



NEW YORK STATE
CHILDREN'S JUSTICE TASK FORCE

FORENSIC INTERVIEWING BEST PRACTICES

NEW YORK STATE CHILDREN'S JUSTICE TASK FORCE

A multidisciplinary, multi-agency group of professionals with the mission to reduce trauma to children by improving the investigation, adjudication, and management of child abuse and neglect cases through improvement of coordination of responses, provision of services and coordination of policy regulations.

ACKNOWLEDGEMENTS

The publication of the *New York State Children's Justice Task Force Forensic Interviewing Best Practices* was made possible by funding from the United States Department of Health and Human Services, Administration on Children, Youth and Families, Children's Bureau, Office on Child Abuse and Neglect under the Children's Justice Act. The New York State Office of Children and Family Services administers the Children's Justice Act Grant Program. The *New York State Children's Justice Task Force Forensic Interviewing Best Practices* was developed with a grant through the New York State Office of Children and Family Services to the New York State Child Advocacy Resource and Consultation Center, a program of Safe Horizon Inc.

The form or content of the *New York State Children's Justice Task Force Forensic Interviewing Best Practices* may not be revised or otherwise altered in any way without the expressed written consent of the New York State Office of Children and Family Services.

First edition, printed December 2003
Editing by Trish Booth
Cover design by Gemma Mitchell

This publication was made possible from the Children's Bureau, Administration on Children, Youth and Families, United States Department of Health and Human Services. The contents are solely the responsibility of the authors and do not represent the official views or policies of the funding agency, nor does publication in any way constitute an endorsement by the funding agency.

PROFESSIONAL ENDORSEMENTS

It is with great pride that the Office of Children and Family Services and the New York State Children's Justice Task Force issue this important document. There is no more important task for this Office than improving the safety and well being of our children and families. The *New York State Children's Justice Task Force Forensic Interviewing Best Practices* will assist professionals responsible for the investigation and interagency coordination of child abuse cases, particularly sexual abuse cases. I am confident that the [guidelines] presented in this document will lead to better outcomes for children that have been abused or neglected.

John A. Johnson

Commissioner

New York State Office of Children and Family Services

The guidebook will be a wonderful asset for training purposes and will serve as a great resource for all practitioners who investigate crimes against children, especially for those of us in law enforcement.

James W. McMahon

Superintendent

New York State Police

I applaud your continuing efforts to develop state of the art [guidelines] of good practice.

John C. Yuille, PhD

Author of the Step-Wise Interview

University of British Columbia, Canada

This document is user friendly and clearly lays out the goals and process for a thorough and comprehensive forensic interview. We believe that case practice in this area will greatly benefit from this guidebook.

William C. Bell, MSW

Commissioner, New York City Administration for Children's Services

Prevent Child Abuse New York, Inc. strongly endorses the *New York State Children's Justice Task Force Forensic Interviewing Best Practices* guidebook. The vast expertise and experience of the members of the Steering Committee and Task Force has resulted in a guidebook that effectively articulates effective techniques for forensic interviewing. The book's reader-friendly, accessible format and clarity particularly impress us. Both novice and experienced interviewers will find it a very valuable resource. Thank you for this excellent contribution to the field.

Christine S. Deyss, MS

Executive Director

Prevent Child Abuse New York

We strongly endorse the effort of the Children’s Justice Task Force to provide a benchmark for the standardization of guidelines for professionals who conduct forensic interviews with victims of child abuse. This effort recognizes that forensic interviewing is a discrete skill that is the responsibility of professionals with varied backgrounds, including law enforcement, social services, medicine, mental health, and victim advocacy. Standardization of guidelines enables communities to provide consistent, high quality services while retaining flexibility to allocate professional resources based on local need.

Christina Kirchner, LSW, and Anne Lynn, ACSW

Executive Director and Project Director

National Children’s Alliance, Northeast Regional Children’s Advocacy Center

I commend the NYS Children’s Justice Task Force for taking on this difficult task and paving the way for the future safety of child victims across the State by the development of such detailed, comprehensive, and child-friendly practice guidelines.

