



Victim-Oriented *MULTIDISCIPLINARY* Responses to Statutory Rape

TRAINING GUIDE

American Bar Association
Center on Children and the Law

Office for Victims of Crime
OVIC
*Advocating for the Fair
Treatment of Crime Victims*

February 2000

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Message From the Director

Statutory rape laws are meant to protect our Nation's young people. When these laws are broken, victimized young people should feel confident that our legal system will punish the offenders. If the laws are inadequate or poorly enforced, we must provide improved or new laws and a legal system that enforces them. A recent American Bar Association (ABA) Center on Children and the Law study, funded by the Office for Victims of Crime, reported many problems associated with almost every aspect of the service and legal systems' responses to the crime of statutory rape and described how these problems result in disservice to victims. To help solve these problems, OVC has published this *Victim-Oriented Multidisciplinary Responses to Statutory Rape Training Guide*.

For the study, ABA staff interviewed prosecutors, victim advocates, police, and judges to determine how statutory rape cases, victims, and offenders were treated by care providers and legal professionals. Problems associated with statutory rape cases involve the victim, the offender, prosecutors, service providers, police, judges, any resultant offspring, and all the psychological, emotional, and financial consequences for the teen and the offender. Recognizing the complexities of statutory rape cases, this *Training Guide* offers ideas and suggestions to remedy the currently inadequate societal and legal responses to statutory rape and its victims. The *Training Guide* seeks to improve the responses of care providers and the criminal justice system to young victims and to hold responsible the adult offenders. This document contains practical suggestions to increase reporting of this crime, improve investigations and prosecutions, improve treatment of victims and offenders, and develop sound sentencing practices to guide judges. The effective management of this complex crime demands the use of a collaborative, multidisciplinary approach that includes all involved organizations and agencies, particularly victim advocates, prosecutors, law enforcement officials, judges, mental health providers, health care and service providers, school officials, and other teen program professionals. The ABA study indicated that when those involved work together, problems are solved and promising approaches for positive change come to light.

Historically, statutory rape victims have been underserved by the criminal justice system. In the past, outdated attitudes and prosecutorial difficulties were used as an excuse not to prosecute statutory rape cases. Lukewarm responses to allegations of sexual misconduct between adults and teenagers are often blamed on two factors that discourage police and prosecutors from pursuing a case despite existing State laws making sexual contact with 12- to 16-year-olds illegal—the victims believe they have consented to the sexual relationship and teenage witnesses lack credibility with jurors. OVC emphasizes that statutory rape is against the law; it is a crime that creates a victim who needs help. It is up to us to enforce the law and protect and help victims.

Interestingly, the ABA study observed that statutory rape victims share characteristics common among victims of childhood sexual abuse and domestic violence. This finding further indicates that these young people should be protected, not ignored. As victim advocates, we must keep in mind that although these victims often do not see themselves as victims, they need protection from illegal sexual relationships.

Kathryn M. Turman
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Chapter 1

Introduction

This *Training Guide* contains practical suggestions to increase the reporting of statutory rapes, to improve investigations and prosecutions of statutory rapes, to improve treatment of statutory rape victims and offenders, and to develop sound sentencing practices to guide judges in statutory rape cases. The goal of this *Training Guide* is twofold: to improve the response of care providers and the criminal justice system to vulnerable young victims and to hold responsible the adult offenders. To adequately address the complexities involved in statutory rape cases, this *Training Guide* is based firmly on a multidisciplinary, collaborative approach that involves victim advocates, law enforcement officials, prosecutors, judges, mental health providers, health workers, school officials, and other teen program professionals.

This *Training Guide* is based on extensive telephone interviews with prosecutors, victim advocates, police, and judges in six jurisdictions that were identified in a previous American Bar Association (ABA) study as having promising approaches to statutory rape cases. The six jurisdictions are Maricopa County, Arizona; Dade County, Florida; Marion County, Indiana; Jefferson County, Kentucky; Pontiac, Michigan; and Clark County, Nevada. The interviews focused on two points: How did professionals in these jurisdictions handle statutory rape cases? What suggestions could they offer other communities to help improve their response to victims and offenders in statutory rape cases? In addition, investigators made onsite visits to five locations: Alameda, San Diego, and Santa Clara Counties, California; Baltimore City, Maryland; and Onondaga County, New York.

The need for this *Training Guide* is evidenced by findings from an exploratory ABA project in which prosecutors and service providers nationwide reported the following findings: an increase in statutory rapes; the devastating impact of these crimes on teens; teens' common failure to see themselves as victims; the reluctance of social service providers to report these crimes to the police; the reluctance of prosecutors to prosecute these crimes; and the reluctance of juries to convict the perpetrators of these crimes. Below is more discussion of these points.

- Service providers are often reluctant to report to criminal justice officials cases of young teens involved in sexual relationships with older adults for fear that reporting such cases will break the confidentiality established with the teen, causing the teen to abandon counseling and other services. Service providers are also concerned that prosecution may not be warranted in these cases.
- Law enforcement often assigns statutory rape cases a much lower priority than incest and forcible rape cases with young children. There is a belief among criminal justice officials that investigation and arrest are a waste of time because prosecutors will not prosecute except in the most egregious cases.
- Victim advocates and prosecutors are often frustrated by the teens' unwillingness to cooperate in the prosecution of their "partners." They are frustrated, too, by the difficulty of convincing jurors of the crime's seriousness.
- Teens and adults in these cases often come from dysfunctional families and have a host of problems underlying the sexual activity. To stop the cycle of victimization and abuse, these underlying problems must be dealt with. For example, the teens

and adults involved in statutory rape cases often suffer from low self-esteem, lack of education, emotional immaturity, irresponsibility, lack of healthy maternal and paternal role models, lack of parenting skills and financial resources to support any babies that result, health problems, and so on. No one agency can respond to all of these problems.

- Factors such as lack of communication and coordination, mistrust, turf issues, lack of resources and commitment to these cases, and failure to see the importance of these cases often lead to fragmented services rather than a coalition of agencies (school personnel, mental health and health practitioners, service providers, law enforcement representatives, victim advocates, prosecutors, and judges) coming together in a multiagency, communitywide approach to handling these cases.

This *Training Guide* is also needed because the term “statutory rape” has made a resurgence in the lexicon of American jurisprudence. The attention to this crime is relatively recent; historically, statutory rape victims have been underserved by the criminal justice system. The lukewarm response to allegations of sexual misconduct between adults and teenagers is often blamed on two overlapping factors—the “victims” believe they have consented to the sexual relationship and teenage witnesses lack credibility with jurors (members of both grand juries and trial juries). These two factors have discouraged police and prosecutors from charging adults under existing State laws that make sexual contact with 12- to 16-year-olds illegal in most States.

Ignoring a class of victims because they pose prosecutorial difficulties or challenge old notions is a disservice to young women and men who deserve the same

protection from unlawful sexual conduct as young victims of sexual molestation. Indeed, statutory rape victims share characteristics associated with victims of childhood sexual molestation and domestic violence, indicating further that these young people should not be ignored, but protected. For example:

- Studies have found that two-thirds of teenage mothers reported being molested as children by an adult other than the father of the baby. Studies by Boyer and Fine (1992) of 535 teen mothers and by the Ounce of Prevention Fund (1986) of 445 teen mothers found that 55–60 percent of the teens reported childhood sexual abuse by family members or acquaintances. Although correlations between early molestation and later teen pregnancy have not been proved to date, studies have pointed to an enhanced vulnerability among this population to risk-taking behaviors, such as prostitution (Widom, 1996) and yielding to pressures by adults for nonconsensual sex (Butler and Burton, 1990).
- Teenagers are as vulnerable as children to sexual exploitation due to their “sense of immortality,” mobility, naivete, lack of worldliness and “savvy necessary to stay[ing] safe,” and emotional neediness, all of which makes them easy targets for adults (NCMEC, *The FrontLine*, December 1997).
- Like statutory rape relationships today, incidents of domestic violence used to be considered private, consensual acts between husband and wife, not to be interfered with. Like statutory rape victims, domestic violence victims are often unwilling to prosecute their abuser/spouse—this reluctance was often cited as a reason not to intervene.

- Victimization has potentially devastating consequences for teenagers, including pregnancy and parenthood, as well as sexually transmitted diseases, emotional abuse, and emotional scars for a lifetime (for both female and male victims).

Finally, teenagers are just as deserving of protection from illegal sexual relationships as children and adults, even if they present themselves as sullen, uncooperative, sexually provocative, and difficult. After all, statutory rape is against the law.

Chapter 2

Increasing Reports: Collaboration Building and Outreach

Cases in which adults are having sex with underage teens have been seriously underreported. Encouraging reporting often involves changing attitudes about the seriousness of these cases. Unless these cases are reported, teens may be left alone to cope with problems associated with these cases and the adults may operate with impunity.

Historically, statutory rape cases have been underreported. Encouraging increased reporting involves changing attitudes about the seriousness of these cases. Increased reporting would serve two goals. First, it would help identify young teens in need of services to deal with damage done by the relationship with the adult. The teen may desperately need protection from the abusive actions of the adult. Second, increased reporting begins the process through which justice professionals can assess whether criminal prosecution is appropriate in the case. Unless statutory rape cases come to light, teens may be left alone to cope with problems, and adults may operate with impunity.

