

**KENTUCKY MULTIDISCIPLINARY COMMISSION ON
CHILD SEXUAL ABUSE**

Model Protocol for Multidisciplinary Teams

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INTRODUCTION

Statement of the Problem

The extensive nature of child maltreatment in our society in part reflects its ability to touch any child: children of all ages and from all socioeconomic backgrounds are vulnerable to the experience of physical, sexual, or emotional abuse, whether from within or outside the family setting. In 1994, there were almost 3 million reported cases of child maltreatment in the United States, involving 43 out of every 1,000 children (National Center on Child Abuse and Neglect, 1996). The 1994 cases represent a 320% increase over the number reported in 1976 when figures first began to be reported. Of the cases reported in 1994, 14% involved the sexual abuse of a child. Although sexual abuse is reported less frequently than other forms of maltreatment, it is considered the most underreported form of abuse against a child because of the secrecy characteristic of these cases (National Center on Child Abuse and Neglect, 1991). In addition to an increase in the number of child maltreatment cases reported through the early 1990's, significant increases have been documented in the severity of injuries from child abuse between 1980 and 1993 (Sedlack & Broadhurst, 1996). During FY 2001, 4,786 reports of child sexual abuse were made to Kentucky's Cabinet for Families and Children.

Unique characteristics of child sexual abuse make investigation and prosecution of these cases challenging for child protection specialists, law enforcement officers and prosecutors. These factors include the age of the child (1994 figures show 47% of victims of child maltreatment are less than 6 years of age); the lack of physical evidence in many cases; the sometimes-ambiguous roles of professionals working to handle highly complex cases; the highly recidivistic nature of sexual offenders; and other factors.

Additionally, after a 15-year increase, national data now show that the rate of substantiated cases of sexual child abuse has declined since 1992 (Office of Justice Programs, 2001). As reported in the January 2001 publication of the Juvenile Justice Bulletin, the decrease in the rate of substantiation of sexual abuse allegations illustrates "the importance of tracking and investigating trends in child victimization" (Juvenile Justice Bulletin, U.S. Department of Justice, 2001).

Need for Multidisciplinary Approach

The traditional process for investigating and prosecuting child sexual abuse is not one that is "child friendly". Propelling a child through this adult-oriented, adversarial process can have a detrimental impact and impede the child's ability to recover from the initial

victimization. Child advocates, social services and mental health professionals, prosecutors, law enforcement and others have long decried the difficulties the system presents to child victims and their families. The use of multidisciplinary investigative and case review teams is the first model which has provided a meaningful way to significantly diminish the harmful effects which the system's intervention can have on a child. The use of multidisciplinary approaches can improve the process in the four primary areas of weakness: 1) in the way the system creates further trauma for the child; 2) in the effectiveness of the process; 3) in the stress which the system historically has on professionals; and 4) in increasing the system's accountability to victims, survivors, and to its individual members.

Research on the impact of the investigative and prosecutorial process on children, as well as the experience of professionals involved in these cases, has documented the adverse effects of the traditional legal system (e.g.: Goodman et al., 1992; Runyon et al., 1988). The necessity of being interviewed numerous times by different professionals has been identified as a particularly stress inducing factor for children. Specifically, children experiencing multiple interviews and interviewers rate their experience as more negative and traumatic (e.g.: Goodman et al., 1992; Tedesco & Schnell, 1987). The prolonged nature of the criminal justice process has also been identified as impeding a child's ability to recover from sexual abuse (e.g.: Runyon et al., 1988).

In addition to inflicting undue harm on a child, recent research suggests that traditional investigative and prosecutorial procedures, which do not attend to the unique characteristics of child victims and witnesses, are likely to be less successful. Factors of the investigative process associated with less reliable statements from a child may include prolonged investigations which impede memory retrieval (Brainerd et al., 1990); and multiple interviews, particularly those conducted in an aggressive or adversarial manner (Ceci, Leitchman & White, 1995).

Work in the area of child sexual abuse can be difficult for professionals whose primary concern is the protection of the child and seeking justice for the harm inflicted by this most insidious type of criminal offense. Professionals, whether law enforcement, prosecutors, social services or mental health professionals, victim advocates or others, have historically worked in isolation with only the resources which their respective agencies have available. Team approaches provide support and collegiality for professionals, institute automatic consultation when tough decisions are necessary, reduce any duplication of efforts, and increase available resources. The exercise of team building is one that maximizes the effectiveness of each individual member.

Kentucky's Response to Child Sexual Abuse

In the spring of 1992, a Kentucky Attorney General Task Force on Child Sexual Abuse (Task Force) was convened to address the crime of child sexual abuse. Because the

sexual victimization of Kentucky's children is such a critical and multi-faceted problem, the mission with which the Task Force was charged was broad, to include:

- Examine prevention, service delivery, and the civil and criminal justice systems as they pertain to child sexual abuse in Kentucky;
- Identify inadequacies that may exist in those systems; and
- Recommend changes in policy, practices, regulations, budgets and statutes to eliminate those system inadequacies.

During many months of study and debate, the Task Force drew a number of general conclusions about the scope of child sexual abuse in Kentucky and the current system's response to this crime. These findings formed the foundation for legislative recommendations that were presented to the 1994 Kentucky General Assembly. Paramount in the findings was the degree of weakness in the service system for sexually abused children across the Commonwealth, and the wisdom of a multidisciplinary strategy to address these weaknesses.

Legislative reforms made in 1994 and subsequent sessions of the General Assembly have been designed to minimize further trauma to child victims and to promote thorough and efficient investigations and prosecutions of these crimes. Joint investigations by law enforcement and child protection personnel are mandated in sexual abuse cases. The multidisciplinary teams operate pursuant to local protocols, which are developed to meet the needs and resources of each team, and approved by the Kentucky Multidisciplinary Commission on Child Sexual Abuse.

In 2000, the General Assembly established Children's Advocacy Centers by statute to provide medical examinations for children alleged to have been abused, advocacy services, locations for forensic interviews, and a coordination point for multidisciplinary teams. Two years later legislation was enacted which provided for the confidentiality of records of Children's Advocacy Centers, and instituted protections for videotaped interviews of children made at Children's Advocacy Centers.

Kentucky Multidisciplinary Commission on Child Sexual Abuse

One of the key legislative proposals offered by the Task Force was the creation of a statewide commission which would have as its mission the improvement of the system for children, generally, and the creation of local multidisciplinary teams to investigate and review cases of child sexual abuse. Kentucky Revised Statutes 431.650-.670 created the Kentucky Multidisciplinary Commission on Child Sexual Abuse (Commission), and in conjunction with subsequent legislation, resulted in a membership including:

- (a) The commissioner of the Department for Community Based Services or a designee;

- (b) The commissioner of the Department for Mental Health and Mental Retardation Services or a designee;
- (c) One social service worker who is employed by the Department for Community Based Services to provide child protective services, who shall be appointed by the secretary of the Cabinet for Families and Children;
- (d) One therapist who provides services to sexually abused children, who shall be appointed by the secretary of the Cabinet for Health Services;
- (e) The commissioner of the Kentucky State Police or a designee;
- (f) One law enforcement officer who is a detective with specialized training in conducting child sexual abuse investigations, who shall be appointed by the secretary of the Justice Cabinet;
- (g) One employee of the Administrative Office of the Courts appointed by the Chief Justice of the Supreme Court of Kentucky;
- (h) Two employees of the Attorney General's Office who shall be appointed by the Attorney General;
- (i) One Commonwealth's attorney who shall be appointed by the Attorney General;
- (j) The commissioner of the Department of Education or a designee;
- (k) One school counselor, school psychologist, or school social worker who shall be appointed by the commissioner of the Department of Education;
- (l) The executive director of the Governor's Office of Child Abuse and Domestic Violence Services or a designee;
- (m) One representative of a children's advocacy center who shall be appointed by the Governor;
- (n) One physician appointed by the Governor; and
- (o) One former victim of a sexual offense or one parent of a child sexual abuse victim who shall be appointed by the Attorney General.

