

Legal Ease

A newsletter for the Kane County, Illinois, law-enforcement community



Kane County State's Attorney
Joseph H. McMahon

First responder dos, don'ts in cases of child abuse

Police should be aware of CAC protocol

As April marks National Child Abuse Awareness Month, it is a good time for a reminder of how to appropriately respond when called to the scene of suspected child sexual abuse.

First, if you believe that a child was abused, you must make a report to the Illinois Department of Children and Family Services at 1-800-25-ABUSE (1-800-252-2873.)

If the case meets the Kane County Child Advocacy Center protocol, you will alert the CAC. The CAC plays a vital role in the investigation and prosecution of allegations of child abuse. It investigates cases of child sexual abuse, and CAC prosecutors handle child sexual abuse cases. The CAC has a protocol of what types of investigations it will conduct. Every department should have copies of this protocol. If your department does not, contact the CAC. Not all cases of child sexual abuse are investigated at the CAC. However, we will always provide you with guidance and assistance.

When you respond to a report of possible child sexual abuse, you often are walking into an emotionally charged atmosphere. In the vast majority of child sexual abuse cases, the offender is known to the victim. It is often helpful to provide the family with reassurances about what you will and will not do during the initial visit. Let them know that your main concern is the safety of the child and of non-offending family members. Assure them that you will not interview their child at that time and that you will only ask them for minimal details about the disclosure to determine the identity of the offender, and assess the safety of the child. Tell them they will not have to give



you extensive details about what the child specifically said.

It is incredibly important that you do not appear judgmental, even if you are having a hard time believing some of the details provided by the family. If the child senses any doubts, he or she might withdraw and withhold information.

If the case meets the CAC protocol, inform the family that you will contact the CAC to interview the child and investigate further. Let them know that the CAC will provide them with resources for counseling for the victim and the family. If the reported abuse just occurred, refer the family to the hospital for an emergency medical assessment. Then call the CAC at (630) 208-5160. If it is after hours, call the pager at (630) 218-3995 and follow the prompts.

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APRIL IS CHILD ABUSE PREVENTION MONTH



The Kane County Child Advocacy Center, located in downtown Geneva, is decked out for the month of April in observance of Child Abuse Prevention Month.

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Here are some important guidelines to follow while you are at the scene:

Do not attempt to interview the child.

If this is a case that meets the CAC protocol, CAC investigators will conduct that interview. If your case does not meet CAC protocol, investigators assigned to the CAC may provide courtesy interviews of children to assist you. This is important because, in some situations, statements made by the child will have to be documented and testified to at a pre-trial hearing to determine whether the statements are reliable enough to be used at trial. Factors such as whether the child was coached, if someone put words in his or her mouth, questions that were posed to the

child, any suggestibility will be examined to determine the reliability of the disclosure. Any information you will need to assess the situation or make reasonable decisions regarding the direction of the investigation may be gathered from the non-offending caregivers. However, when speaking to non-offending caregivers, make certain the victim is not present or within hearing distance.

If you do have to interview a child, it is imperative that you avoid statements or questions such as these:

- That's not so bad, at least you weren't raped.
- I've heard worse.
- At least no one was hurt.
- You'll live or your child will move on/forget.
- Why are you finally telling someone?
- I don't believe you.

Do not take written statements.

With the initial outcry, the family will be under great stress and often will not recall crucial details. Remember that any written statements made by the child will be used at trial or during hearings. CAC protocol is to video or audio record interviews. We do not take written statements from victims.

Remind any non-offending caregiver or family member to avoid discussing the allegations in the child's presence.

Any visual emotion from the non-offending caregiver, such as sadness or anger, may affect the child's subsequent interview. Explain to them that as difficult as it will be, they should try to remain calm around the child. Let them know that if the child does bring it up, they should listen without making a comment or asking additional questions. It will be very important that they inform the CAC investigators about the conversation and exactly what the child said.