In this chapter, we present specific, concrete examples from communities we visited or officials interviewed about promising approaches to increase the reporting of statutory rape cases. We

have identified two phases in the process to increase reporting. First, inter- and intra-agency communication structures should be assessed and then strengthened. Second, outreach plans should be developed for several different audiences.

Collaboration Building

Assessing and Strengthening Communications

The first step in increasing reports of statutory rape is to assess what is currently happening. A task force or other authorized individual or body should conduct a historical study (past year or past 5 years) of case files and records from a variety of sources, such as local law enforcement agencies, courts (misdemeanor, felony, family, and domestic relations), prosecutor's offices, probation departments, rape crisis centers, and hospital emergency rooms. This should coincide with interviews of professionals currently in these departments. The assessing body can then begin the task of bringing agency representatives together to develop a collaborative philosophy that will hopefully result in a consistent approach to reports of statutory rape.

Through a grant from a local foundation, the Child Advocacy Network in Baltimore, Maryland, conducted an analysis of statutory rape prosecutions. The researchers looked at birth certificate data to discern births to young teens to determine the number of situations that may have been charged as rape or statutory rape, depending on the age of the father. They also collected data from investigations and prosecutions of cases referred through the city police department and the Child Advocacy Network, including the length of investigations and court proceedings. They analyzed data from three different court venues in which statutory

rape cases could be handled, including outcomes. Researchers also conducted interviews with police and hospital officials on protocols and reporting issues.

Commitment

Once the assessment of communication and consistency has been completed, the task of “pulling together” begins. In communities studied to develop this *Training Guide*, there was often one person in a position of authority, usually the prosecutor in charge of the child abuse unit or the statutory rape unit. This person was able, by sheer force of personality, to generate consensus among disparate agencies with varying philosophies and mandates. This “charismatic leader” had three identifiable characteristics: commitment, availability, and flexibility.

The Assistant State’s Attorney for Onondaga County (Syracuse), New York, is the Chief of the Special Victims Bureau (SVB) and a good example of a “charismatic leader.” This prosecutor has demonstrated a strong commitment to addressing “challenging” statutory rape cases by stating, “We don’t ignore a crime because it’s too tough to prove. We accept the difficulty of prosecuting these types of cases.” His availability and leadership is evidenced by his observed work style, arriving at 7:00 a.m., leaving at 7:00 p.m., answering his own phone, and returning calls immediately. Accolades from colleagues describe him as providing the enthusiasm and impetus for opening lines of communication. Officials from the Department of Social Services, the Probation Department, and the Abused Persons Unit (a combined city and county police sexual assault unit) described the SVB Chief as the catalyst for improving coordination between agencies and the prosecutor’s office in handling statutory

rape disclosures. Evidence of his flexible leadership includes developing a pilot reporting program with the Child Welfare division of the Department of Social Services; hammering together the agreement that combined the city and county sexual assault units into the Abused Persons Unit; and encouraging the Probation Department to refer situations involving adolescent charges who are sexually active with adults for prosecution.

Most important, this person is committed to giving statutory rape disclosures the same attention that child sexual abuse and domestic violence cases have recently begun to receive. This leader has a vision of how that can be accomplished. His or her commitment imparts confidence to collaborative professionals that, when an allegation is referred, it will be taken seriously. This, in turn, increases the likelihood that referrals will be made.

In addition, this person is available to assist prosecutors and law enforcement and prosecutorial investigators. This availability is essential because it provides law enforcement officers someone to consult for assistance with arrests, charging decisions, and evidence-gathering strategies, including interviewing victims and offenders, obtaining affidavits, and requesting search warrants for diaries or DNA tests.

The third element of leadership is flexibility—a useful tool for working with agencies that may not share the same vision or that express concern about the efficacy of doing so. Flexibility allows agency leaders to decide together how and under what circumstances they will report allegations of unlawful sexual activity involving adults and teens (of course, this presupposes that statutory rape does not fall under the State law of mandatory reporting). For example, hospital staff, welfare intake officers, and juvenile probation

officers may be reluctant to officially agree to report all cases of teenagers who have an adult as a sexual partner or who fathered their child, citing confidentiality or other concerns. The prosecutor could request that officials report only those relationships that meet certain criteria, such as cases involving age differences of 5 or more years, cases involving teens and preteens 12 to 13 years old, and those relationships characterized by violence or exploitation.

The Chief of the Dade County State's Attorney's Office Sexual Battery Unit (SBU) began in 1995 to call monthly meetings, attended by representatives of the 27 county police agencies, the Department of Health and Rehabilitative Services (HRS), the rape treatment center, child protective services, guardians ad litem, Family Services, and others. Her goals were to advise everyone on new laws passed by the legislature on statutory rape and other sexual crimes and to have consistency among agencies on enforcement of the laws. The thrust of the meetings was, "This is how to use the law, and how it will help you." At the meetings on statutory rape laws, the goals were to explain: What is a crime? What is the message to our young people when we go to a high school to give a talk? What does the legislature want from us? The response has been gratifying. Everyone at the participating agencies knows the laws and can educate the staff. The Chief of the SBU has shown she's a willing-to-listen prosecutor who will work with others to get results. She sent a list of all participants to each member of the group so they can contact each other to discuss common concerns, such as a serial rapist. Sometimes a local police agency will report a crime to the group, asking if there have been any similar crimes in other jurisdictions.

Outreach

The prosecutor in Marion County, Indiana, has launched a media campaign to inform the public about the illegality of statutory rape incidents. In the first year following the campaign, reports of such cases doubled, and the reports doubled again after the second year.

Outreach to the Public, Teens, and Their Families About Reporting

The first step to ending the silence that allows adults to engage in sexual activity with young teens is to inform the public that these relationships are unlawful and destructive. Unless the public realizes these activities are both criminal and harmful, underreporting will likely remain high. Further, if members of the public do not understand that statutory rape is not consensual sex and that it is not a "victimless" crime, persons called to jury duty are not likely to convict. Even if the prosecutor proves a statutory rape case beyond reasonable doubt, an uninformed jury may engage in jury nullification (basically, ignore the law and fail to convict). Clearly, public education about statutory rape is critical to the successful prosecution of these cases.

Through media outreach and presentations at public forums, some communities have made great strides in educating the public about the illegality of these relationships and in encouraging the public to report such cases to authorities. Innovations include the following:

- **Placing Public Service Announcements/Advertisements.**

Public service announcements and media campaigns can address multiple goals in reaching various segments of the public about the inappropriateness of statutory rape cases.

Community leaders (prosecutors, police, mental health agencies, and others) may place advertisements or public service announcements on public buses, billboards, and radio and television broadcasts and through other media. These ads and announcements may be targeted at teens, their parents and families, their friends, and/or adults involved with young teens.

In Santa Clara County, California, the prosecutor in charge of statutory rape cases has cultivated an excellent working relationship with the local print, radio, and television media. As a consequence, she has been successful in obtaining considerable positive coverage of statutory rape cases.

The goals of these ads and announcements include the following: (1) to prevent teens and adults from becoming involved in this illegal sexual activity; (2) to change the erroneous attitude that this activity is a private matter outside the criminal justice system; (3) to provide counseling to young teens, their parents, and friends to help them understand the possible consequences of this activity and to make referrals for services; (4) to explain why this activity is illegal and to encourage reporting to the police; and (5) to explain why prosecution is important.

Monroe County, New York, used a billboard campaign entitled "Not Me, Not Now" to reach young teens to convince them that older men having sex with them was wrong and that they were crime victims. The prosecutor perceives that these billboards were effective in delivering that message.

- **Developing Reporting Hotlines.** Special hotline numbers may encourage young teens and their friends and families to reach out for help anonymously in cases in which they would otherwise be afraid to call authorities.

In Santa Clara County, California, the prosecutor started a media effort that resulted in ads being placed on city buses encouraging the public (including teens and their parents) to report statutory rape cases via a special hotline number. This generated a large number of calls, some of which the prosecutor believes would never have been received had the anonymous hotline number not been advertised widely to the public.

- **Working With Local Journalists.** Strategically placed articles in local newspapers could highlight programs aimed at prosecuting adults involved in statutory rape cases; the consequences to teenagers of sexual activity with adults; how the sexual activity can impact the local economy through unintended pregnancies; the complexities involved in reporting and prosecuting these cases; and other topics germane to the problem in particular communities.

Outreach to Schools About Reporting

Young teens involved in sexual activity with adults and the teens' families need to be identified and encouraged to seek help. Police and prosecutors need to talk *with*, not *at*, the teenagers and their families about the importance of reporting these cases to the criminal justice system. Middle school personnel are in a unique position to identify young teens who are involved in sexual activity with adults. The collaboration of middle school

personnel is vital in preventing and prosecuting adult males engaging in this activity. Below are examples of how police and/or prosecutors have engaged schools in their efforts to increase reporting.