Edward Suk, CSW-R

Chairperson

New York State Children’s Alliance

The [guidelines] will help forensic interviewers more readily understand the difficult issues involved in interviewing children, such as developmental issues, so that they may more easily discern the truth in child abuse cases. The [guidelines] will also help forensic interviewers avoid many of the pitfalls, such as issues of child suggestibility and cultural diversity, which can make or break a case, or which can otherwise result in miscarriages of justice.

Robert Conflitti, JD

Attorney and Child Abuse Prosecution Liaison

New York Prosecutors Training Institute

...from a judicial perspective, this appears to be a very practical guide of the investigation of possible child abuse and the interview of the child victim. The step-by-step protocol utilized has the laudable goal of minimizing the trauma to the victim while providing accurate information to the investigator.

Honorable Sharon S. Townsend

Administrative Judge, Eighth Judicial District

[The guidelines] will set a standard that is sorely needed in this State and others around the country related to the investigation and prosecution of allegations of child abuse especially related to child abuse. I am especially grateful that full attention was paid to the issue of diversity and individuals with disabilities, as both areas pose significant challenges for the field as a whole.

Christine Pawelski, EdD

Associate Professor and Program Head, Graduate Special Education Program

Brooklyn College, City University of New York

Although a number of physicians are not forensically trained, they clearly need to make Best Practices their own, if they ever intend to examine a child who is allegedly abused. We need to sensitively and forensically ask the developmentally appropriate, open-ended questions in the manner so well outlined here. Our goal medically is more focused, but the tools are the same, and this Best Practices details them perfectly. It is invaluable to any provider examining an abused child.

Jack Coyne, MD

Clinical Associate Professor of Pediatrics of SUNY at Buffalo
Medical Director of the Child Advocacy Centers for Erie, Niagara and Genesee Counties

The Forensic Interviewing Best Practices...and related training initiative will help promote more consistent and forensically sound interview practices for sexually abused children in New York State. This [guidebook] adds to the list of accomplishments by the state over the past 20 years in promoting improved multidisciplinary coordination for child abuse investigations...and should prove useful for professionals working on those teams and in the many Child Advocacy Centers that have opened during that time.

Jane A. Barker, LCSW

Chief Program Officer, Safe Horizon
Children's Justice Task Force Member

The Forensic Interviewing Best Practices...has included input from a diverse team of professionals (Law Enforcement, CPS, Medical, Mental Health, prosecutors, etc.). I would recommend that it be used to train all professionals who are involved with investigating cases of child sex abuse in New York State. Uniform acceptance by investigators (Law Enforcement and CPS) will go a long way in providing consistency throughout New York.

Kenneth J. Lau, MSW

Project Director, Children FIRST, Fordham University

This [guidebook] is an important step in our efforts to provide quality interviews to children suspected to be victims of child abuse. When interviews are combined with well functioning multi-disciplinary teams in the child-friendly atmospheres of the Child Advocacy Centers, New York State is much better prepared to meet the needs of children and their non-offending family members when child sexual abuse is suspected.

Gordon J. Campbell, JD, MPA

CEO, Safe Horizon

Gathering accurate and complete information in a non-leading and non-suggestive fashion is the hallmark of forensic interviewing practices. However, avoiding and minimizing further trauma to a child victim is also paramount. This guidebook demonstrates that it is possible to do both. It is an essential tool for all professionals who investigate and prosecute allegations of child abuse.

Ama Dwimoh, JD

Chief, Crimes Against Children Bureau
Kings County District Attorney's Office

CONTRIBUTORS

NEW YORK STATE CHILDREN'S JUSTICE TASK FORCE MEMBERS

Chair: Richard Nells, MSW

Coordinator: Thomas Hess, BA

Jose Alfaro, MSW

Jane Barker, ACSW

Michael Bigley, MSS

Ann Botash, MD

Sr. Inv. John Brooks, MA

Anne Cadwallader

Zeinab Chahine, CSW

John Eggleston, Esq.

Janet Fink, Esq.