Continued

APRIL IS CHILD ABUSE PREVENTION MONTH

Statements and questions the family should avoid asking or telling the child:

- Why didn't you tell the first time?
- Why didn't you fight or run?
- Why didn't you say no?
- Why did you go back there?
- Why do you think he did this to you?
- How do you feel about what happened?
- Anything that might minimize the abuse, such as "that's not so bad" or "at least you were not hurt."

Do not make promises or guarantees.

As with any investigation, don't make promises about what will or will not happen with the case. Do not tell the child that he or she will never have to see the offender again or that you will make sure the offender goes to jail. Without knowing the relationship between the offender and the child, it is possible that these attempts at reassuring a child may cause a later recantation. Do not tell family that if anything happened, the medical exam will prove it or DNA will be found. Depending on the age of child, a physical examination at a hospital more than likely will result in normal findings with no injury. DNA is rare in child sexual abuse cases. Families often have a great difficulty hearing and accepting such results. Also, if you interview the defendant and he admits, do not tell the family that he has confessed and therefore he is guilty. As you know, confessions might not be admissible in court, and the criminal justice process takes time. It is difficult for families to understand why a case is taking so long if the offender confessed and someone told them he was guilty.

Remember that when you are dispatched to a home for a sexual abuse allegation, you are potentially walking into a crime scene, and it should be treated that way. If a family has told you that the victim immediately disclosed sexual abuse that occurred in a particular room, please take any bedding and clothing that has been described by the adult. If this case is to be referred to the CAC, investigators will photograph the interior and exterior of the home. However, CAC investigators could be denied access, or important pieces of evidence that could corroborate the child's disclosure may be destroyed by the suspect by the time CAC investigators are able to go to the home.

Police officers with questions about the Kane County Child Advocacy Center and child sexual abuse cases should call the CAC at (630) 208-5160, or email ASA Debra Bree, the CAC director, at breedebra@co.kane.il.us.

Child abuse investigations

Sexual abuse

The CAC has a protocol of the types of investigations it will conduct. Each department should have a copy of this protocol. If your department does not, contact the CAC. Listed below are elements of the protocol that every officer and investigator should know.

Per protocol the Kane County Child Advocacy Center shall have primary investigative responsibility for all cases of incidents occurring in Kane County as described below:

- a. All cases of sexual abuse/sexual assault to a child younger than 13 in which the accused is 10 or older.
- b. Cases of sexual abuse/assault to children younger than 18 years by a family member, caretaker or person in a position of authority in which the accused is 10 or older. Allegations of sex abuse include but are not limited to: sexual penetration, sexual molestation and sexually transmitted disease present in underage children concurrent with lab confirmation or disclosure
- c. Cases of sexual abuse/assault to children between ages 13 and 17 by non-family members where there is:
 1. A substantial element of force, or
 2. More than five years age difference between victim and offender, *and* the accused is age 10 or older.

Cases involving compliant sexual activity between participants fewer than 10 years in age apart will be investigated by the police agency with jurisdiction. Children younger than 10 who have been accused of sexualized behaviors will be deemed sexually reactive children. It is not the policy of the CAC to accept investigations of these children as perpetrators. The CAC will, upon request by the referring jurisdiction, screen these children for adult involvement and make service referrals as appropriate.

All other criminal investigations involving child victims or witnesses can be reviewed by the CAC director and the Felony Trials Bureau chief of the State's Attorney's Office to determine whether the case should be handled in a victim sensitive manner. When so deemed, CAC personnel shall conduct the necessary child interviews.

Physical abuse

Physical abuse cases should be handled by the investigating jurisdiction, and police should call the felony screening hotline for charges or if they have questions. The CAC can assist with child victim and child witness interviews upon request.



Congratulations
to
St. Charles Police Officer
**John
Losurdo**
for being named
**2016 Kane County
Police Officer
of the Year**

Congratulations
to
all nominees

- Inv. Jeffrey Hahn, Officer Jennifer Hillgoth, Aurora
- Officer Jason Amore, Bartlett
- Detectives Heather Robinson, Tom Wolek, Miguel Pantoja, Officers Michael Hutton, David Lackey, Michael McCarthy, Elgin
- Officers James Burton, Mark Russo, Geneva
- Trooper Nicholas Colon, Illinois State Police
- Det. Sgt. Brian Polkinghorn, South Elgin

RULE 3.6 OF PROFESSIONAL CONDUCT

What you can, cannot say about a case

Each year the State's Attorney's Office will remind police agencies about the rules of pretrial publicity as defined by the [Rules of Professional Conduct](#) of the Attorney Registration and Disciplinary Commission of the Illinois Supreme Court.