■ **Training for School Personnel on Identifying and Reporting Options.**

Prosecutors and other criminal justice professionals can provide training to teachers, school nurses, school counselors, and administrators. Such training could include educating school staff about the illegality of adult sexual activity with minors and a discussion of the legal obligations and actions of police and prosecutors once they receive a report of statutory rape.

The prosecutor in Maricopa County, Arizona, trained school personnel on their requirements to report statutory rape cases. The prosecutor concludes that these efforts have been worthwhile in achieving a greater understanding among school officials of their obligations and have increased the number of incidents reported.

Training should include the message that the criminal justice system will take allegations of statutory rape seriously. This could help win the cooperation of school officials in reporting cases. It is equally important to explain how the criminal justice system can serve as a source for referrals for needed counseling. Further, the criminal justice system is in the best position to supervise adult offenders, usually through probation. The criminal justice system helps ensure that the youth is no longer victimized and that the adult does not replace this victim with another young teen.

In Alameda County, California, the prosecutor in charge of statutory rape cases works with school officials to explain the seriousness of statutory rape cases. The prosecutor also explains how his or her office responds to help teens and hold adults accountable for their criminal acts.

■ **Training for School Personnel on Identifying Predatory Adults.**

Teachers and administrators may also be trained to identify adults preying on young teens. Police and prosecutors can encourage school officials to report suspicious activity, such as an adult picking up a student at the end of the day or hanging around school property.

■ **Training in Teacher Health**

School officials can play a pivotal role in reporting suspicious activities such as adults picking up young teens at school. This can help prevent statutory rape if caught early enough or stop further incidents of statutory rape from happening.

Certification Courses. Teacher health certification courses provide an opportunity to educate teachers about statutory rape. In many States, teachers are required to take a health education class to obtain certification or renewed certification. The State Board of Education may wish to mandate that the required health education class include training about the health and mental health risks experienced by young teens involved in sexual activity with adults. The curriculum might include tips on how to identify young teens at risk and how to help them obtain counseling and services.

■ **Parent, Teacher, Student**

Association Presentations. PTA or PTSA meetings may present opportunities to reach out to students, parents, and family members. Police and prosecutors may find that presenting information in these meetings encourages reporting, moves young teens into counseling and services, and helps build rapport and trust between parents, young teens, and criminal justice officials. Involving the medical and therapeutic communities in a joint presentation with police and prosecutors at PTA/PTSA meetings may prove very effective. These meetings can serve as a forum to help those attending identify young teens who are sexually involved with adults, communicate the message that this activity is illegal and harmful, provide information about community resources available to help the young teens, and explain how the criminal justice system responds to such cases.

PTA or PTSA meetings afford opportunities to discuss with teens and their parents the illegality of statutory rape incidents and encourage reporting. In Santa Cruz County, California, the prosecutor who handles statutory rape cases has found this venue valuable.

■ **Student Assembly Presentations.**

Presentations aimed at students can help young teens understand that they are being victimized by adults who are having sex with them. Especially powerful are presentations by peers who realized they were being abused by adults. Also persuasive are frank discussions with young teen moms who tell how their freedom was taken away by adults who impregnated them and failed to support the child financially.

A victim advocate in Alameda County, California, noted that peer presentations focused on why it is wrong for adults to have sex with young teens. Peer victims can deliver powerful messages to teens. She explained that teens are much more likely to listen to “one of their own” than to an adult authority figure.

Outreach to the Medical, Mental Health, Therapeutic, and Service Communities About Reporting

In a previous ABA research study, the medical, mental health, therapeutic, and service communities reported three barriers to reporting cases in which adults are having sex with young teens: the need to maintain confidentiality between client and provider, a concern that the teens will lose trust in the provider and drop out of services, and a fatalistic attitude that police and prosecutors will do nothing even if they report.

Prior ABA research uncovered the following strong, recurring themes in the medical, mental health, therapeutic, and service communities about why they do not report cases of adults having sex with young teens: confidentiality between client and provider prohibits reporting these cases to authorities; reporting would have a “chilling” effect, resulting in young teens dropping out of or going without needed services; and a fatalistic attitude that reporting would do no good, based on the belief that the police, prosecutors, and the criminal justice system would do nothing with such reports.

Police and prosecutors need to communicate with service providers about what will happen when a report is received. Later, when information on individual cases can be released because it is part of the public record, the police and prosecutors must follow up with the providers by giving feedback on the outcome of the reported cases, such as arrest or no arrest, prosecuted or not prosecuted, sentence imposed, etc. Providing feedback to service providers who reported may encourage more cooperation in the future.

Feedback to service providers on the results of their report of a statutory rape case can help build rapport between criminal justice practitioners and service providers.

Training, rapport building, and communication between police, prosecutors, and service providers can occur in many different arenas. Some suggestions for reaching out to providers include the following:

■ **Make Conference Presentations.**

Professional conferences attended by the medical, mental health, therapeutic, and service communities afford wonderful opportunities for criminal justice officials to communicate with other professionals about the importance of reporting statutory rape cases.

Criminal justice professionals can ask to be included on the agenda of conferences attended by medical care providers, allied health professionals,

mental health providers, and service providers. In this setting, criminal justice professionals can explain the importance of reporting cases, how to report cases, and how the criminal justice system typically responds to such cases. Presenters may take this opportunity to encourage open, frank discussions about why providers are reluctant to report cases and why they should.

■ **Offer Continuing Education**

Credits. Most States require health provider professionals to obtain continuing education credits each year. Offering continuing education credits to those attending a statutory rape presentation at the conferences encourages conference organizers to include the topic on the agenda and encourages participants to attend the presentation.

■ **Provide Training at Local Hospitals and Health Clinics.**

In San Diego County, California, the prosecutor in charge of the statutory rape unit provides training at the local children's hospital on how to identify such cases and their reporting requirements.

Criminal justice practitioners can conduct training and make presentations at the local children's hospital, county and private hospitals, mental health clinics, school-based health clinics, and other places where youth who are involved in sexual activity with adults may go for help. Practitioners should educate staff and volunteers about identifying and reporting requirements and use this training to alert providers that police and prosecutors will take their reports seriously.

■ **Provide Training at Youth Centers.**

In Oakland County, California, specialized prosecutors, investigators, and victim advocates assigned to statutory rape cases work together with YMCA staff to identify teens involved in sexual activities with adults and encourage the teens to prosecute the adults. They also work together to make sure each teen gets the services needed.

Police and prosecutors may also conduct trainings and make presentations with staff and volunteers at local YMCAs and YWCAs, runaway and drop-in shelters, and other places where young teens frequent. Practitioners should educate the staff and volunteers about identifying and reporting these cases and alert them that the criminal justice system will respond to their reports.

Outreach to Law Enforcement and Allied Agencies Reporting to Prosecutors

Police play a crucial gatekeeper role in deciding which cases to investigate and send to the prosecutor for filing consideration.

The public (including parents and teens), the schools, and the medical and service communities may report statutory rape cases to either the police or the prosecutor. If they report to the prosecutor, that office may investigate the report directly. Most prosecutor offices, however, do not have the personnel to conduct independent investigations, so they refer the case to the police for investigation. The police have several options. They may immediately open an investigation or they may

place the case in a pending file awaiting resources for an investigation. Ultimately, the police may do any of the following: leave the investigation open pending new evidence, close the case due to insufficient evidence to proceed, arrest the suspect and send the case to the prosecutor, or decide not to make an arrest until the prosecutor makes a decision about filing the case. Whatever the outcome, the police play the crucial role of gatekeeper.

Many prosecutors report that they provide training to law enforcement officers to encourage them to bring cases to the prosecutor. Prosecutors assure police that these cases will be taken seriously by the prosecutor. This outreach was described by prosecutors in Maricopa County, Arizona; Alameda and San Diego Counties, California; Dade County, Florida; Marion County, Indiana; Jefferson County, Kentucky; Oakland County, Michigan; St. Louis, Missouri; and Onondaga County, New York.

During research for this *Training Guide*, police said that an inhibitor to arresting a suspect or sending a case to the prosecutor is the “why bother” attitude. The police may think, “Why bother to spend limited police resources on these cases when the prosecutor seldom files them?” This means that prosecutors need to work with police, encouraging them to investigate and refer cases to prosecutors. After making outreach efforts, prosecutors active in working with police on this issue have reported considerable success and substantial increases in police reports of this crime. The following are innovative suggestions to increase reporting by police:

■ Working With the Police.

A prosecutor in charge of statutory rape cases in Onondaga County, New York, explained that police need continual reminding that prosecutors will actively pursue these cases to keep the message alive.

A high turnover rate and competing demands on police officers make it necessary for prosecutors to regularly train officers on the importance of investigating and referring statutory rape cases. Police may give these cases a low priority. Prosecutors can bring effective change by explaining why these cases should be handled in the criminal justice system. By making it clear that they will aggressively prosecute appropriate statutory rape cases, prosecutors can send a strong message to police.

- **Which agents to train.**

Training should be targeted at law enforcement officers at many different levels in the police department.

The chief prosecutor can communicate with the chief of police to set policy about enforcing the law in statutory rape cases. The chief of police can then send the message from senior staff to the officers on the street. Prosecutors can train patrol sergeants, lieutenants, and commanders who will, in turn, train their officers about the evidence prosecutors need to successfully prosecute statutory rape cases.