Richard Hamill, Ph.D

Brenda Hart, ACSW

Hon. Kathleen Hogan

Christine Larkin, BA

Margaret McHugh, MD

Hon. Sondra Miller

Christine Pawelski, Ed.D

Kevin Revere, BS

Davin Robinson, MA

Barry Sherman, Ph.D

Hon. Sharon Townsend

Eileen Treacy, Ph.D

Darlene Ward, MA

Gwen Wright

FORENSIC INTERVIEWING STEERING COMMITTEE

John Brooks, MA

Lynn Carlson, BA

Renee Roman, CSW

Paul DerOhannesian II, Esq.

Diane Erne, BA

Richard Hamill, Ph.D

Thomas Hess, BA

Katherine Maciol, CSW

Kevin Revere, BS

Christine Schoonmaker, MA

Eileen Treacy, Ph.D

Anita E. Welborn, CSW

NEW YORK STATE CHILD ADVOCACY RESOURCE AND CONSULTATION CENTER

Christine Schoonmaker

Anita E. Welborn

Melissa Alvarado

Shana Peiffer

NEW YORK STATE OFFICE OF CHILDREN AND FAMILY SERVICES

Thomas Hess

Anne Johnson

Terry Moskowitz

Judy Tomisman

FORENSIC INTERVIEWING STEERING COMMITTEE

The Children's Justice Task Force would like to express its appreciation to the Steering Committee for their expertise and applaud their commitment to develop the New York State CJTF Forensic Interviewing Best Practices.

Senior Investigator John H. Brooks

New York State Police

John Brooks has served with the New York State Police since 1985. He was appointed to the Bureau of Criminal Investigation in 1991. His tenure in the BCI has included assignments to the New York Drug Enforcement Task Force and to Criminal Units in the northeast region of New York State. In 1999 he was appointed Senior Investigator in charge of the New York State Police Child Abuse and Exploitation Unit, providing investigative support, assistance and training to State Police personnel and other agencies in sex offenses, child abuse and exploitation, and related domestic violence issues. He has served on the faculty of the National District Attorneys Association's *Silenced Voices* course on interviewing adult victims of sexual assault. He is the recipient of a 2001 Special Ally Award from the New York State Coalition Against Sexual Assault, and has been recognized by the New York State Broadcasters Association for his work on the New York State AMBER Alert program. Senior Investigator Brooks holds a BA in Law Enforcement Administration from Western Illinois University and an MA in Criminal Justice from Rockefeller College at SUNY Albany.

Lynn Carlson

Assistant Director of Services, Ulster County

Lynn Carlson is the Assistant Director of Services for Ulster County. She began her career in Children's Services in 1976 as a Child Protective Investigative Caseworker. Ms. Carlson was instrumental in helping to establish the Ulster County Family Violence Investigative Unit, which is a co-located multidisciplinary team of Law Enforcement and Child Protective Services.

Renee Roman

Executive Director, START Children's Center

Renee L. Roman is a practicing New York State Certified Social Worker with over fifteen years of experience. She attended Alfred University for her Bachelors degree and obtained her Masters in Social Work from SUNY Albany with a concentration in children and families. Ms. Roman practiced for several years in Washington DC, Virginia and Maryland. She relocated to New York in 1995. Ms. Roman served as the Director of Clinical Services when the START Children's Center opened in November 1998. One year later she became the Executive Director of the Child Advocacy Center.

Aside from her clinical experience, Ms. Roman has received extensive training in Forensic Interviewing. She attended both the APSAC and NCA Intensive Forensic Interviewing Clinics. She has been trained by Dr. John Yuille in the Step-Wise Interviewing protocol and is a certified Train-the-Trainer. Ms. Roman has presented at a variety of conferences and venues in New York State and is the co-author of an article for the National Association of Social Workers New York State newsletter regarding mandated reporting. Ms. Roman currently serves on the New York State Children's Alliance board of Directors and represents the Albany Region.