These rules were established to ensure that information that could influence a jury is not made public before it is entered into the court record.

All state's attorney's offices are bound by these rules, which apply not only to lawyers but to all law-enforcement personnel.

The SAO asks police officers, investigators and officials to consider these rules, specifically [Rule 3.6 Trial Publicity](#) when asked by the news media to comment on a pending case.

In short, the rule prohibits anyone with knowledge of the case from revealing evidence of the case before it becomes part of the court record, as well as expressing opinions about the potential outcome of the case. The rule is paraphrased below, and the embedded links will take you to the complete text of the rules.

[RULE 3.6: Trial Publicity](#)

Note: [Rule 3.8](#) states that Rule 3.6 applies to investigators, law enforcement personnel or other persons associated with the prosecutor.

To paraphrase the rule, a lawyer who has been part of an investigation or litigation shall not make a statement outside of the courtroom that could threaten the fairness of a trial.

You cannot talk about

- The character, credibility, reputation or criminal record of a party, suspect or witness, the identity of a witness or expected testimony.
- The possibility of a guilty plea, the existence of any confession, admission or statement by a defendant or suspect or the failure to make a statement.



- The results of a test or the failure of a person to submit to a test, or of physical evidence.
- An opinion as to the guilt or innocence of a defendant or suspect.
- Information that likely will be inadmissible.
- The fact that a defendant has been charged with a crime unless there is included a statement that the charge is an accusation and that the defendant is presumed innocent until proven guilty.
- The scheduling or result of any step in litigation.
- A request for assistance in obtaining evidence and additional information, such as: potential danger to the public; the identity, residence, occupation and family status of the accused; information necessary to aid in an apprehension if the accused is not in custody; the fact, time and place of arrest; the identity of investigating and arresting officers and agencies; the length of the investigation.

You can talk about

- The offense involved and the identity of the persons involved unless the persons are juvenile .
- Information contained in a public record.
- That an investigation is in progress.

If you have questions about the rules and what you may share with the media feel free to contact Chris Nelson, the Public Information Officer of the Kane County State's Attorney's Office, at (630) 444-2998 or nelsonchris@co.kane.il.us.

Plan ahead for quality recording

Remember that someone must transcribe your interview

By NET TRANSCRIPTS

Transcripts are an important part of any criminal file, so obviously it is important for the transcript to be an accurate representation of the event being recorded.

High-quality recordings that are clearly audible will always result in more accurate transcripts. With this in mind, our team has assembled a list of tips and tricks for producing the best possible recordings for transcription.

Microphone placement

Whether your recording takes place in an interrogation room or in the field, your device will be capturing audio through a microphone. For dictated reports with only one party speaking, best practice is to [keep the microphone between six and 12 inches from your mouth](#) to produce clear audio without distortion.

For interviews and other recordings with multiple parties involved, you might be tempted to move your device back and forth as each party speaks. However, this can create unintentional noise and variations in volume, which can make participants difficult to understand. Instead, try to hold the recorder very steady throughout the interview or place it on a stable surface, [preferably at an equidistant point from each person](#). Interview rooms are often equipped with built-in recording devices, but they may not always be situated in the best locations – often concealed in the walls or ceiling. Try and utilize a secondary recorder if possible, placing it as described above. These techniques will help keep input volumes consistent and will result in a more accurate transcription of your recording.

Background noise

Throughout an investigation, it is very common for law enforcement interviews to be conducted outdoors. Unfortunately, this often leads to unavoidable background noise that can hinder the clarity of your recordings. To minimize this effect, [try to use natural barriers](#) to try to block noise as



much as possible. For example, if traffic noise is a concern, position your subject with their back toward the street, and keep your recording device directly in front of them so that their body blocks some of the noise from being picked up by the microphone.