In each training episode, reinforce the importance of pursuing these cases and referring them to

prosecutors. Patrol officers, especially in community-oriented policing sites, are likely to know their neighborhood residents best and are in a good position to encourage the public to report statutory rape cases.

Targeting a specialized unit within the police department for training is another option. Clearly, training the sexual assault unit and the juvenile unit responsible for investigating statutory rape cases is a priority. Other good candidates for training are those specialized units that come in contact with the men involved in statutory rape cases. For example, it is a good idea to target the gang unit for training. Gang members often equate having multiple sexual relationships as conferring status. When a gang officer makes a bust, he or she should be trained to observe if young teens are on the scene and ask questions about who they are and why they are there. Also, consider training specialized drug units to identify young teens involved in sexual activity with adults. Drug dealers often recruit young people to sell drugs. Some of these young people may be teens who are forced, or persuaded, to sell drugs for their “partners.”

Be creative in targeting which specialized units in the police department to train on statutory rape cases. Sexual assault or juvenile units are obvious choices, but other units may be fruitful as well. For example, the prosecutor in Santa Cruz County, California, who handles statutory rape cases provides training to the specialized gang unit in the police

department. Gang members may be involved with young teens, and officers should investigate to determine that in individual cases. The prosecutor points out to officers that they may not have enough evidence to arrest a gang member on a driveby shooting but they may be able to arrest him for having sex with an under-age teen. He notes “officers then become very enthusiastic” about investigating statutory rape cases.

- **Which media to use.** The prosecutor should conduct the initial training in person at the police academy. Scheduled indepth, face-to-face, inservice training sessions can be designed to accomplish several goals: motivate officers to take cases seriously; inform officers about how to conduct good investigations; and encourage bringing strong cases to the prosecutor.

Consider other available means for followup inservice training. For example, roll call provides an opportunity for short training “reminders.” Use any number of means to make your training point, including in writing, in person, by videotape, by conference call, and so on. Prosecutors may wish to work with their local police to develop a comprehensive training program that fits the needs of the police department.

Different media should be used to train officers on statutory rape cases. For example, in Maricopa County, Arizona, the prosecutor conducts in-person bimonthly trainings with law enforcement personnel; roll call trainings (via videotape or in person) are used in Indianapolis, Indiana, and Riverside and Santa Cruz Counties, California. The

prosecutor in Riverside County also uses the newsletter that is distributed to law enforcement officers every month as a vehicle to inform officers about the importance of investigating and referring statutory rape cases to the prosecutor.

- **How to maintain momentum.** Nothing works like success! The best way for prosecutors to sustain the interest of the police officers is to provide them feedback about the outcomes of cases they referred for prosecution. Include an explanation of why the case turned out as it did. Once officers see that their efforts lead to successful results, they will be motivated to investigate and refer more cases to prosecutors.

Once officers see that their efforts lead to successful prosecutions, they will be more motivated to investigate and refer cases to prosecutors. This refrain was heard from prosecutors in Onondaga County, New York, and Alameda, Santa Clara, and Santa Cruz Counties, California.

- **Working With Child Support Enforcement and Welfare Agencies.** Strategically placing brochures at agencies where young mothers apply for public support and child welfare support may be an effective way to encourage them to report men who are failing to support their children financially. Child welfare agencies may even be willing to distribute brochures to teen mothers about ways to obtain child support from the father.

Child support enforcement agencies may provide a valuable source of referrals of

cases to prosecutors when young teens seek child support. We learned this from prosecutors in three California jurisdictions: Alameda County, San Diego County, and Santa Clara County.

Public assistance intake workers may also make referrals to prosecutors. In fact, when a woman comes in and applies for welfare, some State laws require that she provide the name and sometimes the age of the father of her children. A memorandum of understanding between the welfare office and the prosecutor may require the intake workers to refer cases that meet the State legal definition of statutory rape or cases in which there is a large age discrepancy between the victim and the offender.

The Onondaga County, New York, prosecutor in charge of the Special Victims Bureau developed a pilot program with the Department of Social Services (DSS). Referrals are made by “income maintenance” (intake) workers taking applications for assistance. A common scenario is that a young woman comes in and fills out an application for public assistance (welfare). The law requires that she name the father of any children. A memorandum of understanding between DSS and the district attorney’s office states that DSS will refer cases involving girls younger than a certain age if there is an age difference of a certain number of years between the girl and the male and if the relationship is exploitative or she is at risk. A reporting form was developed that requests information on the names and ages of the mother, the father, and the child.

- **Working With Juvenile Probation Departments.** By working closely with the juvenile probation department, prosecutors can identify young teens who are having sex with adults. During the assessment for supervision and services, probation officers usually get to know their clients, their families, and school counselors. Disclosures about an adult partner or sexual activity with an adult may be made to the probation officer. Part of the motivation for referring the case to prosecutors is that the relationship between the probation department and the client will probably be long term. The probation officer ultimately wants to keep the teenaged client from being further victimized. The probation officer wants to help the client gain power and avoid making poor choices.

In Onondaga County, New York, the juvenile probation department works in collaboration with the prosecutor by referring cases when they learn that young teens (who are their clients) are involved in sexual activities with adults. Probation department staff started noticing that the juveniles they were working with were pregnant by or dating adults. The prosecutor in charge of the Special Victims Bureau said that, if probation refers the cases, the district attorney will prosecute them.

- **Working With Multiple Agencies.** Another approach is to create a liaison position within the district attorney’s office, perhaps a paralegal, who can monitor and coordinate a case if it is being handled in more than one court. For example, a case may be filed in a civil court (family, domestic relations) because the

minor (victim) is being adjudicated as a Person in Need of Supervision or because the minor's (victim's) parents are being charged with neglect. These cases may be concurrent with the criminal case involving the perpetrator charged with statutory rape. By monitoring all the cases, the liaison can provide each attorney information about the cases in other courts, keeping everyone informed.

In Dade County, Florida, the prosecutor has created a liaison position to coordinate the work of the district attorney and the dependency court (civil family court) in child sexual abuse cases. This person's tasks are to provide case tracking and management. The assistant district attorney involved will plan his or her case with the Department of Family Services (DFS) case in mind. The liaison will review all cases by checking the family court's computers; contacting the DFS attorney about each case; gathering information on upcoming hearings (which may be attended by the assistant district attorney); contacting the guardian ad litem; checking whether the defendant gets supervised visitation in the DFS case (because that often leads to recantation in the criminal case); letting DFS know the status of the criminal case; and keeping all parties informed on both cases.

Chapter 3

Helping the Victim and Making the Case: A Collaborative, Multidisciplinary Approach

The criminal justice system needs to be diligent in responding to statutory rape cases. These cases pose challenges for investigators, prosecutors, and victim advocates as they try to make the case and help the victim.

Chapter 2 provided suggestions to increase the reporting of cases in which adults are having sex with young teens. As reporting increases, the criminal justice system must be ready to respond to the reports and diligently follow through. These cases often pose many challenges and require considerable time and dedication from law enforcement, victim advocates, prosecutors, and service and care providers. Criminal justice personnel and service and a health care providers must make a special effort to build rapport and trust with the young teens. Often these young people fail to see themselves as victims. They may be reluctant to have their boyfriends or girlfriends arrested and prosecuted. Successful investigation and prosecution of these cases require collaborative efforts by all professionals involved.

A collaborative approach could include the type of multidisciplinary teams (MDTs) many communities already use

in child sexual abuse cases. Medical and law enforcement professionals and prosecutors jointly conduct investigations and interviews of the children, if possible, or they investigate and interview separately, sharing the information. In either case, the goal is to work together to improve the response to victims and to make a stronger case than would be possible if each agency acted independently, guarding the information it gathered.

In Onondaga County, New York, cases in which adults are having sex with under-age teens are handled by a multidisciplinary team consisting of professionals from the medical, psychiatric, and psychological fields; caseworkers from the Department of Social Services; advocates and counselors from the Rape Crisis Center; social workers; probation officers; prosecutors; and police officers. These professionals meet regularly and discuss the cases generally and individually. They cross-train one another to develop a better understanding of each profession's roles and responsibilities.

Cases involving sex between adults and young teens especially benefit from using a collaborative approach. To facilitate use of the collaborative approach, conduct joint training among agencies, establish memoranda of understanding or protocols to define interagency responsibilities, and/or convene interagency task forces.

These cases benefit from a collaborative approach among investigators, prosecutors, and victim advocates. Joint training, memoranda of understanding and protocols, and/or interagency task forces are tools for making a collaborative approach successful.

From the field, researchers have learned much about successful strategies for investigating and prosecuting statutory rape, working with victims, and sentencing that can help make the case. It is possible for professionals to successfully investigate and prosecute these cases while remaining sensitive to the victim. The courts can issue sentences that hold adults accountable for their actions. The following information was gleaned from the professionals interviewed for this *Training Guide*.

In Santa Clara County, California, there is a 99-percent conviction rate in cases in which adults are having sex with young teens (three cases were dismissed because the acts did not occur in the jurisdiction and in one case the wrong defendant was arrested). Of the 60 defendants convicted between July and December 1997, 48 were sentenced to local jail time and formal probation and 12 were sentenced to State prison.