KRS 431.660 charges the Commission with the following duties:

- Prepare and issue a model protocol for local multidisciplinary teams regarding the investigation and prosecution of child sexual abuse;
- Review and approve protocols prepared by local multidisciplinary teams;
- Advise local multidisciplinary teams on the investigation and prosecution of child sexual abuse;
- Receive data on child sexual abuse cases collected by the Prosecutor's Advisory Council and issue annual reports;
- Collect data on the operation of local multidisciplinary teams and seek funding to support special projects relating to the operation of local multidisciplinary teams;
- Receive and review complaints regarding local multidisciplinary teams, and make appropriate recommendations; and
- Recommend to the Governor, the Legislative Research Commission, and the Supreme Court changes in state programs, legislation, administrative regulations, policies, budgets, and treatment and service standards which may facilitate effective intervention into child sexual abuse cases and the investigation and prosecution of perpetrators of child sexual abuse, and which may improve the opportunity for victims of child sexual abuse to receive treatment.

Kentucky Multidisciplinary Teams: Current Operation

In 2001 the Commission distributed a detailed survey to all identified multidisciplinary teams to assess the structure and functioning of each team. Approximately two-thirds of the operating teams responded to the survey. Most multidisciplinary teams in Kentucky operate with seven to ten members (although eight teams have fifteen or more professionals serving). The most common members of multidisciplinary teams include child protection staff from the Cabinet for Families and Children, Commonwealth's attorneys, and victim advocates who are based in prosecutors' offices (each of these being represented on over 90% of teams). County attorneys participate on approximately 72% of teams. Additionally, approximately two-thirds of teams have the active participation of the Kentucky State Police and just over one-half have the involvement of city police departments. Sheriffs participate in 40% of teams, and county police are represented in the makeup of 17% of multidisciplinary teams.

Mental health professionals are actively represented on multidisciplinary teams (72% of the 2001 teams), with most of these professionals being employed at community mental health centers. School counselors serve on just over 41% of teams. Just over one-half of the time, Children's Advocacy Center personnel are among team members (a number which will grow significantly as Children's Advocacy Centers are opened in each area development district). Medical professionals are active on approximately one-third of multidisciplinary teams.

The legislative intent behind the creation of multidisciplinary teams was to enhance the investigation and prosecution of child sexual abuse cases. While assuming this mission, many teams have also expanded their scope. The 2001 Survey showed that 57% of teams also review serious physical abuse cases; 48% review child fatalities; and 35% also review serious child neglect cases. To conduct these reviews, most multidisciplinary teams operating in Kentucky meet monthly (averaging eleven meetings each year), and meetings tend to last one to two hours. During that time teams review, on the average, twelve cases.

Surveys of multidisciplinary teams in Kentucky revealed that most members believe that teams have strengthened the protection of child victims of abuse, and that the existence of teams has increased the accountability of all professionals who work on behalf of children who have suffered from abuse.

Purpose of a Model Protocol for Multidisciplinary Teams

The document that follows is intended to serve as a model for communities to use in drafting a protocol and building their own multidisciplinary team. Use of the term "model" is not intended to imply that every community's final document should exactly mirror the recommendations on the following pages. The law stipulates that local protocols shall be approved by the Kentucky Multidisciplinary Commission on Child

Sexual Abuse (KRS 431.600 (2)). This language should provide local experts, survivors and other stakeholders with an opportunity to review the model and strengthen its implementation by adapting it to local community systems and resources. In accordance with state law, the adapted model will then be reviewed for appropriateness by the Commission.

This protocol addresses primary areas which should also be included in the protocols of local multidisciplinary teams, including delineated goals and objectives; a general description of the roles and responsibilities of each team member; a specification of the operation of the local team, including the location and frequency of meetings; the issue of confidentiality; a description of training needs; procedures for the investigation and review of cases; and other key elements. In addition, a clearly stated mission drafted by the team should be part of every local protocol. This model protocol also offers recommendations and strategies for the process of developing local teams.

Importantly, these functions include both the joint investigation of child sexual abuse cases and the case review process for multidisciplinary teams. This protocol reflects a model in which the team operates as an umbrella under which a variety of separate functions fall. The portion of the protocol tailored to joint investigation directs the involvement in compliance with statute, of the Department for Community Based Services and law enforcement. (See "[Joint Investigation Function of the Multidisciplinary Team](#)"). Case review procedures involve all team members. (See "[Case Review Function of Multidisciplinary Team](#)")

Kentucky Multidisciplinary Commission on Child Sexual Abuse

Model Protocol

GOALS AND OBJECTIVES OF MULTIDISCIPLINARY TEAMS

While each multidisciplinary team will be structured somewhat differently, several key objectives will underlie their operation. These objectives are designed to meet the two primary goals of strengthening victim protection and intervention, and a maximization of accountability of the system. Although the agencies represented within this team have divergent missions and procedures, these goals represent a common vision and interest shared by all members.

GOAL: Safety and Concern for Child Victims of Sexual Abuse

- To insure the immediate and future safety of the child victim and to minimize further trauma or revictimization which the child might experience;
- To protect the rights of the child and the child's family;
- To increase the chance of successful healing of the child victim by ensuring access to needed medical and mental health intervention;
- To improve the investigation of child sexual abuse in order to minimize the number of victim interviews and to ensure interagency collaboration;
- To protect the privacy interests of the child during the investigation and case review process;
- To identify deficiencies, inefficiencies or any lack of local resources which are needed to help child abuse victims, and;
- To develop corrective plans to address system weaknesses in order to make needed resources available and accessible to children and families.

GOAL: Accountability of the Child Sexual Abuse Service System

- To increase the quality of sexual abuse investigations and eliminate the duplication of efforts by service providers and investigators;
- To increase the safety of communities through the conviction and implementation of appropriate penalties for sexual offenders;
- To avoid the possibility of any child or family's case "falling through the cracks" of the service system;
- To hold all professionals involved in child sexual abuse cases to the highest standard of professional conduct;
- To identify means of improving the overall service system and to advocate for the implementation of those improvements;
- To maximize ways in which survivors and family members can have a voice in how the system in the local community works on behalf of child sexual abuse victims, and;
- To collect and maintain accurate information regarding the investigation and prosecution of child sexual abuse cases.

ROLES OF MULTIDISCIPLINARY TEAM MEMBERS

Introduction

One of the strengths of multidisciplinary teams is the divergent perspective and unique expertise that each team member brings to the group as a whole. Teams that function most effectively are those that fully understand the roles of individual members within their respective agencies or organizations and their roles as team members. The sections below identify the individualized responsibilities and functions of multidisciplinary team members. They are categorized by professionals considered "core" team members and those professionals or organizations whose participation may not be required, but would enhance the team's operation. First, several key responsibilities are identified which are common to all team members.

Key Responsibilities Common to All Team Members

- Keep as a priority -- the best interest of the child;
- Cross-train other team members;
- Attend team meetings and actively participate in the team's activities;
- Work and communicate in a cooperative manner with other agencies on the multidisciplinary team, while maintaining the privacy interests of the child and the confidentiality of the case review process;
- Report to appropriate law enforcement agencies, prosecutors and the team if a child discloses being coerced or threatened by anyone and any other significant developments in the case, and;
- Report to the Department for Community Based Services, appropriate law enforcement, prosecutor, or the team if there is any further information or disclosure of abuse by the victim (KRS 620.030).

Core Team Members

Each local community will offer unique resources and strengths in the agencies available to intervene in child sexual abuse cases. Even though the exact composition of multidisciplinary teams may differ by county or jurisdiction, several professionals are considered "core" team members. Core team members actively participate in the investigation and prosecution of child sexual abuse cases. These are the individuals whom organizers should seek to actively participate in the earliest stages of development of the team. They include the Cabinet for Families and Children (Department for Community Based Services) and law enforcement officers (KRS 620.040(7)(b)) and Commonwealth's and county attorneys (KRS 15.727). Additional

team members may include, Children's Advocacy Center staff, mental health professionals, medical professionals, victim advocates, educators, and other related professionals, as deemed appropriate (KRS 620.040). Because additional team members may not be actively participating in the investigation and prosecution of every case reviewed by the team, their presence during the entire case review process should be determined by the core team in order to protect the privacy interests of the child.

