, Kim was in a position to respond to questions by herself. She was given support but also empowered to testify on her own.

In Summary

As professionals, we want to do everything we can to protect and serve the children. Sometimes, however, we need to recognize that what we find reassuring is not necessarily the most effective technique for a particular child.

As practitioners, we should embrace the current research and develop techniques that are supportive of children. In our rush to do so, however, let us recognize the distinction between providing support and becoming an overbearing presence. Let us remember that it's important to support children for their sake, not our own. Let us use our creativity to encourage children to tell their stories in a way that is comfortable to them, using whatever supports we can devise.

Reprinted from Violence Update
December 1993.

**Don't Forget to
Check out the
POST Web Site!!!!**

For up-to-date issues of all
POST publications including
the "Bulletin" and "Dare"

**HTTP:WWW.STATE.ID.US/
DLE/POST/POST.HTM**

Look for some great
links on information
on POST and other
agencies.



Case Response

Gisele Ferretto Meek, LCSW-C
School of Social Work
University of Maryland

How would CPS intervene? Why?

In any situation where alleged maltreatment is identified, CPS has three responsibilities. Primary is the responsibility to assess the immediate risk to all children in the home. This brief case description identified the factors that placed Sarah in immediate risk of maltreatment, which resulted in her removal. Those factors in summary are: Leroy's perception that Sarah is "possessed by the devil" and that he is self-righteous in his excessively severe "discipline;" the use of a belt to beat the children; Joanne's alignment with Leroy, which leaves her unable to provide protection in the home; and the caretakers' noncooperation with CPS. CPS must continue to assess the immediate safety of the children remaining at home, George and Sissy.

Another responsibility of CPS is to make a finding based on the evidence gathered concerning the allegations of maltreatment. CPS must determine if the situation in this family meets the legal definition of abuse as defined by the state civil law. This is the easiest task in this case situation because the level of evidence needed (a preponderance of the evidence) is met by the following: the children have sustained a physical injury; Sarah is old enough to provide a detailed account of the maltreatment; and Leroy justifies his actions.

Finally, the hardest and most critical task is to assess this family at a deeper level to determine the factors that place all of the children at risk, and then to develop strategies with the family for reducing the risk factors. There is much to further assess in this family now that Sarah's immediate safety has been addressed.

Would you attempt to involve other professionals from other disciplines in the case?

Much has been written on the connotation of the biblical references of "sparing the rod" and the shepherd's use of the rod not to beat sheep but to guide them. It seems that religion plays an important role for Joanne and Leroy. Therefore, it may be beneficial to involve a pastoral counselor who could explore the issue of violence and control with Leroy. I would caution that the CPS worker must be especially knowledgeable of the community resources when making this referral. Religion is identified as an authority and may be utilized to bring about a positive change in this family.

A consultation with a professional who works in the area of domestic violence may assist in an assessment of Joanne and her ability to protect her children. I wonder about Joanne's history and her willingness to allow Leroy to take such complete control of her home and children.

What are the key issues?

The key issues identified in this case for CPS are: The severity of the maltreatment toward all the children, especially Sarah, and the continued need to assess the immediate safety of George and Sissy; The righteous attitude of Leroy toward violence in the home; The labeling of CPS workers as "agents of the devil," which makes it difficult to establish a helping working relationship; Joanne's relationship with Leroy and his control in her home.

Long-range plan for addressing this problem

A more in-depth assessment is necessary to adequately determine the long-term direction for this specific case. In general, CPS needs to assist the caretakers to expand their definition of discipline to include nurturing and guiding of the children's behavior rather than violence. It is encouraging that this situation sounds like a recent development in the life of this family, and therefore, there is a high potential for change. Joanne is a critical piece in this family puzzle-she needs to be supported to examine her relationship and to develop her self-sufficiency as well as her role of primary caretaker.

Case Response

Mark D. Everson, Ph.D.
Department of Psychiatry
University of North Carolina at Chapel Hill

What are the key issues?

Sadly, most professionals in the field of child abuse have seen similar, though perhaps not as extreme, cases in which distortions of Biblical principles and Christian beliefs are used to perpetuate cruelty against children. If one temporarily sets aside the religious aspects of the case, case formulation is fairly straightforward, involving physical and emotional abuse and neglect of Sarah and probably her two siblings. The abuse is perpetrated by an apparently angry, rigid, controlling man who has used his position of influence to exploit an emotionally dependent, somewhat socially isolated single parent and her young children.