Even in a controlled, indoor environment, extraneous noise can still impact the audibility of a recording. Be aware of your surroundings, including air conditioning units, blowing vents, refrigerators, radios and televisions. Try to avoid shuffling papers and dragging objects like chairs or tables, as the sound from these sources will make your recordings more difficult to understand clearly. Whenever possible, keep doors and windows closed, and try to limit access to your recording space in order to avoid interruptions.

Crosstalk and rapid speech

When multiple parties are speaking simultaneously, it can be difficult to discern what any one person is saying. Try to refrain from talking over your subjects, and if you can, restrict your interviews to one party at a time to cut down on crosstalk and unintelligible speech.

Dictated reports can be greatly improved if you speak clearly and articulate. [When you fly through your words](#), your tongue and lips can't keep up with your mind, so you drop important vowels and consonants, causing your listeners to miss your meaning. Speak in a loud, clear voice, and take your time with each sentence rather than thinking about what's coming next.

Troubleshooting equipment

Be sure to check the battery in your recording device before you get started to prevent the loss of vital recordings. Test new devices and familiarize yourself with the controls before deploying them in the field. Your department's IT staff can be a valuable resource for preventing potential issues before they occur.

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If you're looking for a recording solution that won't break your budget, Net Transcripts offers a Dial-in Dictation Line as well as our Mobile App for iPhone and Android devices, both at no additional cost to our customers. [Contact us today](#) to learn more about the benefits of outsourcing with Net Transcripts.

Kane County Chiefs of Police Association

**Law Enforcement
Appreciation
Ceremony**

**Wednesday, May 10, 2017
6 p.m.**

**Mooseheart House of God
Route 31 between Batavia & North Aurora**

**Officers, family, friends, and the public are
welcome to attend**

Officers, please wear your black mourning bands

ISP QUARTERLY DRUG TREND REPORT

The Prince and the elephant

By SGT. BRUCE TALBOT (Ret.)

Recent headlines warn that the latest recreational drug craze is a deadly new narcotic called “elephant tranquilizer.” Headlines last year announced the unexpected death of recording artist Prince from a suspected accidental prescription drug overdose. Are the two events connected, and can we learn anything from them to prevent additional tragedies?

Elephant tranquilizer

“Elephant Tranquilizer” is the name the news and opinion media have given to a “new” street drug of abuse. The truth is this drug is not new and is not chemically related to the benzodiazepine group (e.g. Xanax®) of tranquilizers. Properly known as 4-carbometh-oxyfentanyl, the common, generic name is carfentanil. It is not a new drug but in fact a 1970s close relative of the synthetic narcotic family of drugs known as fentanyl. Carfentanil and many other powerful synthetic narcotic fentanyl were developed by the Belgian firm Janssen Pharmaceutica, now part of Johnson & Johnson. Carfentanil is one of the most potent narcotics ever invented, about 10,000 times more potent than morphine.

Early testing of the drug on rhinoceroses and elephants found that it was much more potent than Janssen expected. Its extreme potency (one millionth of a gram produces an effect in humans) made it inappropriate for use in humans, so the company marketed the narcotic to veterinarians under the trade name Wildnil® for use in very large animal surgical procedures and for darting large wild animals in the field. An even more powerful version of carfentanil, lofentanil (3-methylcarfentanil) is not used for any medical application, but is related to the brief rash of narcotic overdose deaths from the heroin substitute drug “Three” in the 1970s.