Prosecutors in Alameda County, California, have never lost a case in which an adult man was involved in sexual activity with an underage girl. They have never had to go to trial; all the defendants pleaded guilty.

Investigative Strategies

Statutory rape cases may be investigated by law enforcement or prosecutorial investigators. In either case, the following investigative strategies appear promising and deserve consideration.

In many locations cases in which adults are having sex with young teens are handled by a specialized law enforcement unit. For example, in Baltimore, Maryland, these cases are sent to sexual assault detectives in the First Responders Unit; in Onondaga County, New York, they are sent to the Abused Persons Unit; in San Diego County, California, and Marion County, Indiana, they are sent to the Sex Crimes Unit.

Use a Special Unit or Specialized Officers

Investigators, both law enforcement and prosecutorial, need special expertise to investigate statutory rape cases. One of the best ways to gain this expertise is to handle these cases in a specialized unit within the police department or the prosecutor's office. In smaller departments, it may not be feasible to establish an entire unit dedicated to these cases, but it is still possible to designate an investigator within the department who is responsible for statutory rape cases. In larger departments, these cases may be delegated to a specialized group or unit such as a child abuse unit, a sexual assault unit, or a juvenile unit that specializes in handling youth and/or sexual assault victims.

There are certain advantages to sending a case to a specialized unit.

Specialized training is critical. "Both police officers and ADAs [assistant district attorneys] have to be reminded that despite the willingness or consent of the underage victim, the law prohibits sexual contact between an adult and a child. With ever-increasing caseloads and dwindling resources, it is tempting to ignore cases if the victim is unwilling to follow through on his/her complaint. It is important that investigators and prosecutors understand

the dynamics of the abuse.” (Special Victims Bureau Memorandum; Office of the Onondaga County District Attorney; January 19, 1996)

- **Identifying Opportunities for Special Training.** Fiscally, it is not feasible for all investigators in a police department or in a prosecutor’s office to receive specialized training in handling statutory rape cases. However, by choosing specialized investigators, it becomes manageable to train the necessary persons. Training is extremely important in these cases. Trained personnel can get these cases the priority they deserve in the system. Trained personnel have learned and practiced the skills necessary to interview the young, often reluctant, victims in these cases as well as the adults. Police must develop and prosecutors must rely on good evidence to make the case. Good interviews are particularly critical because the victim and the offender may change their accounts about the relationship as the case proceeds.
- **Selecting the Right Person for the Job.**

Carefully selecting investigators suited to pursuing cases in which adults are having sex with young teens is important. Dealing with victims and their families takes patience, time, and a commitment to the job.

Not everyone in a police department or in a prosecutor’s office will have the appropriate personality, attitude, ability, and fortitude to investigate statutory rape cases, even with special training. By creating a specialized

unit or training specialized investigators, the police chief and the chief prosecutor can select people who are both enthusiastic about the job and good at it. Also, the process of selecting good candidates for the job will screen out unsuitable candidates. This increases the chances of making good cases while treating victims with sensitivity.

- **Developing Expertise.** Training provides the basis for cultivating a good investigator, but experience handling cases provides the day-to-day skills and knowledge that can make or break an investigation. Having a specialized unit in action affords opportunities for newly trained personnel to gain the day-to-day experience necessary for handling more challenging cases later.

Experience handling these cases provides the day-to-day skills and knowledge that can make or break an investigation.

- **Developing a Collaborative Approach.**

In Pontiac, Michigan, investigators and prosecutors work closely in a collaborative atmosphere that fosters teamwork and a willingness to go beyond one’s job description to get the job done.

Collaboration has advantages. When investigators specialize and work with specialized prosecutors, the result is a limited number of professionals handling statutory rape cases. Successful collaboration occurs when the specialized individuals working together understand their *specific* roles and responsibilities

as well as their shared roles and responsibilities. Often, collaboration leads to familiarity and informal communications, breaking through the red tape that sometimes entangles a case.

In Monroe County, New York, a collaborative approach facilitates a team effort in these cases.

In Newark, New Jersey, police officers, an interview specialist in the prosecutor's office, the prosecutor, and the victim advocate work together to win these cases and help the victim.

Use a Consolidated Law Enforcement Approach

Overcoming inconsistent law enforcement responses is a challenge. Within a single jurisdiction may be many law enforcement agencies such as a city police department, a county sheriff's office, and any number of local, town, or village police departments. Each may have a different philosophy, protocol, practice, and expertise in handling statutory rape cases.

One solution to inconsistencies among law enforcement responses is to develop an interdepartmental agreement among all law enforcement agencies that provides them with the same protocol for responding to statutory rape cases.

Interdepartmental agreements among law enforcement agencies in a single county may help mitigate inconsistent handling of these cases.

Another possibility is to gather and consolidate the special units of the largest police departments (usually the city police department and county sheriff), provide training and support to detectives in those units, and require the smaller local police departments to immediately refer statutory rape cases to the large, trained consolidated units. Protocols would specify reporting requirements. For example, a report coming in at a local level would immediately be transmitted to a liaison who would notify the specially trained consolidated unit. That unit, available 24 hours a day, would send a trained detective to interview the victim and begin investigating. While the combined unit might be physically located in the same office space, each agency could retain its separate command structure and administrative responsibilities. A committee of law enforcement and prosecutorial professionals could monitor the unit's progress and help develop solutions to problems.

In Onondaga County, New York, there is a consolidated police unit consisting of the City Police Department and the County Sheriff's Department (Abused Persons Unit). The officers receive special training in investigating sexual assault cases, including those in which adults are having sex with young teens. A protocol exists directing smaller local police departments in the county to immediately refer all sexual assault cases, including statutory rape, to the consolidated, larger unit. For example, a local report is immediately transmitted to a liaison who notifies the consolidated unit. That unit, available 24 hours a day, sends a trained detective to interview the victim and begin the investigation. The combined unit is located in the same office, but each agency retains its separate command structure and

administrative responsibilities. A committee of law enforcement and prosecutorial professionals monitors the unit's progress and assists in developing solutions to problems.

Conduct Early, Separate Comprehensive Interviews With the Young Teen and the Adult Perpetrator

Police and prosecutors say it is very important to conduct early, separate, comprehensive interviews with the teen victim and the adult. The young teen should be interviewed first, and the information and specific details learned from the teen can be used to interview the adult.

Law enforcement officials in Santa Clara County, California, see the initial contact with the victim as "critical" because teens usually admit to what has been going on before they realize the seriousness of the situation. It also affords the opportunity to tell the victim that she or he does not have to talk to the defense attorney, which many victims do not know.

In San Diego County, California, a law enforcement representative reported that the adults in these cases often admit to the sexual activity, failing to see what's wrong with it.

The first interviews are significant for two reasons. First, the teen and adult are more inclined to admit to the relationship when first confronted because they may not believe it is wrong. They may "explain" that no one is getting hurt. This is especially true for the young teen who may be proud of the love affair. Second, information obtained from the interview can be enormously helpful in

providing services to the victim and in prosecuting the case. The first interviews should conclude with the teen signing an affidavit swearing to the story and the adult signing any confession given. These signed documents can be used later to move the prosecution forward even if the victim or the adult becomes uncooperative and changes or recants the story (discussed below).

Collect Evidence Carefully

Collection of solid evidence, rather than relying solely on the victim's and offender's accounts, can increase the chances of successfully prosecuting cases.

From the start of the investigation, assume that the victim and the adult may change their stories to minimize what happened and avoid prosecution. To increase the chances of successfully prosecuting the case without the victim's cooperation, investigators must rely on collecting solid evidence rather than the victim's word. Below are some investigative tips from the field.

Obtain Search Warrants

Search warrants can be a very effective tool in investigating these cases. An investigator in Santa Clara County, California, recounted that young teens often like to keep mementos of the time spent with the adult or letters received from the adult, or they write about the adult in a diary.

During the initial interview with the teen and the adult, investigators should probe any physical evidence documenting that the two had sex. In many cases, a teen records information about dates and times of sexual encounters in a diary or

keeps letters (written to the adult or from the adult acknowledging sexual activity). Also check answering machine tapes saved by the teen and so on. Learn about such items early in the case. Obtain a search warrant to collect them before the teen or the adult destroys them to thwart prosecution.

To avoid the perception that the system is treating the teen's possessions as State property, arrange for a victim advocate to discuss with the teen why a search warrant may be needed. The advocate can assure the teen that the property will be returned as soon as possible.

Establish Knowledge of the Teen's Age

A common defense in these cases is that the adult did not know the victim was underage. To derail this defense, ask questions during the investigation to establish the adult's knowledge that the teen was underage. For example: Was the victim picked up at school? What did the teen and the adult talk about when they were together? Did they talk about the school day? Intermural sporting events the victim participates in? Attendance at school dances? The teen's birthday party?

Advice for interviewing victims from an investigator in Alameda County, California: Ask questions that establish the adult knew the teen was underage. Did they talk about the teen's day at school? Did the adult pick the teen up at school? Did they talk about the teen's age? Did the adult ask the teen not to tell anyone the teen was dating someone much older?