Commonwealth's and County Attorneys

Commonwealth's Attorney

The Commonwealth's attorney prosecutes all felony crimes (those offenses carrying a penalty of one year or more) committed by persons eighteen years of age or older, which occur in the judicial circuit of that prosecutor. In some specific instances, the Commonwealth's attorney may also prosecute juveniles charged with felony offenses. The Commonwealth's attorney is also responsible for presenting evidence of such crimes to the grand jury (KRS 15.725).

County Attorney

The County attorney prosecutes all violations of criminal laws, except KRS Chapter 131, within the jurisdiction of the district court and all proceedings held pursuant to petitions filed under KRS Chapter 610, which occur in the county of that prosecutor. These cases include felony crimes through preliminary hearing, misdemeanor crimes, crimes committed by juveniles, and dependency, neglect and abuse cases (KRS 15.725; KRS 610).

*Specific responsibilities of prosecuting attorneys _____
relating to child sexual abuse cases include:*

- Commonwealth's and county attorneys shall assist any multidisciplinary team established within their judicial circuit or county and should be core members of the team(s) (KRS 15.727). Assistance may include, but is not limited to, facilitating case review, providing information regarding evidentiary issues, trial procedure and case status and disposition;
- Commonwealth's and county attorneys have decision-making authority regarding the disposition of criminal cases. The decision to proceed by trial or guilty plea, to amend or to dismiss charges, to make sentencing recommendations as to term of years, concurrent or consecutive sentencing, or probation, shall be made by the prosecuting attorney. The prosecutor should consider input from the team in making these decisions, and the victim and team should be consulted by the prosecuting attorney on the disposition of the case (KRS 421.500(6)). (See, Prosecution of Child Sexual Abuse Cases, page 30);
- Regarding cases under Chapter 610, the county attorney has a critical role in the handling of abuse; neglect or dependency cases in juvenile court that are a primary source of protection for sexually abused children. County attorneys

should establish procedures for the exchange of information on these cases with the Department for Community Based Services. These procedures can be adapted to the size of the county or circuit and the resulting caseload, and may include encouraging written reports from the Department for Community Based Services workers or convening meetings on a regularly scheduled basis or just prior to the hearing of a dependency case.

Department for Community Based Services

Pursuant to KRS 431.600, the joint investigation of child sexual abuse cases by the Department for Community Based Services (DCBS) and law enforcement is required. DCBS workers shall be available to assist in all investigations of child sexual abuse, but shall be lead investigators only in those cases of reported or suspected sexual abuse of a child in which a person exercising custodial control or supervision, as defined in KRS 600.020, is the alleged or suspected perpetrator of the abuse.

Specific responsibilities of DCBS

relating to child sexual abuse cases include:

- Investigate immediately all reports of child abuse or neglect in which the alleged perpetrator was in a caretaking role and within 48 hours of receipt of the allegation make a written report to the prosecutor and local law enforcement (KRS 620.040). DCBS shall assist law enforcement in the investigation of non-custodial abuse cases. Law enforcement will be the lead investigator in these cases. Child sexual abuse investigations shall be conducted jointly with law enforcement (KRS 431);
- Conduct central registry checks maintained by DCBS to determine if there has been prior child protective services involvement with the family, child victim or the perpetrator;
- Participate in interviews in all sexual abuse investigations;
- During the course of the child abuse and neglect investigation, DCBS will assess the validity of the allegations and any risk to the child. In most cases, the victim, the child's caretaker, and the alleged perpetrator will be notified of the results of the investigation. The law specifically identifies those individuals or entities that may be informed of the outcome of an investigation (KRS 620.050). The findings of an investigation by DCBS, and specifically whether an allegation of child sexual abuse is substantiated or not substantiated is a social work judgment, not a legal or judicial determination;
- In cases where the child is perceived to be at risk of further abuse, neglect or dependency, protective services shall be initiated. DCBS staff provide or make referrals for the following types of services or supports: parenting classes; mental health assessment or treatment; treatment or support groups for victims, perpetrators, and non-offending parents; victim advocacy; or other services warranted by the specifics of the case;

- In cases where the child is perceived to be at imminent risk of serious physical injury or sexual abuse, DCBS shall initiate a petition for emergency custody as prescribed in KRS 620.060. DCBS cannot remove a child from the home without order of the court. In addition to seeking removal of the child victim, DCBS may seek less restrictive dispositional alternatives such as court ordered treatment, removal of the perpetrator, or other alternatives;
- When a child is removed from the home, DCBS is mandated to provide reunification services. DCBS conducts periodic administrative reviews of all children in out-of-home care placement. At these reviews, an assessment of the family's progress in treatment and an assessment of the child's placement needs will take place. In support of the Federal Adoption and Safe Family Act all children who have been in care for 12 months must have a permanency plan as detailed in KRS 610.125;
- In any instances in which law enforcement or DCBS interviews a child alone, the products of the interview (e.g.: notes or recordings) should be immediately made available to the other investigating agency not present at the interview.

Law Enforcement Officers

Kentucky State Police

The duties of the Kentucky State Police are detailed in KRS Chapter 16. Troopers and detectives investigate alleged criminal conduct committed within the Commonwealth.

Sheriff

The duties of the sheriff are detailed in KRS Chapter 70. The sheriff and the sheriff's deputies investigate criminal acts and participate in courtroom processes within a county jurisdiction. Sheriffs are also involved in the service of warrants and other court orders, including emergency protective orders and domestic violence orders provided for within KRS Chapter 403 which may be filed on behalf of a child in need of protection.

City and County Police

The duties of the city police department are detailed in KRS Chapter 95. The city police department investigates criminal acts within a municipality, while the jurisdiction of county police relates to crimes committed within the county borders.

Specific responsibilities of law enforcement officers _____

relating to child sexual abuse cases include:

- Conduct investigations for criminal prosecution, including evidence gathering and criminal case presentation to prosecutors;
- In the course of the investigation, interview child victims, parents (non-offending), alleged offenders, and any witnesses to the offense(s). This may include videotaping of child victims, although all prosecutors do not support this practice. The decision as to whether to use videotaping should be discussed and decided

upon by the prosecutor and local team members. If videotaping of interviews is used, specific procedures should be outlined in the team's protocol and shall be in compliance with KRS 620.050, Duplication of Videotaped Interview of Child Victims;

- Investigations, including interviews, shall be coordinated with DCBS in compliance with KRS 431.600. This does not imply that an officer or detective may not interview a child victim without the presence of a social worker, but every effort should be made to conduct joint interviews in order to reduce the number of times a child must retell the abuse story to investigators;
- Obtain and serve warrants, subpoenas, and court orders (including emergency protective orders sought on behalf of a child sexual abuse victim);
- Make referrals to mental health professionals, medical professionals or victim advocates as appropriate;
- If there exists reasonable grounds for a law enforcement officer to believe that a child is in danger of being sexually abused and the persons exercising custodial control cannot or will not protect the child, the officer may take the child into protective custody without the consent of the parent. The officer or person to whom the officer entrusts the child shall, within twelve (12) hours of taking the child into protective custody, request the court to issue an emergency custody order. (KRS 620.040(5)(c));
- In any instance in which law enforcement or DCBS interviews a child alone, the products of the interview (e.g.: notes or recordings) should be immediately made available to the other investigating agency not present at the interview.

Children's Advocacy Centers

Children's Advocacy Centers (CACs) are designed to promote the well being of children while facilitating the most effective investigation and prosecution of child sexual abuse cases. CACs create a child friendly environment within which interviews, examinations and therapy service can be conducted. In addition to focusing on the best interest of children, CACs also provide an opportunity to give support to professionals who dedicate themselves to the protection of children, particularly social workers, advocates, law enforcement officers and prosecutors. CACs are defined in KRS 620.020.