Paul DerOhannesian II

Paul DerOhannesian is a graduate of Georgetown University (1975) and Albany Law School (1978). For 22 years, as an Assistant District Attorney at the Albany County District Attorney's Office he oversaw a Special Assault Unit responsible for the investigation and prosecution of all sexual assault, child abuse, domestic violence, and child homicide cases. He is a nationally recognized writer and lecturer on sexual assaults, child abuse, and child homicide and author of *Sexual Assault Trials*, now in its second edition (1998 Lexis Law Publishing Co.) and other articles in the area of trial strategy and techniques. Mr. DerOhannesian is also contributing author and editor to the *Manual for the Investigation and Prosecution of Child Abuse*, National Center for the Prosecution of Child Abuse and Neglect (1994); contributing author to the National College of District Attorneys' *Analytical Trial Advocacy: A Practical Approach for Prosecutors* (1996); and author of *Establishing Victim Credibility in Acquaintance Rape Cases, The Practical Prosecutor* (1998). In New York, Mr. DerOhannesian has been involved in numerous criminal justice legislative efforts and helping to redraft New York's sex crimes statutes, Mr. DerOhannesian has testified before numerous federal and state bodies in the area of sexual assault and child abuse. He is a consultant to the National Center for Missing and Exploited Children.

He has served as a commentator on Court TV and lectured for the National College of District Attorneys, American Prosecutors Research Institute, Justice Department and numerous state bar and prosecutor organizations. He has served on numerous local task forces and worked with many community groups involved with sexual assault, domestic violence and child abuse. He has lectured extensively throughout the United States, with over 225 presentations on the topic of trial tactics and sexual assault. Mr. DerOhannesian is in private practice and is a consultant in the investigation and trials of sexual assault, child abuse, domestic violence and child homicide cases. In 2001, Mr. DerOhannesian was appointed by Governor George Pataki to the Advisory Board of the New York State Office of Children and Family Services.

Diane Erne

Retired Deputy Commissioner, Onondaga County Department of Social Services

Diane Erne was Deputy Commissioner for the Onondaga County Department of Social Services, where she oversaw Children's Protective Services, Foster Care, Juvenile Delinquency, Adoptions, Day Care, and Preventive Services. Ms. Erne retired from the

Onondaga County Department of Social Services in December 2002. Prior to becoming Deputy Commissioner in 1989, Ms. Erne was the Director of the Alliance and Catholic Charities Programs, where she was responsible for coordination of multidisciplinary teams responding to child abuse and neglect. Since 1994, Ms. Erne has worked as a Total Quality Management (TQM) trainer in the development and implementation of a countywide TQM program. She has served as guest lecturer and consultant to numerous organizations, including the State University School of Social Work, the New York State Police Training Academy, the National Conferences on Child Abuse and Neglect, as well as counties, States, and provinces throughout the United States and Canada establishing multidisciplinary programs.

Richard Hamill Ph.D

Forensic Mental Health Associates and St. Anne Institute

Dr. Richard M. Hamill is a clinical psychologist with some twenty years of experience in the evaluation and treatment of abused children, as well as adolescent and adult sex offenders. His graduate degrees from Harvard University and the University at Albany, and his clinical work in the field of chemical dependence, provided the academic and experiential basis from which Dr. Hamill started his work in sex offender treatment in 1979. At St. Anne Institute in Albany since 1982, Dr. Hamill helped create the first community-based treatment program in New York State for adolescent sexual abusers. His private practice group, Forensic Mental Health Associates, now in its twentieth year of operations, currently provides treatment services to approximately one hundred sixty sex offenders referred from local probation departments, Family Court, and the Division of Parole. Dr. Hamill presently serves as the President of the New York State chapter of the Association for the Treatment of Sexual Abusers, and as President of the New York State Alliance of Sex Offender Service Providers, the two largest professional organizations of this type in New York State. Dr. Hamill is on the faculty of the University at Albany as a field supervisor for doctoral interns and teaches in the Forensic Psychology Program at the Sage Graduate School. He has presented more than one hundred training workshops, and provided professional consultation to organization including: the American Bar Association, the United States Attorney's Office, the New York State Children's Justice Task Force. Dr. Hamill has also worked actively to develop services for child and adult victims of sexual assault, including the child advocacy center in Rensselaer County (the START Children's Center), and the New York State Child Advocacy Resource and Consultation Center.