Collect Evidence About Any Baby Conceived During the Relationship

If the teen had a baby fathered by an adult, there may be a paper trail connecting that baby to the man. Who is named on the birth certificate? Who was with the teen at the hospital? If she applied for welfare, whom did she name as the father? DNA and blood tests of the baby, the mother, and the named father should be conducted to establish paternity. If the girl has an abortion or miscarries, a DNA test should be conducted on the fetus before it is destroyed.

Advice from a law enforcement representative in San Diego County, California, and a prosecutor's investigator in Santa Clara County, California: If a baby was born from the union, look for a paper trail. Conduct DNA and blood tests of the baby, the mother, and the named father to establish paternity. If the girl has an abortion or miscarries, conduct a DNA test on the fetus before it is destroyed.

Prosecution Strategies

Use a Special Unit or Specialized Deputies

The argument for establishing a special unit or training specialized prosecution deputies is based upon the same logic as having specialized investigators. As discussed earlier, having a special unit to handle statutory rape cases offers advantages. Personnel are screened to ensure the right persons are on the job, the unit provides opportunities for personnel to train and develop expertise, and the unit can develop a collaborative approach to the cases.

Get Involved Early in the Case

Many of those interviewed advised early involvement by the prosecutor in the case because it

- Encourages police and prosecutor collaboration.
- Begins the process of building rapport with the victim.
- Adds confidence to charging decisions.

Prosecutors and victim advocates should get involved early in the case—before arrest or at the screening stage or, at the latest, soon after the case is filed. Early involvement encourages the prosecutor and law enforcement officer to work together to build the strongest possible case. This may mean gathering evidence before it is destroyed or avoiding problems such as illegally obtained evidence. Early involvement allows prosecutors and victim advocates to begin building rapport and trust with the victim early in the case.

Specially trained victim advocates can help in several ways. They can identify a victim’s service needs. The advocate can discuss with the victim why the relationship is wrong and why the teen may need help if the teen does not see the need for help. With patience and time, the advocate may help the teen recognize the need for help. The advocate can also help prosecutors work with uncooperative or scared victims.

Early involvement in the case ensures filing of the proper charges. If the prosecutor becomes involved shortly after filing, the proper amendments to the charges can quickly be filed. Early involvement also gives the prosecutor the maximum amount of time to make decisions before

the “clock starts ticking” on due process time limitations.

Use Vertical Prosecution

Vertical prosecution is important in prosecuting statutory rape cases. A prosecutor in Clark County, Nevada, explained that vertical prosecution in a specialized unit allows the prosecutor to develop the special expertise needed to manage these cases. She noted that these cases take much more time because the prosecutor works with the victim and her family. These victims need more individual attention, so the deputies in her unit carry lighter case-loads than deputies who handle cases horizontally in nonspecialized units.

Specialized units and early involvement by prosecutors are natural tools to accomplish vertical prosecution. “True” vertical prosecution means the same prosecutor handles the case from the filing decision until the disposition of the case. “Partial” vertical prosecution is a variation of this and can take several forms. For example, the filing decision may be made by a screening unit and then the case goes to a prosecutor to handle through its disposition. Or, the case may be sent to a specialized unit and handled at different stages by whomever is available in the special unit. Or, in a two-tiered system, one prosecutor may see the case from start to finish in the lower court and another prosecutor from start to finish in the upper court.

True vertical prosecution has the following advantages in statutory rape cases:

- **Building Rapport and Trust With the Victim.** Having a single prosecutor manage the case from its filing to its disposition is a sensitive

approach to victims for several reasons. The victim does not have to repeat her or his story each time a new prosecutor takes the case. There is time for trust to build between the prosecutor and the victim, a process that can be greatly enhanced by bringing a victim advocate into the case early on. Building rapport is key to successful prosecution (see specific suggestions for doing so below), and it helps the prosecutor and the victim advocate assess the victim's service needs.

Prosecutors working with victim advocates can help build rapport and trust with the victim and assess needs for services. Victim advocates in Maricopa County, Arizona, work as a team with prosecutors to accomplish these goals.

■ **Keeping the Story Straight.**

Having a single prosecutor from start to finish in a case deters the victim and defendant from changing their stories each time a new prosecutor takes over. They may still change their account of what happened, but when the same prosecutor is in charge throughout, he or she can challenge the changes in the story. The same prosecutor can quickly and easily remind the victim and defendant of what they said earlier.

In Alameda County, California, the same prosecutor handles the case from start to finish. She believes this discourages the teen and the adult from continually changing their accounts of what happened. If they do change the stories, she can remind them of what was said earlier and challenge them to tell the truth.

■ **Avoiding “Shopping” for a**

Different Prosecutor. When a single prosecutor handles the case, the message is “the buck stops here.” No better offer will be coming from the next prosecutor assigned to the case because there is no next prosecutor. Having one prosecutor promotes consistency and avoids any misreading by the defense about earlier offers made by a different prosecutor.

Having the same prosecutor handle the case from start to finish has the advantage of consistency in the plea offer. A prosecutor in Santa Clara County, California, explained that having the same prosecutor throughout the case prevents defense attorneys from “shopping” for a better deal from a new prosecutor assigned to the case.

Interview the Victim Using a Team Approach

We heard from the field that it is a good idea to interview young teens using a team composed of the prosecutor, the investigator, and the victim advocate. Why? There are several benefits. The victim may relate better to one person than to another and that person can take the lead during the interview. Working as a group, the team can “play off” one another, helping the young teen realize she or he is a victim. Each professional benefits from the team interview—the investigator can establish the facts, the prosecutor can take the facts and put them together convincingly for the judge and jury, and the victim advocate can attend to the victim's needs and support her or him through the process.

In Alameda County, California, the prosecutor, her investigator, and her victim advocate meet with the victim (and the teen's parents/caretakers, if appropriate) as soon as possible after the case is referred to their office. The initial interview lasts about 1 hour. They work as a team to convince reluctant victims that a crime has been committed and the teen has been wronged (sometimes playing "good cop-bad cop" to get the point across). They see the team approach as critical because the teen may relate to one of them better than another. It also allows each professional to cover the topics they need covered to do their individual jobs—the investigator to obtain the details needed to collect the evidence, the prosecutor to determine what crime(s) have been committed, and the victim advocate to find out what services the young teen needs. The teen is told that the victim advocate is there to help obtain services; the investigator to gather the facts and evidence needed; and the prosecutor to prosecute the case. Questions the teen has about services should be addressed to the victim advocate; about the investigation, to the investigator; and about the prosecution, to the prosecutor. However, the group emphasizes that it works as a team and the victim may call any one of the members to discuss the case.

Use Expedited Prosecution

Several prosecutors told us that they try to expedite the case. A prosecutor in Santa Clara County, California, noted, "We always demand a speedy trial. The case only gets weaker as time passes and the teen ages."

Prosecutors tell us that, generally, a case gets weaker with the passage of time. This is especially true for statutory rape cases. Given time, the teen may recant the story, sometimes because of the coniving or intimidation of the adult. Over time, the victim grows older. Judges and juries find it more difficult to see the victim's vulnerability as she or he ages and matures. Knowing this, the defense may try delaying tactics. Prosecutors can counteract this by being ready to proceed each time the case is on the calendar. Vertical prosecution avoids delays because no new prosecutor will be assigned the case and need to "get up to speed." Another strategy for expediting cases is to offer the defendant a "best deal" at the beginning of the case. The longer the case drags on, the more punitive the offers become.

Be Prepared To Deal With the "Cultural" Argument

Another strategy the defense may use is to characterize the sexual behavior of the adult and young teen as accepted "normal" dating behavior in their particular culture. The defendant may actually marry the victim in a location where the youth's age does not prohibit the marriage, hoping this stops the prosecution. Prosecutors need to be aware of these possibilities and decide how they will deal with the "cultural" argument and "married" victims.

Prosecutors should consider their response to cultural arguments the defense may raise. A prosecutor in Imperial County, California, reported that the defense sometimes argues that a sexual relationship is not wrong if it is part of the girl's and man's culture of origin. The prosecutor counterargues that this is not true and uses testimony of university professors as expert witnesses to dispel

cultural myths raised by the defense. A prosecutor in Santa Clara County, California, argues that to allow the excuse that society should ignore statutory rape cases because it is part of the couple's culture of origin is simply a way of turning our backs on victims. She reasons that in all cultures, child molestation is usually wrong and sex is usually within the confines of marriage, even in cultures where this happens at a young age. Even if the practice is common in other cultures, the Santa Clara prosecutor stated that people do not have the right to pick and choose which parts of their heritage they want to continue once they come to the United States and are subject to the rules of our country. For example, the Mormons once practiced polygamy as part of their religion, but ceased the practice when the U.S. Supreme Court ruled it illegal.

The prosecutor must decide how to handle cases in which the teen and adult are married before the prosecution ends. This happens because some defendants think if they marry the teen, they will not be prosecuted. The Santa Clara County, California, district attorney decided that marriage would be viewed as a "nonevent," having no impact on the prosecution of the case.