The religious aspects add a challenging wrinkle. Typically, the family's belief system in such a case can play one or more roles: 1) as a cause of child maltreatment (e.g. when critical medical care is withheld because of religious beliefs); 2) as a factor to justify or maintain abusive parenting patterns that have their roots in other individual or family dynamics; or 3) as a possible solution to the problem of child maltreatment.

The shallow and selective nature of Leroy's Christian convictions provides an important clue that role #2 is in effect here. While Leroy is quick to point to Biblical admonitions that parents have primary responsibility for instructing their children in right and wrong behavior, he conveniently ignores equally clear Biblical injunctions against sex outside of marriage. While Leroy offers an

Continued from page 9

extreme (and distorted) interpretation of the “Spare the rod, spoil the child” proverb, he tramples on the crucial, counterbalancing Christian tenets of love and respect for others (e.g., “Do everything out of love,” “Love your neighbor (child) as you love yourself,” “Regard others as more important than yourself”).

Unknown at this juncture of the case—and one of the essential assessment issues—is whether Joanne’s religious beliefs and Christian support system can play a significant role, not only in ending the maltreatment of her children, but also in bringing the family to a position of psychological health and wellbeing.

How would a psychologist intervene?

A psychologist’s first contribution in this case would be to aid in the assessment process. A number of issues must be addressed before appropriate intervention and treatment can be planned:

- 1) Are Sarah’s two younger siblings safe? Should the CPS decision to leave them in the care of Leroy and Joanne be reconsidered? Careful and sensitive interviews with Sarah about family life and the care of the children will shed light on this issue, but both younger children should be evaluated for immediate safety as well as longer term treatment needs.
- 2) What was the mother’s role in the abuse and neglect of Sarah and possibly the other children? How workable is she? How committed is she to the relationship with Leroy vs. her children? Is her relationship with Leroy based on love and mutuality? On fear and control? To what degree is her belief system consistent with Leroy’s? Is she able to consider other perspectives? What are her own psychological dynamics and needs? What are her strengths and liabilities as a parent? To what degree is she able to empathize with the feelings and needs of her children? What is the nature of her social support system from church and from other sources?
- 3) How is Sarah functioning psychologically, socially, and academically? Does she exhibit symptoms of depression, anxiety, PTSD, or other signs of psychological trauma? How was she functioning before Leroy entered her life? What was her relationship with her mother like then? What is it like now? What are her treatment and placement needs?
- 4) What is Leroy’s social, psychiatric, religious, and criminal background? What is his commitment to Joanne? To her children? To reuniting the family? Would he cooperate with a psychological evaluation? Would he be responsive to input from his church pastor or other Christian viewpoints?

What other professionals would you attempt to involve?

I would immediately seek to involve Leroy and Joanne’s church pastor. It would be critical to assess his perspective on Leroy and Joanne’s relationship, on their abusive and neglectful parenting, and on Leroy’s efforts to justify such behavior through appealing to Christian principles. Ideally, the pastor and the rest of the church leadership would be willing not only to communicate a clear, uncompromising message that such treatment of Sarah is intolerable by any Christian perspective, but also to commit to working toward resolution of the problems in the family. If the church pastor were to condone Leroy and Joanne’s behavior, hope for an easy resolution would be slim and court action would undoubtedly be necessary to mandate compliance with a treatment plan.

I would also make an effort to ensure that at least one professional who is a committed Christian is included on the assessment/treatment team. Such a person would likely enhance communication and understanding between the various parties and add credibility to the process.

What is the long-range plan?

The long-range plan would include moving Leroy out of the home and Sarah back in. Ideally, this would involve intervention to respectfully challenge and reconstruct Joanne’s religious belief system so that it could not be used to justify maltreatment of her children. The psychological, social, and economic conditions that contributed to Joanne’s decision to engage in a destructive relationship with a man like Leroy would also need to be addressed.

Sarah (and possibly her siblings) will need psychological treatment for the impact of the abuse, neglect, rejection, and abandonment she suffered. These experiences likely will have had a profound effect on her own spiritual and religious beliefs, including instilling in her a view of God as punitive, cruel, and rejecting. Given the possible pervasive influence of this belief system on Sarah’s self-concept, moral development, and sense of purpose and meaning throughout life, the spiritual impact of her maltreatment should also be addressed in the treatment plan.

Case Response

Jerry Daley, M.Div.