Carfentanil/Wildnil is a legal drug in America (federal Schedule II) and is inexpensive to purchase; however, it is strictly restricted to zoological veterinarians or specialists working with wild animal darting programs. Purchasers must have



Carfentanil, developed in the 1970s and now sold to zoological veterinarians under the trade name Wildnil® as a tranquilizer for use in surgical procedures on animals such as elephants, is one of the most potent narcotics ever invented. Two milligrams of carfentanil (left) could potentially kill 100 humans, and accidental inhalation by police can be fatal.

a Drug Enforcement Administration registration number and be on the DEA's carfentanil approved user list. Unlike the rash of Ketamine (street name “Special-K”) thefts from local veterinarian offices in the 1990s during the Rave movement, local vets do not stock carfentanil. The drug is cheap, costing only \$280 for a 5mg vial from legal manufacturers in China. A 5mg vial of carfentanil can produce 5,000 doses of counterfeit heroin at \$10 a bag for a potential profit of \$50,000. Although highly restricted, carfentanil can be stolen from a veterinarian who specializes in caring for large animals and zoo pharmacies, ordered online from Chinese suppliers using fake DEA registry data, or purchased on “The Dark Web” from sites similar to the now defunct dark site The Silk Road. No zoo or specialty vet office thefts of carfentanil have been reported, so it is assumed the current supply is the result of illegal importation from China.

This drug came to the attention of the media with the high profile arrest of Rayshon

Alexander of Columbus, Ohio, in July 2016. Alexander was charged with murder after selling counterfeit heroin that contained a lethal dose of carfentanil. Alexander was sentenced to 15 years in prison after pleading guilty to his role in the deaths of two and the overdose of nine others from his counterfeit heroin.

The first Illinois carfentanil death was reported in December 2016 by the Cook County Medical Examiner's Office in the death of a 35-year-old Lake Zurich man. A single sample has also been detected by Illinois State Police Forensic Laboratory testing in a street seizure of heroin in the Chicago area. To date, carfentanil has appeared in seized drugs from central Kentucky and in Florida's Tampa Bay and Sarasota areas, as well as other Ohio cities including Akron. However, the drug is not widespread and, at this point, still fairly rare. Rich Isaacson, spokesman for the DEA's Detroit Office, told one news outlet, “There hasn't been much evidence

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ISP QUARTERLY DRUG TREND REPORT

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of carfentanil on the streets or in testing related to criminal cases.” Narcan can reverse a carfentanil overdose; however, multiple doses may be needed because of the drug’s potency.

Prince

The April 21, 2016, death of famed musician Prince could easily have been a case study for thousands of other prescription narcotics addicts. An attorney for family members disclosed Prince had been abusing the narcotic oxycodone for many years before his death to cope with knee and hip pain, reportedly caused by jumping on stage in high heel shoes. On April 15, 2016, Prince’s chartered private jet made an emergency landing in the Quad Cities when Prince lost consciousness on the plane en route to his Minnesota home. Paramedics met the plane upon landing and administered Narcan, which saved Prince’s life. However, two weeks later he overdosed at his home and attempts to revive him were unsuccessful. Surprisingly, initial reports related the artist died from a

fentanyl overdose, not oxycodone. When police searched Prince’s home as part of the death investigation they discovered an Aleve® bottle containing pills stamped “WATSON 385”, the code for generic Vicodin®, not over the counter Naproxen (Aleve). However, laboratory testing revealed that the apparent generic Vicodin pills were counterfeit containing an illicit fentanyl analog.

Counterfeit prescription narcotics purchased online, reportedly from Canadian pharmacies and without a doctor’s prescription, are a growing concern. One study of 8,300 online pharmacies by the National Association of Boards of Pharmacy found that only three percent appear to be legitimate. The vast majority of the online apparent Canadian pharmacies used computer servers in foreign countries, did not have a valid physical pharmacy store address, and did not require a prescription from a doctor for narcotics.

Summary

The original “Prince and the Elephant” is a Buddhist tale about becoming a virtuous

person. This version of the Prince and the Elephant is an American tale warning of the dangers posed by counterfeit drugs. A prescription pill may contain synthetic fentanyl that is far stronger than heroin and a packet of heroin may contain synthetic carfentanil that is far more potent than fentanyl. Police officers must never assume the suspected street drug they encounter is as it appears and must use great care handling suspected narcotics to prevent accidental inhalation or contamination from handling the drug. Appropriate personal protective gear is strongly recommended as a minimum precaution when encountering suspected powdered narcotics.