Thomas Hess

New York State Office of Children and Family Services

Tom Hess is Coordinator of the New York State Children's Justice Act Program, Program Manager for the Multidisciplinary Teams and Child Advocacy Program, Program Manager for the Child Fatality Review Team Program, and OCFS liaison to the New York State Citizen Review Panels. Mr. Hess has worked in the human services arena for over 25 years as a child care worker, social worker, and administrator. He has represented the New York State Office of Children and Family Services on numerous inter-agency commissions and taskforces concerning child sexual abuse, child fatalities and juvenile sex offenders. Mr. Hess has been instrumental in the development of the multidisciplinary team approach for handling child sexual abuse, physical abuse, and child fatality case, and has also been a strong advocate for the establishment of child advocacy centers throughout New York State.

Katherine Maciol

Commissioner of Mental Health for Rensselaer County

Katherine Maciol CSW-R, Commissioner of Mental Health for Rensselaer County, is a NYS Certified Social Worker with over 15 years of experience primarily related to child and adolescent mental health and child welfare issues. She is a founding member of the Rensselaer County START Children's Center and currently serves as a board member to the center. Ms. Maciol is the former Director of Rensselaer County Mental Health and former Mental Health Clinical Coordinator for the Rensselaer County Department of Social Services. In addition, Ms. Maciol is an Adjunct Instructor at the University at Albany School of Social Welfare and she is the Co-Director of Wood and Maciol Counseling Associates in Albany, NY. Ms. Maciol completed a trainer program through Dr. John Yuille in the Step-Wise Interview approach and she has conducted numerous trainings and conference presentations on the issue of child sexual abuse.

Kevin Revere

Co-Director and Law Enforcement Coordinator
Oneida County Child Advocacy Center

Kevin Revere co-directs the Oneida County Child Advocacy Center under the auspices of the Oneida County District Attorney's Office. Mr. Revere has overseen the law enforcement component of the Oneida County CAC since September of 1997. Since then, the group has undergone a complete restructuring. The many improvements included establishing policies and procedures for investigations and administration of the CAC, development of a computerized database, manpower assessment and streamlining of personnel, improved coordination with support groups, and relocation to the present CAC. The Center was granted Full Member Status with the National Children's Alliance in 1999. The CAC offers on-site medical exams, a volunteer program, case reviews, and co-location of law enforcement, CPS and victim advocates in one setting. He has worked as a consultant in the area of CAC administration, structure, logistics and fundraising throughout the country. Mr. Revere is a

former Chief Deputy and a Deputy with the Forensics Unit with the Oneida County Sheriff's Department. Mr. Revere is also on the Public Policy and Research Committee for the National Children's Alliance, and is an active member of the Board of Directors for the National Center for Missing & Exploited Children in Mohawk Valley. He holds a Bachelor of Science degree from Central Missouri State University.

Eileen Treacy Ph.D

Eileen C. Treacy, Ph.D Consultation Services

Dr. Eileen Treacy, who holds a Ph.D. in Psychology, has worked for the past 25 years in the areas of sexual abuse/assault in a variety of capacities, including: rape crisis counselor, so-founder of Bronx Women Against Rape, founder of the Kingsbridge Heights Community Center's Child Sexual Assault Counseling and Prevention Program, training consultant, evaluator of sexual abuse allegations, expert witness in Family and Criminal court, and program of development consultant. She has evaluated over 1,500 sexual abuse cases and testified in over 250 cases in the courts of New York State. Additionally, Dr. Treacy has served on the training faculties of the New York State Police, New York City Police Department, and the Florida Department of Law Enforcement Administration. She is on the faculty of the Psychology Department of Herbert H. Lehman College in the Bronx, where she also maintains a consultation practice that includes training, case consultation/evaluations, and expert testimony in the areas of sexual abuse/assault and development psychology.