In order to optimize services provided by CACs and to maximize the spread of limited resources, a regionalized approach has been adopted for the funding and development of these agencies in Kentucky. Each CAC is funded to serve the counties within geographical regions termed area development districts (ADD), of which there are 15. The model of regional CACs requires these programs to serve children in the county in which they are located and to provide technical assistance, training, and other coordinative roles within the service region. This approach allows decisions regarding funding of local programs to be undertaken based on a statewide plan for funding with priority being given to communities with the largest number of child victims, investigations, prosecutions, and similar key characteristics.

Specific responsibilities of CACs relating to child sexual abuse cases include:

- Provide a single, child-friendly location where all services provided to children during the investigation process can be offered;
- Provide a location, including a child friendly room, one-way mirror and recording capability, for law enforcement and DCBS staff who conduct interviews with children alleged to have been sexually abused;
- Selected CACs also provide forensic interview services defined as a structured interview with a child for the purpose of facilitating a criminal investigation. These forensic interviews are provided by masters level mental health professionals with special expertise in forensic interviews;
- Provide comprehensive medical examinations and mental health screenings for a child to assess the child's physical well being and to document any evidence of sexual or other abuse. Medical examinations provided by CACs are provided in accordance with 907 KAR 3:160, by a licensed physician with pediatric experience and expertise in the evaluation and treatment of child abuse. Medical examination services may be provided by a sexual assault nurse examiner certified in accordance with KRS Chapter 314:011, if the child is fourteen years or older;
- Provide advocacy services to assist child victims and their non-offending caregivers which may include: accompaniment to court, case management, information and referral services;
- Provide counseling services which may include: crisis telephone line and support-group services;
- Provide clinical services which may include: mental health screening, mental health evaluation, individual therapy services for children and non-offending caretakers and families;
- Provide group therapy services for children and non-offending caretakers;
- Provide a centralized location for the multidisciplinary team to meet, a location that ensures that the privacy interests of the child will be protected during the team review process;
- Participate in multidisciplinary team meeting in the counties that the regional CAC serves;
- Provide staffing to local multidisciplinary teams, to the extent possible;
- Provide consultation and educational services;
- Provide technical assistance and consultation resources to criminal justice and human service professionals in the region in which the center is located.

Mental Health Professionals

Mental health professionals may include psychologists licensed or certified pursuant to KRS 319; social workers who are certified or licensed pursuant to KRS 335; physicians

or psychiatrists licensed pursuant to KRS 311; psychiatric nurses licensed pursuant to KRS 314; marriage and family therapists and art therapists licensed pursuant to KRS 335 or other professionals with graduate degrees in counseling or related fields. Teams are encouraged to utilize the Designated Child Sexual Abuse Treatment Coordinator or their designee from the regional Community Mental Health Center as the mental health professional representative.

Specific responsibilities of mental health professionals relating to child sexual abuse cases include:

- Maintain confidentiality except as provided by law (KRS 209.030, KRS 620.030, KRS 202A.400, KRE 506, KRE 507, and KRE 509);
- Provide specific support and help to the prosecutor (or the prosecutor's victim advocate) and the Guardian Ad Litem in preparing child victims and their families for court related meetings or proceedings;
- Provide psychological or psychosocial assessment of the mental health needs of child victims, or non-offending parents;
- Provide crisis intervention services to assist with the emotional crises of the child or family, particularly in instances of apparent suicide or homicide risk;
- Provide continuing therapeutic intervention to children and families during and subsequent to the investigation and prosecution process;
- Provide specialized consultation to professionals involved in the investigation with a goal toward providing insight into the impact of the victimization on the child and the parent and interpreting behaviors within the context of trauma response;
- Serve as a resource to the team for: current prevailing literature related to child sexual abuse and its impact on children; most widely accepted assessment techniques, and best practices for age specific interventions;
- Assist DCBS or law enforcement in determining the risk to a child. This role is limited to consultation, as DCBS retains the statutory responsibility to substantiate child sexual abuse;
- Aid in determining the most appropriate mental health services for all family members;
- Identify adult mental health issues (relating to non-offending parents or other caretakers), which would impact the course of the investigation or the welfare of the child;
- Provide expert testimony for the court;
- Assist in the preparation of Victim Impact Statements;
- Facilitate the development of long-term treatment resources in the community.

Medical Professionals

Medical professionals may include physicians licensed pursuant to KRS 311.550 or nurses licensed pursuant to KRS 314.011 and other health care providers licensed within Kentucky statute. The statutes provide authority to physicians and hospital administrators to place a child under a 72-hour hold if necessary for protection (KRS 620.040) and provides immunity from criminal or civil liability for performing diagnostic procedures or taking x-rays pursuant to child abuse reports (KRS 620.050).

*Specific responsibilities of medical professionals _____
relating to child sexual abuse cases include:*

- Provide a specialized medical evaluation to assess whether findings consistent with the presentation of child sexual abuse or other forms of abuse are present. The examination may include, but is not limited to use of a colposcope;
- Diagnose and treat child victims of sexual abuse as indicated, specifically including bodily injury, sexually transmitted diseases or other outcomes of the abuse;
- Answer medical questions which arise during case discussions by team members, including explanation and interpretation of findings in the medical report;
- Provide expert testimony for the court;
- Provide screening and referral for other medical services;
- Provide consultation regarding the significance of specific past medical data to the current investigation, including the credibility of previous medical examinations;
- Serve as a resource to team for: current prevailing medical literature relating to child sexual abuse; most widely accepted assessment tools or practices; best practices for age specific interventions;
- Facilitate the development of medical resources for child sexual abuse cases in the community.

Victim Advocates

KRS 15.760 and 69.350 (relating to victim advocates hired by Commonwealth's attorneys and county attorneys, respectively) and KRS 421.570 describe the position of victim advocate. There are statutory training requirements, duties and restrictions on activities for victim advocates. The victim advocate assists crime victims, (as defined in KRS 421.500) with accessing rights afforded to them by the Crime Victim's Bill of Rights (KRS 421.500-575) and other applicable statutory provisions. Victim advocates are important, not only for the direct support and education services which they provide to victims and their families, but also because they play a key role in linking professionals and agencies together, and in increasing the accountability of the service system. Victim advocates should not duplicate services provided by other agencies (e.g.: DCBS

workers providing case work services or mental health professionals providing treatment services), but should fill in gaps and link resources together for each child and family.

*Specific responsibilities of victim advocates _____
relating to child sexual abuse cases include:*

- Act as a liaison for the child's case, including serving as a link between the child and the agencies with which the child is involved. This may include documenting all services being rendered to the child victim;
- Assist the child and family in accessing available community resources (emergency food, housing, mental health counseling and other resources);
- Provide information and education to the child and family regarding the roles of all professionals involved in the case;
- Provide emotional support services to the child and family, including education regarding what to expect in the investigation and court process and supportive counseling;
- Accompany the child and family members to court proceedings upon their request and assist in preparing children and family members for the court experience;
- Notify children and family members of court dates and other significant developments related to the prosecution of the case;
- Provide information to team members regarding case information gathered in the course of providing direct services and in the course of coordinating services between agencies;
- Assist the child victim or family with the preparation of the Victim Impact Statements;
- Provide the Parole Board with a copy of the Victim Impact Statement and schedule and accompany the child victim or family, at their request, to the victim parole hearing;
- Assist the family in accessing appropriate compensation from the Crime Victim's Compensation Board;
- Advocate for the rights of the child with each agency involved in the case or agencies which should be involved, and with the prosecutor and court system.

Education Professionals

Education professionals, for the purpose of this protocol, include school counselors certified pursuant to KRS 161.010-161.126, Family Resource and Youth Services Centers (KRS 156.4977), teachers, administrators, or other school personnel. The education professional serves as a liaison between the team and individual teachers or counselors, notifying the teacher or counselor when confidentially seeking his/her input would be valuable to the case review process. The team should reach a consensus regarding when the contacting of individual teachers would benefit the investigation.

These professionals help students reduce personal barriers in the learning process through academic and emotional supports.