Sgt. Bruce Talbot (Ret.) worked for the Woodridge Police Dept. for 23 years. Sgt. Talbot teaches drug/alcohol police training classes for Illinois MTU units and for police agencies across the country. He holds a master’s degree from Roosevelt University and has been qualified as an expert witness before two Congressional committees considering drug control legislation.

Kane County State's Attorney's Office

Joseph H. McMahon, State's Attorney
37W777 Route 38, Suite 300
St. Charles, IL 60175

Phone: 630-232-3500
Fax: 630-232-6508

If you have questions about the content of the newsletter, please contact Chris Nelson
Phone: (630) 444-2998

E-mail: nelsonchris@co.kane.il.us

Questions and comments also can be directed to

Linda Hagemann
Phone: (630) 406-7327

E-mail: hagemannlinda@co.kane.il.us

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Batavia Chief Schira to retire after 45 years of police work

Gary Schira is in the homestretch of a 45-year law-enforcement career. He is set to retire May 3 after 11 years as Batavia's chief of police. Before that he spent 34 years with the Bloomingdale Police Department, the last 23 as chief. Starting in 1972, he rose through the department there, and was named chief in 1983. He retired May 2, 2006, and started the next day as Batavia's chief.

Chief Schira is retiring for good this time. He and his wife, Mariann, will split time between their homes in Illinois and Florida. "We'll spend more time with our kids and grandkids and will enjoy being off a "schedule" finally! I will always have very fond memories of the many people I worked with and whose paths I crossed through these 45 years," Chief Schira said.



Awards

- The Batavia Police Department recently announced award winners for 2016: Chief's Award for going above and beyond – Officer **Chris Potthoff**; Police Officer of the Year Award – Officer **John Kahl** (runner-up – Officer **Matt White**); Civilian Employee of the Year – records technician **Pam Stilin** (runner-up – property/evidence custodian **Fred Buss**; Joseph M. Burke Award for dedication, professionalism and contributions to the police department and the city – **Linda Hagemann**, Kane SAO; Batavia FOP Jason Kloese Memorial Brotherhood Award – Officer **Gary LaBarbera**

- Batavia Sgt. **James Nettnin** was recently selected to receive the Illinois Association of Chiefs of Police Carl Dobbs Memorial Scholarship to attend Northwestern University Center for Public Safety's School of Police Staff and Command.

- **Alvin Soto** was named the Aurora Police Department's Officer of the Year for 2016
- Officer **Christopher McWilliams** was named the Aurora P.D.'s Officer of the Month for October; Officer **Jeremyah Kelly** and Inv. **Angel Nieves** were named the Aurora P.D.'s Officers of the Month for November; **Alvin Soto** was named the Aurora P.D.'s Officer of the Month for December.

New Hires

- Officers **Ryan Nicholson** and **David Gough**, Algonquin
- Officers **Matthew Hill**, **Eric Garcia**, **Jonathan**

Henderson, Tyler Johnson, Matthew Meyers, Daniel Rodriguez and **Tyler D. Reeder**, Aurora

- Officer **Elizabeth Webb**, Batavia
- Part-time Officer **Anthony Pero**, Elburn
- Officers **Ryan Reichardt, Zachary Townsend, Steven Turcios, Alan Garcia, Andrew Wagner**, and **Eric Johnson**, Kane County Corrections
- Officers **Angelica Diaz, Jonathan Irizarry, Kevin Keinath**, Kane County Court Security
- Deputies **Ryan Wasson, Mathew Schultz, Kyle Quinn, Jonathon Harnack, Ryan Rowowski**, and **Matthew Manski**, Kane County Sheriff
- Officers **Anthony Squillo** and **Matt McGregory**, St. Charles

Retirements

- St. Charles Officer **Darren Lee**, after 27 years
- Kane County Sheriff's Deputy **Steve Reitmeyer**, after 23 years

Deaths

- Aurora Police Department Court Detention Officer **Dean Pederson**
- Kane County Court Security Officer **Holly Quinn**

Information published in this space is submitted by Kane County police agencies and collected from other sources. To submit items for consideration, email hagemannlinda@co.kane.il.us. All information is published at the discretion of the Kane County State's Attorney's Office.