TABLE OF CONTENTS

Committee & Task Force Lists	i
Foreword	1
Introduction	2
General Considerations When Interviewing Children	
Location	4
The Child’s Needs	4
Participants	
The Interviewer	5
General Attributes of a Good Forensic Interviewer	5
Case Specific Recommendations	6
Who Should Not Be Present at the Interview	7
Documenting the Interview	
Overview	10
Note Taking	10
Sworn Written Statements	12
Audiotaping and Videotaping	12
Preservation of Interview Material	13
Conducting a Forensic Interview – The NYS CJTF Best Practice Interview	
Overview	15
Preparing for the Interview	16
First Contact	16
Establishing Rapport	17
Interview Guidelines.....	18
Developmental Assessment	19
Establishing the Child’s Testimonial Capacity	20
Introducing the Topic of Concern	22
Free Narrative	24
Open-Ended Questioning	26
Alternative Hypotheses/Explanations.....	27
Clarification Questions.....	28
Concluding the Interview	29
Special Topics	
Questions About Time.....	31
Anatomical Dolls	31
Children With Special Needs	32
Cultural Issues	34
Defense Mechanisms	35
Language Considerations	36
References.....	39
Appendix A: Pros and Cons of Videotaping Child Interviews.....	41
Appendix B: Interpreters in Forensic Interviews	47
Appendix C: Defense/Coping Mechanisms	52

FOREWORD

The New York State Children’s Justice Task Force Forensic Interviewing Steering Committee emphasizes the importance and benefit of having a standardized interview method to assist in child abuse investigations in New York State. A forensic interview is appropriate when there has been an allegation of sexual or physical abuse. While this document will primarily focus on sexual abuse, the methodology is appropriate for all investigations of abuse. This includes intra-familial and extra-familial physical and sexual abuse.

The impetus for this endeavor evolved from the feedback and recommendations of experts and practitioners across New York State. This document is meant to serve as a guideline and is not intended to be a mandate. It is the hope of this Steering Committee that the *New York State Children’s Justice Task Force Forensic Interviewing Best Practices* guideline will stand as an additional resource to enhance current methods of forensic interviewing, across disciplines involved in the investigatory process. Although it is recognized that using masculine or feminine pronouns suggests a specific gender, the committee agreed the best way to reduce bias in this document was to employ *he* and *she* alternately.

It is the recommendation of the New York State Children’s Justice Task Force that all agencies and disciplines involved with the investigation, prosecution, and treatment of child victims implement a multidisciplinary protocol for the investigation of child abuse cases as well as the interviewing of child victims.

INTRODUCTION

The forensic interview, also referred to as an investigative interview, is an essential component of the fact-finding process. The goal of the interview is to obtain a statement from a child in a developmentally sensitive, unbiased, and truth-seeking manner that will support accurate and fair decision-making in the criminal justice and child welfare systems. Although information obtained from this interview might be useful for making treatment decisions, the forensic interview is not part of a treatment process. Whenever possible, professionals who have an on-going or a planned therapeutic relationship with the child should not conduct the forensic interview.

A forensic interview should be child-centered. Although the interviewer directs the flow of conversation through a series of phases or steps, the child's abilities should determine the vocabulary and specific content of the conversation as much as possible. The interviewer must be alert to developmental differences in language and memory and never assume what a child means by the use of a particular word. For example, "oral sex" might mean talking about sex. Therefore, the interviewer should clarify potentially ambiguous words or phrases. Similarly, the interviewer must make certain to use words and concepts that the child understands.

