

PRESENTATION TO STATE BOARD OF SOCIAL SERVICES REGARDING SURVEY  
RESULTS OF AUDIO TAPING AND VIDEOTAPING CHILD PROTECTIVE SERVICES  
INTERVIEWS WITH CHILDREN AND WITH ALLEGED ABUSERS

Purpose: Since the State Board of Social Services is currently considering proposing regulations to mandate that Child Protective Services workers, as part of the investigations process, tape-record all interviews with children -- victims as well as collateral witnesses, and to offer audiotape-recording services to alleged abusers, the Board suggested I survey other states to determine how they may handle this type of tape-recording.

Method: I mailed a survey questionnaire to the other (besides myself) 28 State Liaison Officers for Child Abuse and Neglect. I received 12 responses back.

Survey Results: Of the respondents, only two states, Minnesota and Louisiana currently require tape recording. Of the two, Minnesota has the most comprehensive policy as a result of their 1995 Child Protection Information Collection Procedures Law. I will discuss these two states further in a moment. None of the remaining 10 states responding to the survey requires taping, although five of them do utilize some tape-recording during interviews.

1. ARKANSAS, 2. NORTH DAKOTA, AND 3. WASHINGTON STATE provided no information other than they do not mandate the tape recording of interviews.

4. In MONTANA, social worker child protection teams make decisions on the method of the interview. When children are videotaped in Montana the CPS worker must show the family the unedited videotape with audio track. Upon completing the videotaped interview, the tape is given to the county attorney's office. In Montana, when serious physical and sexual abuse cases result in criminal charges, and the criminal defendant is entitled to constitutional protection, the county attorney decides how the interview with the perpetrator will be handled, and whether the social worker or the law enforcement officer will conduct the interview.

5. In FLORIDA, when a serious child abuse case involves law enforcement, the CPS team analyzes medical, psychological, and family dynamics to determine who will perform the interview and whether or not it will be audio or videotaped.

6. In WYOMING CPS workers determine whether or not to tape-record on a case-by-case basis. There is no statewide policy regarding this.

7. In WEST VIRGINIA when law enforcement and CPS jointly conduct an investigation, it is coordinated by a multi-disciplinary team, and frequently law enforcement will utilize both audio and videotaping of children and abusers.

8. In SOUTH DAKOTA, any recording is done by law enforcement.

9. Likewise, in GEORGIA, local law enforcement conducts most tape-recordings. Taping is a local option, depending on circumstances. Georgia CPS and law enforcement videotaped many more interviews in the past than it does now. Georgia's experience with videotaping interviews has provided at least as many problems for cases as it has helped. Witness preparation, leading questions, chain of evidence, tape security are just some of the issues significantly complicating taping in Georgia.

10. In VERMONT the Human Services Board hears appeals of substantiated CPS complaints. If there is no transcript of taped interviews, the appellant is entitled to a "de novo" hearing.

11. In MINNESOTA the law states that there must be audio recordings of all interviews with witnesses and collateral sources whenever possible. Telephone calls may be considered interviews and should be recorded whenever possible. Workers

need to consult with the county attorney on implementing the procedure.

After a report is accepted for an assessment (they perform "assessments" rather than "investigations") reporters should be considered collateral contacts and therefore interviews should be audio taped, even if a written report by the reporter will follow. Alleged offenders and victim children are audio taped whenever possible. Victim interviews may also be videotaped. If telephone calls are recorded, agencies should consult with their county attorney's office regarding any disclosure statement to be read to parties being recorded to tell them about the recording and their rights to the information recorded.

If the person refuses to be recorded, the CPS worker documents in the record why they did not tape the interview and then continue with the interview without taping.

The Minnesota law does not specify any preferred or required tape recording equipment. Counties have discretion in the equipment they purchase.

A tape is treated the same as data collected in other media, and even after transcription must be retained according to existing record retention schedules.

If an interview is recorded by a cooperating law enforcement agency, it is not necessary to get a copy of the tape for the child protection record. If the law enforcement agency records the interview and wants or needs to maintain possession of the tape, then the county CPS agency should document that the interview was recorded and where the recording is located.

In Minnesota, the subject of the data has the right to review data regarding themselves. However, if the tape contains data on others, that information is protected. Keeping data on others as private or confidential does pose difficulties. Counties are encouraged to seek the advice of their county attorney in developing a policy regarding the disclosure of this data. Tapes of interviews with children are usually confidential unless there is a court order to the contrary.

When more than one investigating agency is conducting an investigation, such as in joint investigations with licensing, or with police, only one tape is required. The agency which keeps the case record should generally keep the tape. However, all parties may need to keep a copy of the tape. The county attorney is involved in determining the process for this issue.

12. The LOUISIANA Legislature has mandated the taping of all interviews of the child or his parents conducted in the course of

a CPS investigation, if requested by the parent, as per Article 612 of the Louisiana Children's Code. Louisiana policy requires all workers to be prepared to audio tape record all of the interviews with the alleged child victims and parents or caretakers. Parents are advised by the worker of the opportunity to request the taping of the investigation by means of a notification form. This same notification form shall document the parent's decline to have the interviews tape recorded.

In situations in which it is necessary for the best interest of the child to interview the alleged child victim prior to the first face-to-face contact with the parent or caretaker, the worker should assume that the parent would request audio taping and do so. When informed of the tape recording, if the parent does not want subsequent interviews taped, they will not be. But once an interview is taped, it is part of the case record and cannot be destroyed.

All tapes of interviews shall be kept in the case record in a manilla envelope. The tapes are not to be routinely transcribed. Consistent with Louisiana confidentiality laws, parents may not be provided the tape, nor a copy of the tape, nor a transcript, nor an excerpt.

Louisiana law requires that all records and information regarding an investigation determined to be unfounded must have all identifying information deleted and be sealed for three years pending destruction. Therefore, any audiotapes for unfounded investigations are destroyed upon completion of the investigation.

Child protective services investigation workers do not currently videotape investigation interviews. Some local law enforcement agencies are videotaping and CPS investigation workers are assisting with those efforts as needed or requested.

Conclusions: Most states do not require taped interviews for CPS investigations, and allow discretion to the CPS worker regarding appropriateness of taping on a case by case basis. In states that utilize taped interviews, usually it is with investigations being jointly conducted with the police, with the police investigators leading the taping effort according to police protocol.

Practical issues such as huge expense for tapes and equipment and storage, have deterred legislative bodies in three states, in the last two legislative sessions to abandon efforts to require taped interviews. These states are Florida, Montana, and Washington.

Florida estimated it would cost the state \$885,000 to issue 830 CPS workers tape recorders and tapes, taking into consideration a cost of \$50 per recorder, tapes for 10,000 reports a year, 80,000 tapes at \$1.25 apiece, and storage space.

Issues of confidentiality, security and dissemination are issues that are currently addressed on a case-by-case basis by county attorneys. States have been unable to come up with a workable state-wide policy regarding these issues, even in Minnesota where every interview is tape-recorded. Only Louisiana appears to have addressed some of these issues in state-wide policy.