Specific responsibilities of education professionals relating to child sexual abuse cases include:

- Serve as a consultant to the team regarding school policies and procedures;
- Notify individual counselors, teachers, or other education professionals, as necessary, when confidentially seeking his/her input would be valuable or needed during the case review;
- Monitor and report to the team the child's academic or educational progress, including a focus on academic, behavioral, and emotional domains of the child's functioning;
- Facilitate the ability of investigators to interview children on school grounds, and in some cases provide emotional support to the child during and after the interview. Pursuant to a Kentucky Attorney General's Opinion (OAG 92-138), children may be interviewed on school grounds before the involvement of parents, subsequent to the child's disclosure of abuse;
- Report any additional information or disclosure of abuse by the child victim (KRS 620.030);
- Provide crisis intervention and support during times of emotional distress of the child, particularly as the child experiences the court process;
- Implement strong policies within schools related to who may have access to a child on school grounds or remove a child from the premises of the school in order to protect child victims from harassment, abduction or other inappropriate contact by non-custodial or allegedly abusive parents.

Other Related Professionals

KRS 431.600 and 620.040 recognize that there may be other related professionals whose participation on the multidisciplinary team is necessary and appropriate. Other related professionals should only be included when the professional's input is necessary and appropriate. In determining what is necessary and appropriate, the team should consider the information the other related professional might provide, as well as the privacy interests of the child. In those instances where the team decides to include a related professional in the case review process, participation should be limited to the specific case.

OPERATION OF THE MULTIDISCIPLINARY TEAM

Structure

A representative of one agency should be designated as facilitator for meetings, either on a meeting-by-meeting basis, or for a designated period of time. The CAC should provide staffing for the team to the extent practicable (KRS 620.040(7)(i)). If staff assistance cannot be provided by the CAC and other agencies do not have sufficient staff or funds to provide designated staff, one or more persons should perform staff work between meetings, including creating the agenda and notifying other members of team meetings. The staff role should be shared or rotated among individuals and/or agencies.

Frequency of Meetings

KRS 620.040(7)(d) requires teams to hold "regularly" scheduled meetings if new reports of sexual abuse are received or active cases exist. The frequency of meetings, however, will depend upon the number of cases to be presented, reviewed or monitored. While a common frequency is one meeting per month, some teams may meet once per week and others meet quarterly. Larger jurisdictions may choose to have more than one team in order to reduce the length or frequency of meetings. Establishing a meeting frequency should not be interpreted as limiting the activity of agencies when carrying out their mandated functions. Those functions should continue according to agency and team policies between team meetings.

Location of Meetings

Team meetings should be held in a location that is generally convenient to team members and meets the needs of the team. In order to protect the privacy interests of the victim and to maintain the confidentiality of the case review process, the case review portion of team meetings should be held in an area that is private, not open to the public, and ensures that non-team members will not be privy to confidential matters.

Committees

If a team consists of a large number of members and has multiple functions, committees may be appointed to take primary responsibility for each of several areas. These agencies and suggested agency representation may include: Investigation (DCBS and law enforcement); Intervention (DCBS, mental health, medical, children's advocacy centers); Resources/Education (DCBS, mental health, education, victim advocate, community representatives); and Monitoring (court-appointed special advocate, victim advocate, community representative).

Attendance at Meetings

Typically, team meetings will consist of both public and private portions of the meeting. If the mission of the multidisciplinary team is broad, much of the meeting (or a separate meeting) will be open to the public. The agenda for the public portion of the meeting may include community education and awareness, policy recommendations for the community, or other items. Case review and staffing of cases should be conducted in the closed portion of the meeting attended solely by core team members. The core team members should determine whether additional team members and related professionals attend the entire case review or are only present for specific cases. KRS Chapter 61, Kentucky's Open Meetings Law, may apply to team meetings and compliance therewith may be necessary before the team may meet in a closed session for the purpose of case review and staffing.

By-Laws

By-laws are important when a multidisciplinary team wishes to expand activities to incorporate and apply tax-exempt status (501(c)(3)). As incorporated, non-profit corporations, multidisciplinary teams may raise money as tax-deductible charitable donations to support community-based education and prevention programs and other activities outside investigatory and case review functions.

JOINT INVESTIGATION FUNCTION OF THE MULTIDISCIPLINARY TEAM

Introduction

Kentucky law stipulates that each investigation of reported or suspected sexual abuse of a child shall be conducted by a specialized multidisciplinary team composed, at a minimum, of law enforcement officers and social workers from DCBS (KRS 431.600(l)). The following investigative procedures reflect a team comprised of these two members. It follows chronological steps beginning at the point of the receipt of a report through the investigation of the allegation. Investigations will usually occur within the framework of the overall review function of the local multidisciplinary team. The investigation conducted by law enforcement and DCBS team members may be reviewed by the team as a whole. Suggestions for developing a protocol for investigation are also included.

The goal of the investigation is to determine if a child has been sexually abused and by whom, if the child (or other children in the home) is at imminent risk of sexual abuse, and if abuse or risk exists, what can be done to ensure protection of the child. The focus of law enforcement and social services team members is different in the course of making this determination: the law enforcement responsibility being an assessment of whether an offense has occurred, the social services responsibility being an assessment of the degree of risk to which the child is exposed and of the protective services needed by the child. The varied perspectives of the investigators greatly strengthen the process of investigation, and the ultimate prosecution of the offender and the offering of protective services to the child.

Initiation of the Investigation

This section describes two distinct approaches to investigating child sexual abuse cases: the Preferred Initial Response and the Alternative Initial Response. The Alternative Initial Response is necessitated by the realities of staff limitations, but the preferred response should be utilized whenever possible. Both responses remain consistent with KRS 620, which guides the receipt and response to abuse reports and KRS 431, which requires joint investigations of child sexual abuse.

Preferred Initial Response

Upon receipt of a report by either the DCBS or a law enforcement agency, the assigned DCBS worker and law enforcement officer will respond jointly to conduct initial interviews of the child and other relevant parties.

Alternative Initial Response

In some instances, a lack of staff resources for either agency will mean that one of the investigators is not immediately available to conduct the needed initial interview. Such delays could place a child at further risk. Under these circumstances, the initial interview with a child may be conducted by only one of the investigative partners. If, for example, no law enforcement officer is immediately available, the DCBS worker will respond and conduct initial interview(s). The worker will then contact the assigned law enforcement officer and provide detail on the initial assessment. When completing the 72-hour notice on the DCBS-115, the worker will document the notice to law enforcement. The DCBS will always work under the statutory and regulatory time lines for immediately initiating an investigation of child sexual abuse upon receipt of a report (KRS 620.040; 905 KAR 1:330E, Section 4).

Information Received from Reporting

Kentucky statute currently outlines the type of information to be sought from an individual initiating a report of child sexual abuse (KRS 620.030). Regardless of whether the report is initially made to the law enforcement agency or to the DCBS the following information should be obtained, when possible, to assist investigators:

Child's name, date of birth, age, address, the current location of the alleged victim, the name and address of the child's parents or caretakers, the reason why the report is being made, the type and circumstances of alleged abuse, where the abuse is alleged to have occurred, how long it has gone on, how the reporter knows of this situation, who else has knowledge, the name of the alleged perpetrator and whether that individual has access to the child named in the report or other children who may be potential victims, whether the reporter knows of the presence of any physical evidence, and whether there are any known witnesses to the abuse.

Social Worker Safety

Law enforcement, upon request of the DCBS, shall accompany the worker on all child sexual abuse investigations where worker safety is believed to be a concern.

Investigative Procedures

Establishing Practice Guidelines

Protocols or agreements developed by local investigative partners should specify procedures for how to decide the order and location of interviews; which partners assume the role of lead interviewer; the use of videotaping, and under what circumstances; whether anatomically correct dolls will be used, under what circumstances, and by whom; and documentation. Because some prosecutors are not comfortable with the use of videotaping, the team should thoroughly discuss the technique prior to making it a part of the protocol. In the event that videotaping is used, prosecutors should be given a copy of the tape immediately if the case is already in the hands of the prosecutor, or as soon as the case has been presented to the prosecutor. Investigators may also wish to specify for clarity purposes in the protocol the criteria for child removal and the criteria for arrest. Procedures, which are agreed upon in advance by the investigating agencies, should be framed as practice guidelines, but should remain flexible enough for variances that would be determined jointly by the investigative team on a case-by-case basis. Procedures must be in compliance with the dictate of KRS 431.600(l) that all reported cases are subject to joint investigation.