Senior Pastor

Grace Church

Chapel Hill, North Carolina

Presuppositions:

1. As a Christian pastor, I approach situations with the serious attempt to base all decisions upon both the attitudes and directions given in the New Testament.
2. Both my decisions and my resources are backed up by a community of Christians who are committed to living out the practical realities of all that Jesus Christ did and taught.
3. Finally, any responses are not hypothetical but occur frequently in real life situations.

Leroy has violated the most basic Christian commitment to sexual purity as well as his additional commitment to be an example for others to follow (1 Cor. 5:1, 11; 6:9-10; 1 Tim. 3:2-10). As his pastor, I (and one of the elders) would immediately confront Leroy with his moral failure, with his violation of the trust he has held as an officer of the church, and with his sin against Joanne and her children. We would appeal to him in an attitude of gentleness and humility (Gal. 6:1), yet knowing that we do have an authority to command him to repent from his sinful behavior as well. This combination of gentleness and the confidence of authority is backed up by God in the conscience of the man. We would firmly insist that he immediately move out of the house and separate from all contact with the mother and children (1 Tim. 5:20).

At the same time, we would also appeal to Joanne as a Christian to repent to God for her own sin in fornicating and for betraying her children by bringing this man into the home she was charged to protect.

It is not at all unusual in such cases to see one or both of these people experience a genuine sorrow for their sin and change their minds about their conduct in a lasting way. At this point we would assign a mature Christian woman to work with Joanne and a man to work with Leroy. This woman and man would become prayer partners who would help them to experience a deepening commitment to change during this time of vulnerability. Leroy would, of course, be asked to step down from his office as a deacon (elder), and if he refused then his behavior would be discussed with the congregation in a meeting which is not open to the public (1 Tim. 5:20). Should Leroy and Joanne not repent, they would be disfellowshipped according to 1 Cor. 5:11. This is an act which is done respectfully with the purpose of communicating to them just how serious their sin is so that they may change their minds.

Leroy's abuse of Scripture in beating the children, claiming that Sarah is possessed by the devil, etc., is not so surprising when you realize that he has already deceived himself by violating so many other Biblical commands already mentioned. I refer to such a man as "having a religious spirit," by which I mean that though he is religious, he is using this to mask a hidden anger, and such a man is dangerous. I certainly deal with such individuals from time to time, but with some basic discernment such a man would never be ordained and placed in a position of authority. If this happened where I was pastoring, I, along with the other pastors and elders, would be asking God to forgive us for allowing such a man to be in this position of trust.

A Christian community is a powerful force to draw upon in such a situation! There would be daily involvement with these two from the prayer-partners who would be able to encourage, exhort, and support them in the process of restoration. The very nature of these relationships involves accountability, and this is so important where such deception has previously worked so deeply in their own hearts. In my own congregation I have many such qualified women and

men who have a thorough knowledge of the Scriptures and a deep commitment to living God's way. Usually I choose them based also upon some natural connection or prior relationship with a Leroy or a Joanne.

In my experience I would have heard about Leroy's moving in with Joanne almost immediately, and we would have confronted them long before any abuse could have happened to the children! Such is the nature of the community that it would not be possible for this to happen in secret. In fact, even before I could respond, it is almost certain that a sister would appeal to Joanne and a brother to Leroy to break off this very wrong relationship. Apparently such a community did not exist in this setting so it was fortunate that CPS authorities were able to remove Sarah before even more damage was done.

At this point, my staff would be sitting down with the CPS authorities so that we could work together for the safe return of Sarah to her family. Since my own Christian community has a child psychologist as one of our Home Meeting Leaders, I would ask for his assistance in assessing Sarah's needs as well as those of the other children within the family.

What are the key issues?

1. In a church which is itself living in the integrity of the Scriptures, the child abuse would never have happened because the mother and deacon would have been confronted as soon as Leroy moved in with the family.
2. The second key issue is the abuse of trust by Leroy to take sexual advantage of a vulnerable single mother.
3. Joanne's abdication of her responsibility for the care and protection of her children is the third major violation of principle.
4. The misuse of Christian concepts and terms to justify the abuse of others violates all that the Christian community stands for and the community itself should function to prevent or correct such abuses.

Reprinted from APSAC Advisor. American Professional Society on the Abuse of Children.
Volume 11, Number 1, Spring 1998

Peace Officers Standards and Training
P.O. Box 700
Meridian, ID 83680-0700

PROTOCOL
