

BACK TO BASICS: ABUSIVE HEAD TRAUMA CASES

THE CHILD ABUSE PROSECUTION PROJECTS' BACK TO BASICS SERIES

The Association of Prosecuting Attorneys, Child Abuse Prosecution Project is pleased to offer its Back-to-Basics Series, a "to-do" list for both new and experienced child abuse prosecutors and their multi-disciplinary teams.

This project was supported by Grant # 2015-CI-FX-K004 Awarded by the Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, U.S. Department of Justice. Points of view or opinions in this publication are those of the author and do not represent the official position or policies of the United States Department of Justice

To join our mailing list or for information on conferences and events, please contact us:

Mary-Ann Burkhart

Project Director, Child Abuse Prosecution Project, Association of Prosecuting Attorneys
maryann.burkhart@APAInc.org

Aimee Peterson

Project Associate, Child Abuse Prosecution Project, Association of Prosecuting Attorneys
aimee.peterson@APAInc.org

1. Recognize these cases require knowledge, skills, and stamina that few prosecutions require – don't take anything for granted and use all resources available to you
2. Form relationships with both the treating physicians in your case and expert medical scientists who can help you understand the complicated findings and their significance
3. Do whatever it takes to make sure you understand the medical basics of head injuries in infants and young children - training conferences, online resources, textbooks, consultation with prosecutors and physicians who are experts in the field
4. Convene a multi-disciplinary case-conference on your case with expert physicians, CPS workers, law enforcement officers, mental health professionals, educators, child protection attorneys, guardians ad litem, and others, as needed
5. Analyze the facts of your case, how it compares with other cases of inflicted childhood head injury, and formulate a plan for appropriate charges, potential plea bargain(s) and how to prove the case through creative use of experts, illustrative media, and fact witnesses
6. Make contact with those who have extensive resources on the topic – Association of Prosecuting Attorneys Child Abuse Prosecution Project, local prosecution training agencies, American Academy of Pediatrics and prosecutors who have specialized in child abuse cases
7. Ensure that you get adequate time to respond to defense medical witness reports, recognizing that many such "experts" may not be qualified to act as experts in child abuse cases, that there may be little, if any, science underlying their opinions, and that such expert witnesses may have an inordinate effect on judges and juries unless you are ready to refute their theories and claims
8. Be aggressive and creative in using pretrial motion practice to strengthen your case – everything from motions to admit prior evidence of child abuse to motions in limine to restrict defense experts' testimony
9. Plan to spend significantly more time with your expert witnesses in trial preparation than you would in other prosecutions – make sure you have a thorough understanding of the expert opinions they can offer in your case, since you won't be able to convince a jury or judge unless you "get it"
10. Don't go it alone – stories of despondent prosecutors who lost a case because they waited until the last minute to prepare are legion. There's no reason you can't learn everything you need to know to present a persuasive case, but it takes lots of preparation and dedication to achieve justice for child victims of inflicted head trauma.

For copies of sample motions, help with expert witnesses and to reach out to prosecutors who are experts in this field, see childabuseprosecution.apainc.org