Conducting Records Checks of Prior Abuse

Law enforcement agencies, in the course of a criminal investigation, are empowered to query a records check for any prior convictions by the alleged offender, both within Kentucky and other jurisdictions. DCBS may also check the central registry maintained by that agency to determine if a report has been previously made. In addition, the Kentucky State Police Sex Offender Registry may be checked to determine if the alleged offender is a registered sex offender. The registry may be accessed online at *kspsor.state.ky.us*.

Interviewing and Removing Alleged Perpetrators of Sexual Abuse

Every effort should be made to interview the alleged perpetrator as quickly as possible (preferably prior to the alleged perpetrator being made aware that an allegation has been made). As is noted in the training section found later in this document, training on appropriate interview techniques is vital to the team's operation.

In intra-familial situations, the investigative team should use every effort to remove the suspect from the home rather than the alleged victim. A voluntary agreement by the offender to leave, accompanied by the non-offending parent's support for this plan, should be sought but should not be considered sufficient without a specific plan to monitor compliance. The uses of a protective order through which a court may require

the perpetrator to vacate the residence are optimal (KRS 403). Even where the family's response to the crisis is such that it is deemed necessary for the child to be removed from the home for a short period, every effort must still be made to remove the suspect and restrict that individual's influence on the family. Options may include the following:

- a) The non-offending parent may seek an emergency protective order on behalf of the child victim pursuant to KRS 403;
- b) Though not as effective as a protective order, the non-offending parent may seek a restraining order as part of a decision to obtain a legal separation and sole custody of the child; or
- c) The filing of a dependency petition to bring the family under the jurisdiction of the court and seek orders limiting perpetrator access to the child.

Notifications and Referrals

The law enforcement/social worker investigative team should also have agreed upon procedures for when to notify the full multidisciplinary team of the investigation of a reported case. While most often, this notification would occur during the course of a regular meeting, there may be instances, including the death of a child, where the full team should be notified immediately.

Procedures for initiating referrals for mental health or medical services needed by the child should also be established. The full multidisciplinary team should agree upon this specific arrangement.

Investigative Protocols

- Guidelines and procedures will vary from team to team. Teams are encouraged to personalize protocols to the needs of a specific jurisdiction;
- Guidelines should be clear and comprehensive, both for the experienced and inexperienced investigator;
- Protocols should use simple, not compound sentences such that each sentence addresses only one issue. Parts of compound sentences, which direct several different actions, may be missed and thus not addressed by the investigator;
- Protocols should be flexible enough to cover varied circumstances;
- Protocols should substantively set out parameters and responsibilities of each investigatory agency because professionals are not always aware of the extent and limitations of other agencies' responsibilities;
- The protocols should state the type of cases to be investigated. While child sexual abuse joint investigations are statutorily mandated, the multi-disciplinary joint investigation approach is useful to other types of child maltreatment and can be encouraged;
- Protocols should address procedures for individual agency and inter-agency responsibilities in investigating maltreatment, including time frames, decision

making, information sharing, hierarchies, and concurrent court proceedings in investigations;

- Protocols should contain procedures for investigating any risk to children other than the identified abuse victim;
- Provisions for joint training of professionals involved in investigations should be included in the protocol. Joint training not only increases the knowledge and duties of other agencies, but also is an effective means of cutting training costs without sacrificing content;
- Provisions for the regular evaluation of the effectiveness of the protocol and procedures to modify its contents as necessary should be included.

Investigating Allegations of Abuse in Divorce and Child Custody Cases

Concern about false allegations may arise when accusations against a parent surface during a divorce or custody dispute. Many professionals who deal regularly with these cases recognize that while this is not impossible, it is probably rare. When allegations arise under these circumstances the investigator should follow the established investigative protocol, as well as consider the following factors in assessing the allegation: origin of the report; prior complaints to someone other than the non-abusing parent; the reason for the child's disclosure at the time of the divorce or custody dispute. The investigator should conduct a thorough interview and assessment of the non-abusing parent and the child. The circumstances and content of the child's statement provide the best measure of an allegation's validity.

PROSECUTION OF CHILD SEXUAL ABUSE CASES

Statutory Authority for Team Participation

KRS 620.040(7) - Duties of Prosecutor, Police, and Cabinet; Prohibition as to School Personnel, Multidisciplinary Teams

- One (1) or more multidisciplinary teams may be established in every county or group of contiguous counties.
- Membership of the multidisciplinary team shall include, but shall not be limited to, representatives of the Cabinet for Families and Children, the Kentucky State Police, other local law enforcement agencies with investigation responsibilities in child sexual abuse cases, and may include the Commonwealth's and County Attorneys, children's advocacy center staff, mental health professionals, medical professionals, victim advocates, educators, and other related professionals as deemed appropriate, and whose participation the multidisciplinary team believes is important to carry out its purpose.

KRS 15.727 - Duty of Commonwealth's Attorney and County Attorney to Assist Child Sexual Abuse Multidisciplinary Team

Pursuant to KRS 431.600, each Commonwealth's Attorney and each County Attorney shall assist any child sexual abuse multidisciplinary team established in his or her circuit or county, unless the Prosecutor's Advisory Council has voted to relieve the prosecutor of this responsibility.

KRS 431.600 - Coordination of Child Sexual Abuse Investigations and Prosecutions, Protection of and Counseling for Child Victims

Each investigation of reported or suspected sexual abuse of a child shall be conducted by a specialized multidisciplinary team composed, at a minimum, of law enforcement officers and social workers from the Cabinet for Families and Children. Additional team members may include Commonwealth's and County Attorneys, children's advocacy center staff, mental health professionals, medical professionals, victim advocates, educators, and other related professionals as deemed appropriate, and other related professionals, as necessary.

Guidelines for the Prosecution of Child Sexual Abuse Cases

- Direct indictment shall be the preferred method of initiating prosecution of felony child sexual abuse cases, particularly when the child victim is likely to be called as a witness (due to the trauma for the child associated with the court

experience). In cases originating in the county attorney's office, the county attorney shall coordinate efforts in potential felony cases with the office of the Commonwealth's attorney;

- If adequate personnel are available, each prosecutor's office shall have a child sexual abuse specialist (KRS 431.600(3));
- If adequate personnel are available, the Commonwealth's attorney and county attorney shall provide for an arrangement which allows one lead prosecutor to handle the case from inception to completion to reduce the number of persons involved with the child victim (KRS 431.600(5));
- The prosecutor shall request bond conditions deemed necessary to protect the welfare of the victim, such as no contact between the alleged perpetrator and the victim or the victim's family;
- Upon initiation of formal charges by the prosecutor's office, the prosecutor or a member of the prosecutor's staff shall contact the victim;
- The prosecutor shall minimize the involvement of the child in legal proceedings, avoiding appearances at preliminary hearings, grand jury hearings, and other proceedings when possible (KRS 431.600(6));
- All cases to be prosecuted shall be presented to the grand jury in a timely manner;
- In interviewing a child victim, the prosecutor shall be sensitive to the needs of the child and throughout the case shall make every effort to lessen the trauma of that experience for the child;
- The prosecutor shall explain any decision not to prosecute to the family or guardian and to the child victim (KRS 431.600(7));
- The prosecutor shall take an active part in interviewing the child victim/witness and in familiarizing the child victim/witness with the court system and proceedings as early as practicable (KRS 431.600(4)); to the extent practicable and when in the best interest of the child, these interviews shall be conducted at the CAC;
- Children expected to testify shall be prepared for the courtroom experience prior to the day of trial (KRS 26A.140(1)(c));
- The prosecutor or a member of the prosecutor's staff shall request that the environment of the courtroom be modified to accommodate the needs of the child and in appropriate cases procedures shall be used to shield children from visual contact with the alleged perpetrator (KRS 26A.140; KRS 421.350);
- All victims and witnesses who are required to attend criminal justice proceedings shall be notified promptly of any scheduling changes that affect their appearances (KRS 421.500(5)(a));
- Victims who have provided the prosecutor with a current address and telephone number shall receive prompt notification of judicial proceedings relating to their case (KRS 421.500(5)(b));
- If the child victim is less than 16 years of age and the offense is a sexual offense, the Commonwealth may move for a speedy trial. If the motion is granted, the trial shall be scheduled within 90 days and the impact on the well being of the child must be considered when request for delay is made (KRS 421.510). The

victim advocate or other support person shall be present any time the victim or family attends a court proceeding;