Working With and Helping the Victim

The outward "tough" appearance of some statutory rape victims belies their vulnerable state. A prosecutor in Onondaga County, New York, argues that no matter

how difficult or belligerent the victim becomes, the focus must remain on the actions of the perpetrator. Otherwise, there is a risk of blaming the victim.

From the time the first officer talks to the young teen through followup investigations and the prosecution, a message is being sent to the victim about how the system feels about her or him and how the system interprets her or his involvement with the adult. Even though some of the victims appear "tough" and "street-wise," underneath they are young teens and often have very low self-esteem. Investigators, victim advocate professionals, and prosecutors need to look beyond the facade and find that young teen who needs protection and help. Victim advocates who specialize in working with these young people can be invaluable in developing rapport with the victim and identifying her or his needs. Early and continual involvement by advocates is paramount. Some suggestions for working with victims of statutory rape are presented below.

Listen to the Victim

Prosecutors and advocates need to take the time to listen to the victim's concerns, needs, and wishes regarding disposition of the case. Most prosecutors interviewed for this *Training Guide* reported that they discuss with the victim, often together with the victim advocate, what the victim wants to happen in the case. The prosecutor and advocate explain to the victim that the ultimate decision about prosecuting the case rests with the prosecutor. They tell the victim that if the adult threatens the victim or tries to dissuade the victim from pressing charges, the victim can honestly say it was the prosecutor's decision. It is hoped that this will protect the victim from harassment by the adult.

Many prosecutors reported that although the decision of whether to prosecute is ultimately theirs, they urged that the victim's wishes be heard and considered. For example, a prosecutor in Dade County, Florida, said she is very concerned about the victim. The desires of the victim and the family are always taken into consideration, even though the prosecutor ultimately makes the decision of whether to prosecute.

The Onondaga County, New York, prosecutor in charge of statutory rape cases recognizes that the victim is "susceptible to the manipulation of the perpetrator." He advises investigators and prosecutors to "relate to the teen without appearing condescending or judgmental" and to "strike a delicate balance between the wishes of the victim and the wishes of the parents," who may desire different outcomes in the case. The point is to provide the victim some input into the process. This may result in victim cooperation and a conviction of the perpetrator.

Young teens often do not think sex is forced unless the adult beats them into submission. A prosecutor in Alameda County, California, discusses with the young teens other ways in which an adult may have forced the sex. She does this because she has found that some of the teens are also victims of domestic violence. The prosecutor and the teen need to realize this. The prosecutor works with the victim advocate to obtain services appropriate for domestic violence victims.

The issue of force and coercion should be raised because some young teens who are having sex with adults are also victims of domestic violence by the adult. Prosecutors and victim advocates need to know this. At a humanitarian level, such knowledge can help prosecutors and victim advocates refer the victims to domestic violence services. At a practical level, prosecutors with such knowledge can expect that these victims may display many of the syndromes associated with victims of domestic violence, including changing their minds about cooperating with the prosecutor. Knowing this, prosecutors and victim advocates can use the techniques employed in domestic violence cases to work with uncooperative victims, including empowering the victim.

Empower the Victim

Many young teens who are having sex with adults have very low self-esteem and minimal support systems. Prosecutors and victim advocates can help empower these victims by calling upon any supportive people in the victim's life or helping to create a new support system.

A common comment heard from prosecutors was that young teens involved in

Some prosecutors noted it is particularly important to ask questions about any forced sex by the adult. They explained that young teens often do not recognize elements of force. For example, they may not describe the sex as forced unless the adult physically beats them into submission. However, if queried further, the teen may admit having sex with the adult when she or he did not want to because she or he was afraid the adult would beat her or him (as the adult may have done in the past) or because it was easier than suffering the consequences of the adult's anger.

sexual relationships with adults often have low self-esteem. A prosecutor in Marion County, Indiana, concluded that this makes prosecution very difficult. A plan for building the victim's self-esteem should be developed by the victim advocate, the prosecutor, and the victim.

The Rape Crisis Center in Onondaga, New York, tries to encourage the teen to maintain as much control over her or his life as possible. In the interview, they ask the teen how she or he feels about the relationship with the adult and how her or his feelings changed as the relationship progressed. In this way, the victim looks clearly at the relationship and decides for herself or himself whether it is a positive or negative experience.

Engage the victim's support system to help the teen through the court process. Victims should be encouraged to discuss whom they rely on for comfort and guidance. These people can help support the victim and the case. For example, an investigator and prosecutor in Alameda County, California, encountered a victim whose mother was too weak to support her daughter's testifying in court because the mother had been a victim of domestic violence and was having difficulty dealing with the violence in her daughter's relationship with the older man. The investigator and prosecutor learned that the girl relied heavily on her aunt for support. Therefore, when she had to testify at a preliminary hearing, the investigator offered to drive the victim and her aunt to the court so she would have "someone she trusted at her side."

- **Use the Victim's Support System.** One reason statutory rape victims fall prey to adults in the first place is that many of these victims have little or no support system. If victims do have supportive people in their lives upon whom they count for guidance and comfort, then the prosecutor and victim advocate should find out who they are and contact them. The support and help of these individuals can help victims get through the legal proceedings and put their lives back together. Supportive individuals from the victim's life can also be very helpful to the prosecutor and the victim advocate if the victim decides not to cooperate or becomes fearful of the prosecution. Engaging the help of supportive people the victim trusts early in the process can save the case if the victim—and thus the case—begins to fall apart.

- **Create a New Support System.** Some victims may have very weak support systems or none at all. Prosecutors and victim advocates can help build victims' self-esteem by referring them to services that provide new avenues of support, such as mental health services, peer counseling groups, education programs, parenting programs (for victims with children), life skills programs, and self-esteem courses. These services can boost the teens' confidence and help them make more appropriate life choices. A less obvious route according to some prosecutors and counselors is to encourage victims to join a team sport. Team sports can teach discipline, create friendships, build confidence, provide a healthy environment for having fun, and highlight the importance of relying on team members to accomplish a group goal.

The importance of obtaining many different types of counseling for victims was reiterated time and again by investigators, prosecutors, and victim advocates. Many described a wide range of services in their county that have sliding fee scales for victims who cannot pay. In some places the counseling is paid for by the system. For example, in Clark County, Nevada, the victim advocate program pays up to \$1,000 per victim for counseling. It is important to make referrals, but just as important to follow up to determine if the victim received the help needed. In Jefferson County, Kentucky, the victim advocate or the prosecutor follows up with victims to ensure they obtain counseling or services.

Staff in the special prosecution unit in Alameda County, California, are ardent believers in the value of getting victims to take up a team sport. Based on research that links self-esteem building to sports and fitness, the prosecution staff worked with the Downtown Oakland YMCA to get victims into team sport activities. From that association came a project called FutureChoice, which was designed to raise self-esteem of adolescents through physical activity and fitness. FutureChoice also includes life skills training, tutoring, an SAT preparation course, and mentoring programs.

The important thing is to provide victims with treatment choices and encourage them to follow up on referrals to services. You may have to discuss required services with victims several times because their needs may vary as the case proceeds and may change based on what else is happening in their lives. Advocates can be especially

helpful in working with victims to develop treatment plans together.

Keep in Touch With the Victim and Inform the Victim About Case Developments

In many cases, victims will not have to testify at a grand jury, preliminary hearing, or trial because the defendant will plead guilty. Thus, conceivably only the prosecutor or the advocate will see victims or talk to them by phone at the start of the case. While it is possible to obtain convictions with minimal contact with victims, it is not good practice. Victims have rights in most States to be kept informed by the prosecutor or the victim advocate about what is happening with the case. Victims should be told when the arrested defendant is released from custody. The adult may be angry at the victim for incarceration and may try to retaliate.

Many States have enacted victim rights legislation that spells out the rights of victims, including the right to be kept informed of case decisions. Prosecutors, investigators, and victim advocates have taken those rights to heart. For example, in Phoenix, Arizona, by law, they explain to the young teens the victim's right to be kept informed.

Knowing when the defendant will be released gives victims time to develop a safety plan. For example, victims may avoid places where they are likely to encounter the defendant; arrange with friends or family not to be alone; or take up temporary residence at the home of friends or family to avoid the adult. Victim advocates skilled in helping victims of domestic violence are an excellent resource when working with statutory

rape victims to develop an individualized safety plan.

Victims should be consulted before a plea agreement is reached. To achieve victim empowerment, a victim's opinion should be heard even though the prosecutor is responsible for deciding what is in the best interest of justice. Certainly, the victim should be told the outcome of the case by the prosecutor or victim advocate.

There are practical reasons to keep in touch with a victim throughout the case. A victim may change her or his mind, sometimes several times, about cooperating with the prosecution. To be prepared to prosecute with an uncooperative victim, the prosecutor needs to know the victim's mindset. In addition, only by staying in touch with the victim can the prosecutor and the victim advocate be certain the victim is receiving appropriate services. As the case proceeds, the victim's need for services and receptivity to services will change. By staying in touch with the victim, the prosecutor and the victim advocate can recognize and address the victim's changing needs.

Prosecutors may have to proceed in a case with an uncooperative victim. By keeping in touch with the victim throughout the case, prosecutors can assess the victim's willingness to cooperate. Should the victim change her or his mind about prosecuting, the prosecutor can prepare an appropriate prosecution strategy.