- The prosecuting attorney or a member of the prosecutor's staff shall make appropriate referrals for counseling, private legal services, and other appropriate services to ensure the future protection of the child regardless of whether the case is prosecuted (KRS 431.600(7));
- The prosecutor or a member of the prosecutor's staff shall routinely update the team on the status of the criminal case and shall participate in informal consultations with law enforcement, social service or other team members on an as-needed basis.

CASE REVIEW FUNCTION OF THE MULTIDISCIPLINARY TEAM

Who May Attend the Case Review Process

Only core team members may attend the case review process. Whether additional team members and related professionals attend the entire case review or are only present for specific cases should be determined by the core team members. Non-team members may attend that portion of the team meeting that does not include discussion of cases.

Objectives of Case Review

The case review is the formal process for exchange of information among professionals. Case review involves all team members, unlike joint investigation, which is primarily limited to DCBS and law enforcement. Additionally, expert consultants may be invited to participate with regular members during the review if merited by the complexity, uniqueness, or other factors related to the case.

The objectives of the case review process include the following:

- To promote a thorough understanding of case issues and to monitor the progress of investigation and intervention, so as to ensure the most timely and effective system response possible;
- To facilitate efficient gathering and sharing of information and communication between team members so as to broaden the knowledge base with which decisions are made by the team, agencies or individual team members;
- To develop joint solutions for problems by allowing team members a forum to voice opinions, while preserving and respecting the rights and obligations of each agency represented to pursue their respective mandates;
- To coordinate intervention and assess services provided by various team agencies so as to reduce potential trauma to children and families;
- To facilitate efficient and appropriate disposition of cases as they proceed through the criminal justice system (KRS 620.040(7)(c)) and/or proceedings under KRS Chapter 620.

Structure of Case Review

Facilitating Case Reviews

One person should be identified to coordinate and facilitate the case review discussion process. Having one person adds to the effectiveness and efficiency of the process. Team members will value the review process if the facilitator makes the review organized and purposeful. Case reviews may be facilitated by a designated team member as a regular assignment or may be assigned on a rotating basis. Prosecutors who serve as team members often serve in the capacity of facilitator for case reviews.

Which Cases Are Reviewed

All reported cases of child sexual abuse shall be reviewed by the multidisciplinary team (KRS 431.600). Cases should be reviewed by the team on a regular basis from the initiating report through all court proceedings (both criminal and/or dependency.) Cases in which there is no court action shall be regularly reviewed until the agencies involved close the case and the team determines that all review objectives have been met. Teams may also include the review of cases involving the serious physical injury or death of a child in their local protocol.

Who Brings Cases Forward

All team members shall be equally empowered and encouraged to bring cases before the team for review. Because KRS 620.030 allows for the reporting of child sexual abuse to multiple reporting agencies, the team should decide which reports each agency will be responsible for presenting to the team as new cases for review.

Process of Case Review

The case review process should include the following:

- The presentation of newly reported allegations of child sexual abuse since the last team meeting;
- The review of pending cases and a plan for future action;
- The development of strategies for meeting the emotional support and treatment needs of the child and non-offending family members;
- The consideration of the child's protection and other safety issues;
- The promotion of efficient and appropriate disposition of cases as they proceed through the criminal justice system (KRS 620.040(7)(c)) and/or proceedings under KRS Chapter 620;
- The input of team members regarding prosecution and sentencing decisions.

Information Presented During the Case Review

Pertinent information needed for presentation of the case includes the names of the investigating law enforcement officer(s) and DCBS worker(s); the name and respective ages of victim(s); the name of the alleged perpetrator; and the allegations or criminal charges. Additional information needed for a meaningful discussion may include details of the victim's statement; other witness statements; medical examination; victim and offender treatment information; offender's statement; protection plan and issues; ability of the non-offending parent to support the child; and status of court proceedings.

It is recommended that one team member initiate discussion of a case using a case staffing form and that each presentation should conform, if possible, to a time limit established by the team based upon the number of cases to be reviewed. Following the initial presentation, other members may then offer additional information regarding the victim, alleged perpetrator and other information identified above.

Case Review Form

Information concerning each case being reviewed should be documented on case staffing forms that are generally maintained by the prosecutor (See Appendix E). Notes taken by the prosecutor on the case form are considered a prosecutor's work product, but records brought or made by other team members may be discoverable, for this reason it is preferable that other team members not bring records or leave the meeting with notes taken during the staffing. Copies of the case form are not distributed to team members.

Number of Cases Reviewed

Each team must determine the number of cases it can competently review. If it appears that the number of reported cases consistently exceeds that capacity, an additional team or teams will need to be established. All teams then operate on a parallel basis, with the ultimate decision regarding prosecution of any case resting with the Commonwealth's attorney (felony) or county attorney (misdemeanor.)

Notification of Cases Being Reviewed

Each team must determine a method by which team members will be notified of which cases are scheduled for review. The notification process must provide confidentiality to the victim and alleged perpetrators whose cases are being reviewed.

Privileged Communication and Confidentiality

Kentucky law provides for the confidentiality of records and case information that will be reviewed and discussed by the team.

Cabinet for Families and Children

Cabinet for Families and Children-- KRS 620.050(4)

All information obtained by the Cabinet as a result of an investigation made pursuant to this Chapter, shall not be divulged to anyone except other medical, psychological, educational, or social service agencies, corrections, personnel or law enforcement agencies, including the county attorney's office, who have a legitimate interest in the case.

Children's Advocacy Centers

Kentucky law also provides that the records of CACs are confidential. Specifically, KRS 620.050(6)(a) provides that files, reports, notes, photographs, records, electronic and other communications, and working papers used or developed by a CAC in providing services under this chapter are confidential and shall not be disclosed except to the following persons:

- 1) Staff employed by the Cabinet, law enforcement officers, and Commonwealth's and county attorneys who are directly involved in the investigation or prosecution of the case;
- 2) Medical and mental health professionals listed by name in a release of information signed by the guardian of the child, provided that the information shared is limited to that necessary to promote the physical or psychological health of the child or to treat the child for abuse-related symptoms; and
- 3) The court and those persons so authorized by a court order.

The statute further provides that nothing shall prohibit a parent or guardian from accessing records for his or her child providing that the parent or guardian is not currently under investigation by a law enforcement agency or the Cabinet relating to the abuse of a child (KRS 620.050(7)).

The statute prevents employees or designated agents of a CAC from disclosing information discussed during a multidisciplinary team review of a child sexual abuse case as set forth under KRS 620.040. Persons receiving this information shall sign a confidentiality statement consistent with statutory prohibitions on disclosure of this information (KRS 620.050(8)). Finally, employees or designated agents of a CAC may confirm to another CAC that a child has been seen for services, and, if an information release has been signed by the guardian of the child, a CAC may disclose relevant information to another CAC (KRS 620.050(9)).

Mental Health

Statutes related to privileged communication between mental health professionals and clients are noted below. Privileged communication statutes found within the Kentucky Rules of Evidence (KRE) compel mental health team members to acquire releases of information from clients to allow the professional's full participation in team discussions. Consent for information to be released to the team may be included as part of a mental

health agency's overall consent for treatment form. Consent for information to be released may also be requested by law enforcement or social services agencies that secure release of information signatures from appropriate parents or guardians. In extreme cases, court orders may be required to allow the professional to release needed information.

Finally, privileged communication does not prevent mental health professionals from reporting child abuse to the DCBS as is required by law (KRS 620.030). This includes the initial report of abuse and any subsequent acts of abuse against the child that are known or suspected by the mental health professional. Privileged communication statutes for mental health professionals include the following:

Counselor - Client Privilege -- KRS 422A.506 (5)(c)

The Kentucky Rules of Evidence provide a privilege for counselors within Kentucky Rule of Evidence (KRE) 506. A counselor is defined to include a school counselor, an alcohol or drug abuse counselor, a sexual assault counselor, a certified marriage and family therapist, a certified art therapist, a certified professional counselor, an individual who provides crisis response services as a member of a community crisis response team, a victim advocate as defined in KRS 421.570 (except a victim advocate employed by a Commonwealth's or county attorney), or a certified fee-based pastoral counselor. A communication between a counselor and a client is "confidential" if not intended to be disclosed to third persons other than those present to further the interest of the client in the consultation or interview, persons reasonably necessary for the transmission of the communication, or persons present during the communication at the direction of the counselor (including members of the client's family). A client has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made for the purpose of counseling. Exceptions to the counselor or client privilege include:

- 1) If the client is asserting his or her physical, mental or emotional condition as an element of a claim or defense; or, after the client's death, in any proceeding in which any party relies upon the condition as an element of a claim or defense; or
- 2) If the judge finds that the substance of the communication is relevant to an essential issue in the case;
- 3) If the judge finds that there are no available alternate means to obtain the substantial equivalent of the communication; and
- 4) If the judge finds that the need for the information outweighs the interest protected by the privilege. The court may receive evidence in camera to make findings under this rule.

Psychotherapist-Client Privilege -- KRS 422A.0507

The Kentucky Rules of Evidence provide a privilege for psychotherapists within Kentucky Rule of Evidence (KRE) 507¹. A communication between a psychotherapist and a client is "confidential" if not intended to be disclosed to third persons other than those present to further the interest of the client in the consultation or interview, persons reasonably necessary for the transmission of the communication, or persons who are present during the communication at the direction of the psychotherapist (including members of the client's family). A psychotherapist is defined to include a licensed or certified psychologist, licensed clinical social worker, a registered nurse, or licensed physician engaged in the diagnosis or treatment of a mental condition. A client has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made for the purpose of diagnosis or treatment of his or her mental condition. Exceptions to this privilege include:

- 1) In proceedings to hospitalize the client for mental illness, if the psychotherapist in the course of diagnosis or treatment has determined that the patient is in need of hospitalization;
- 2) If a judge finds that a client, after having been informed that the communications would not be privileged, has made communications to a psychotherapist in the course of an examination ordered by the court, providing that such communications shall be admissible only on issues involving the patient's mental condition; or
- 3) If the client is asserting his or her physical, mental or emotional condition as an element of a claim or defense; or, after the client's death, in any proceeding in which any party relies upon the condition as an element of a claim or defense.

¹ Subsequent to the adoption of these court rules, legislation has been passed by the Kentucky General Assembly moving marriage and family therapists and professional counselors to KRE 507 at the time these professions attained licensure, not solely certification.

TRAINING FOR MULTIDISCIPLINARY TEAM MEMBERS

Training should be recognized as very important to team development. Individual members should take responsibility for assisting other members from different professions to understand policy, procedures, and techniques with which all team members may not be familiar. Cross training on the respective roles of team members and training in working together, as a group is particularly important.

Training content, which is useful for team members, may be classified as follows:

- "Legal issues" include statutes on child sexual abuse, reporting requirements, legal remedies for protection, preparation for courtroom testimony, legal constraints and mandates, documentation for courtroom testimony, and related issues;
- "Child sexual abuse investigation" may include interviewing children, validating abuse allegations, obtaining evidence for prosecution, dynamics and profiles of sex offenders, indicators of abuse and neglect, child development, joint (law enforcement and DCBS) interviews, and related issues;
- "Treatment" may include the impact and recovery from trauma, child development, assessment, identification of factors which modulate the impact of abuse, the advantages, disadvantages and safeguards needed for family reunification, treatment planning, monitoring compliance with offender treatment, and related issues;
- "Team operation" can include team building and process facilitation, procedures and guidelines of the various professions, conflict resolution, information sharing, collaborative decision making, and related issues;
- "General knowledge" may include available community resources and victim services, values clarification, how to deal with child abuse cases without feeling overwhelmed or getting too involved, basic communication skills, and related issues.

Teams may wish to create a training plan for its membership that can include an orientation session for new members, as well as continuing education provided each year. Training needs assessments may be distributed to each member from whom a list of training topics to be offered during the year may be planned. Team trainings may be offered as brief segments of regularly scheduled meetings or during meetings specially convened for the purpose of training. Some team members are required to attend training on child sexual abuse, including prosecutors (KRS 15.718), victim advocates (KRS 421.500) and law enforcement (KRS 15.946).

DATA COLLECTION BY THE MULTIDISCIPLINARY TEAM

Each multidisciplinary team on child sexual abuse must compile an annual report. The report shall contain non-identifying case information. The purpose of the report is to allow assessment of the processing and disposition of child sexual abuse cases (KRS 620.040(7)(e)).

In addition to the duty of the teams, the Prosecutors Advisory Council is required to collect data on the investigation, prosecution, dismissal, conviction or acquittal of child sexual abuse cases (KRS 15.706). In 1998, the Commission agreed to combine the reporting requirements to eliminate duplication and a form was created to capture data (See Appendix B). The intent of the form, in addition to tracking the outcome of cases, is to serve as a checklist and a guideline for discussion.

Ideally, prosecutors are active members of each multidisciplinary team, as required in KRS 15.727 and are available to advise the team of the outcome of the prosecution of each case reviewed. The data can be broken down into two types:

- 1) Information regarding the composition and procedures of the multidisciplinary team; AND
- 2) Data on each child sexual abuse case reviewed by the team/prosecuted by the Commonwealth's or county attorney.

Each multidisciplinary team has the responsibility to submit a team summary sheet and a review sheet for each case reviewed by the team. This will assure compliance with the requirement to provide an annual report (KRS 620.040(7)(e)). Review sheets and summary sheets are to be submitted each January for the preceding calendar year. Every case reviewed by the team during the prior calendar year should be reflected on a review sheet. Historically, the data has been entered by the Prosecutors Advisory Council staff and compiled into an annual report.

Automation

In 2002, the Governor's Office of Child Abuse and Domestic Violence Services received a federal Byrne grant to permit several innovations in child sexual abuse prosecution. A portion of the grant was spent to develop an automated system of data collection. The system, developed by the Governor's Office of Technology, will serve to greatly simplify the reporting process.

Under the new system, when fully implemented, teams will be able to input data on the review sheets during team meetings through the use of lap tops or immediately following team meetings on desktop PC's. The information can be submitted electronically via an Internet connection when the team closes the case. The accuracy and ease of data collection should significantly improve once the automated system is

fully functioning. The system will eliminate the year-end rush to collect data to complete the required forms.

Data Collection

Team contacts will have access to only their own team's data. The system allows for three levels of user types:

- 1) Team Administrator- can add and edit team members.
- 2) Team User- can input data in the review sheet and submit review sheets to the Office of the Attorney General.
- 3) Team Reviewer - read only access to review sheets.

Much of the data can be used for grant applications and give insight in groups to target for prevention. The Commission will be notifying team contacts and prosecutors when the system is available for use.

HIPAA Guidelines

Note: Federal HIPAA guidelines may apply to data collection/submission if the entity submitting the data is a "health care provider." If a provider (for example, some CACs or mental health agencies) is submitting data covered by HIPAA, a Business Associate Agreement may need to be put in place insuring that the information collected cannot be re-disclosed. It is recommended that any agency concerned with meeting HIPAA requirements contact a person with expertise in this area.