Followup After the Case

Although not compelled to do so, some dedicated prosecutors and victim advocates make outreach efforts to victims after their cases are over. Followup to see how the teen is doing and how services

are working can go a long way in communicating to the victim that the prosecutor and victim advocate really care about what happened and are interested in the teen's future.

Followup with victims after the cases are over communicates to victims that people in the system care. In Alameda County, California, the investigator purchases Christmas cards for all victims seen by her unit and has the prosecutor sign the card in addition to herself. She reports receiving "thank you's" in response to some of the cards she sent. She learned that, for some of the young teens, the card from their office was the only card the teen received.

In Alameda County, California, the following contact occurred between a victim of statutory rape and the prosecutor after the case. Earlier the prosecutor had called the victim's mother about the case outcome and the mother told the prosecutor about the victim's suicide attempt. When the prosecutor called to inform the victim of the case outcome, she took the opportunity to ask the victim why she had been so depressed and to ask if the counseling was helping. The victim said the counseling was helping. The prosecutor said she would call the teen back in 1 month to discuss a book the teen was reading at the prosecutor's urging. The prosecutor said they could also discuss what team sport the victim had chosen at that time. Again, the prosecutor had previously urged her to join a team sport.

Sentencing Strategies

Have the Offender Evaluated

When considering a sentencing offer, the prosecutor and the judge who imposes

the sentence can be greatly aided by a psychological evaluation of the defendant. Particularly important is identifying whether the adult is a predatory sex offender, a child molester, or an individual attracted to a particular underage teen. Prosecutors and judges explained that answers to these questions are critical in determining who should be sent to jail or prison and/or placed on probation. Further, the conditions (sex offender treatment, batterer treatment, parenting classes, mental health counseling, etc.) and length of probation depend on the answers to these questions.

Prosecutors and judges talked about the importance of having the adult evaluated to assess whether the adult is a predatory sex offender, a child molester, or an individual who became attracted to a particular underage teen. This information was described as critical in making a sentencing decision.

Some jurisdictions prepare a psychological evaluation that is separate from a PSI (pre-sentence investigation). Other jurisdictions combine the two. Critical information obtained in a PSI include the defendant's past criminal history, including other sexual offense charges; drug and alcohol dependency; employment history; financial ability to pay restitution and child support to the victim in appropriate cases; remorse for what he or she did to the victim; and a victim impact statement. All of this information is needed to make wise sentencing choices.

In statutory rape cases in California, the prosecutor may request and the judge may order a psychological evaluation of the

defendant (a 1203.03 report). In Alameda County, this is routinely requested and granted. The evaluation is prepared by a psychologist in the State prison. The defendant may spend up to 60 days in prison while awaiting the completion of the evaluation. One of the prosecutors noted that this gives the defendant "a taste of prison time" that may help him realize the seriousness of his actions.

Ensure Consistency

Imposing sentences on perpetrators convicted of statutory rape serves several purposes, including punishing the offender, sending out the message that the behavior is unlawful, enforcing the law, and preventing further victimizations. The communication of prosecutorial protocols and practices to assistant district attorneys and police officers will encourage them to work together, ensuring greater consistency in charging. Police officers responsible for arresting perpetrators of statutory rape should be encouraged to confer with prosecutors about the appropriate charges to file.

In Onondaga County, New York, the prosecutor's goal is to send a message of accountability to adults and raise awareness that engaging in sexual activity with a teen is wrong. To that end, the felony arrest charges may be reduced to misdemeanor sexual misconduct charges if the perpetrator pleads guilty. The penalty associated with this charge is usually 3 years of probation and an order to stay away from the victim. Counseling for sex abuse or drug/alcohol abuse may also be ordered. If the victim has a child by the perpetrator, the father will not be incarcerated if he will agree to support the child and mother financially and/or

emotionally. In a random sample of 25 statutory rape cases prosecuted in Onondaga, New York, in fall 1997, 14 met the prosecutor's criteria for reductions to a misdemeanor (3 years of probation, with or without counseling or some jail time of from 60 to 365 days).

Educate Judges

Many prosecutors have stressed the importance of educating judges about the seriousness of statutory rape cases, the dynamics in such cases, and the impact on the victims. This general education can be bolstered in individual cases. Most judges do not see the young teens because most cases do not go to trial. The young teen may be in court at the time of sentencing and may make an oral victim impact statement, but, for the most part, the prosecutor provides the link between the victim and the judge. Thus, the prosecutor needs to tell the judge about the crime's impact on the victim, ensuring the judge considers this critical piece of information when determining the sentence.

A judge in Onondaga County, New York, believes in punishment, which she says depends on the defendant. If the defendant will work and support any offspring, then she'll consider probation, weekend jail time, and therapy through Child and Family Services. She believes these adults are child abusers.

A judge in Santa Clara County, California, acknowledged that he had to examine some of his own attitudes about statutory rape when he started presiding over these cases. He said the prosecutor did an excellent job of "educating" him.

Consider Treatment Needs of the Victim and Offender

Both the offender and the victim may need treatment for what happened. Victim services were discussed previously in this document. The defendant may need help in acknowledging responsibility for his or her sexual behavior and counseling to deter him or her from turning to another young teen for illegal sexual activity. The men and women who use young teens may have problems including low self-esteem, experiences of abusive childhoods, poor job skills, drug and alcohol problems, poor interpersonal skills, and other problems that contributed to them seeking underage teens rather than partners in their own age group. The criminal justice system has the power to order treatment as well as to punish.

The adult involved in statutory rape may also need some help to make him or her a responsible person and to stop him or her from turning to another young teen for illegal sexual activity. The adults who use young teens may have low self-esteem, experiences of abusive childhoods, poor job skills, drug and alcohol problems, poor interpersonal skills, and other problems that contributed to them seeking out an underage teens rather than seeking out partners in their own age group. The criminal justice system has the power to order treatment for as well as to punish the adult. The prosecutors and judges interviewed in preparing this guide were acutely aware of this.

Order Restitution and Child Support as Appropriate

A defendant who can make restitution payments to the victim should be ordered to do so. It is one way to make him or her responsible for the harm inflicted. Restitution can help defray the costs of services for the victim. If the victim gave birth to the defendant's child, child support needs to be paid. In some jurisdictions, this may be a condition of probation or a condition of the sentence. Other jurisdictions see this as a civil matter not to be confused with the criminal case. Each jurisdiction must decide how the child support issue will be addressed.

Restitution and child support orders (if appropriate) are two ways to make adults responsible for their actions. Restitution is routinely ordered in these cases in Clark County, Nevada. Child support, when a baby is born from the union, may be ordered as a condition of probation, or a paternity stipulation may be a condition of the plea. In San Diego County, California, prosecutors require, as a condition of the plea, that any man who fathered a child with the victim sign an admission of paternity. The admission is sent to the Bureau of Child Support Enforcement. This eliminates the time and costs entailed by the Bureau in establishing paternity, thus expediting orders for child support.

probation, it is often the responsibility of the probation department to monitor these provisions. If they are imposed as a condition of the sentence in lieu of jail or probation, some person must oversee that the conditions are met. As shown in previous studies, just ordering the offender to undergo treatment, to stay away from the victim, and to pay restitution and/or child support is not enough. These things need to be tracked and enforced, and the offenders who violate these orders must be punished if these orders are to have any real meaning (Davis, Smith, and Hillenbrand, 1991; American Bar Association, Final Report to the State Justice Institute, 1989).

Conditions of the sentence need to be tracked, monitored, and enforced if they are to be meaningful. Previous studies document that simply ordering the defendant to do something without an enforcement mechanism does not work for many defendants.

Be Aware of the Need To Enforce the Conditions of the Sentence

It is not enough to order that the defendant receive treatment, stay away from the victim, and pay restitution and/or child support. Some person must be responsible for ensuring these things happen. If the defendant is placed on

Conclusion

According to police personnel, victim advocates, prosecutors, judges, and service providers interviewed during site visits and surveyed by telephone, the advice in this *Training Guide* has increased rapport and collaboration among agencies, has increased reporting of statutory rape cases, and has improved prosecution of these cases. Equally important, we uncovered suggestions on ways to improve the treatment of these especially vulnerable victims, to obtain needed services to improve their self-esteem and life skills, and to break the cycle of violence. Early, continual, and thoughtful intervention by trained victim advocates is critical to the process.

The activities suggested in this *Training Guide* require a commitment of time, effort, and resources. More significantly, they require the willingness to sometimes undertake more work than is described in one's job description. To lessen the burden on any one individual or agency, use a multiagency task force to identify and assemble the names of persons and resources in all agencies responsible for and concerned with the welfare of young adolescents, including police, prosecutors, victim advocates, media representatives, school officials, welfare agencies, medical and mental health providers, service providers, and others. Working collaboratively and using the ideas in this *Training Guide*, this pool of talented, interested, and dedicated persons can do a great deal toward solving the problems and helping victims of statutory rape.

OVC

Victim-Oriented Multidisciplinary Responses to Statutory Rape Training Guide

For copies of this guide and/or additional information, please contact:

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