If possible, before beginning an interview, the interviewer should talk with the reporting source. From that discussion, the interviewer should determine the context and environment of the initial abuse concern, and verify the accuracy of the report. The source may also provide additional information not contained in the report. During an interview, the interviewer should attempt to rule out alternative explanations for the allegations. For example, when a child uses terms that may indicate sexual touching, the interviewer should assess the child's understanding of those terms and explore whether the touching might have occurred in the context of routine care taking or medical treatment. When a child reports details that seem inconsistent, it is the interviewer's responsibility to clarify whether the events described could have occurred by exploring whether more than one event is being described or whether words are being used in an idiosyncratic way. For example, "Daddy touched me down there with his finger and it hurt" could have a number of explanations: the child complained of "pee" hurting and Daddy asked to see where it hurt and touched the area;

Daddy touched the child for sexual reasons; or Daddy was applying cream for a severe rash. It is important to generate several hypotheses about the case. If the investigator entertains only a single hypothesis, there is a chance that the investigation might turn into an effort to “prove” that hypothesis rather than an effort to find the hypothesis that best matches the facts of the case. Not only is this a poor investigative technique, it goes against the best interests of the child if that hypothesis is inaccurate.

Finally, the forensic interviewer needs the skills to interview children in a non-leading and non-suggestive fashion. The interviewer should avoid introducing information or suggesting events that have not been mentioned by the child. In addition, the interviewer should not project adult interpretations onto situations and use comments such as “that must have been frightening.” Many child sexual abuse cases have no medical evidence, no physical evidence, and no witnesses other than the child and the perpetrator of the abuse. Thus, decision-making in these cases must, in part, depend upon the child’s disclosure, corroboration, and the fact pattern of the case. False disclosures or denials of child abuse may occur, and police and CPS workers require tools to help them distinguish false allegations from valid allegations of abuse.

The *New York State Children’s Justice Task Force Forensic Interviewing Best Practices* has been designed with the goals of minimizing trauma and gathering accurate and complete information that is free of contamination.

GENERAL CONSIDERATIONS WHEN INTERVIEWING CHILDREN

LOCATION

Make the environment comfortable and free from distractions

If circumstances permit, the interview should be conducted in a room specifically designed for this purpose. The interview room should be quiet and as free from distractions as possible. This includes distractions from outside the room. The interview room should be as comfortable as possible with a range of sizes of furniture so that both preschoolers and adolescents can be reasonably accommodated. If the interview must be conducted in a police station, CPS unit, hospital, or school, every effort should be made to establish privacy and minimize discomfort.

Avoid the location where the abuse may have occurred

It is not advisable to conduct the interview in the location in which the abuse may have occurred, (e.g. the child's home if that's where the abuse is alleged to have occurred). This location may promote elevated anxiety in the child that could interfere with the interview process.

THE CHILD'S NEEDS

Attend to the child's physical and emotional needs

For both the sake of the child and the accuracy of the interview, the interviewer needs to be aware of the child's emotional and physical needs. Be aware of the child's attention span, nutritional needs, and bodily functions. It is best not to conduct the interview when the child normally naps or eats meals, or immediately prior to time for medication(s). If refreshments are offered, they must be offered to all participants. This avoids the perception that food is a reward.

PARTICIPANTS

THE INTERVIEWER

Limit the number of interviewers

Inter-agency cooperation often requires that representatives of various agencies be present for the interview. The local Multidisciplinary Team (also referred to as MDT) protocol may assist in determining who the representatives will be. Although all participants should introduce themselves at the start of the interview, more than one active interviewer can be confusing for a child. Therefore, arrange in advance who will conduct the interview.

Have one recorder

If more than one professional is present, another person can take the role of the recorder. The recorder does not actively participate in the interview. However, if the child does not appear to be responsive to the initial interviewer, the recorder and the interviewer should consider switching roles.

Interviewing Tip

The interviewer and recorder should sit with the child at a distance and in a manner that is comfortable for the child.

GENERAL ATTRIBUTES OF A GOOD FORENSIC INTERVIEWER

There are a number of methods used for child abuse investigations in New York State, including child advocacy centers, formal multidisciplinary team investigations, informal multidisciplinary investigations, and individual agency investigations. While the qualifications of potential interviewers available in each setting may vary, there are some basic criteria to consider in choosing whom should conduct child interviews.

Ensure interviewer comfort & knowledge

The key factor to a successful interview is the interviewer's comfort in interacting with children. While this quality alone does not guarantee a successful interview, the tension conveyed by an interviewer who is uncomfortable with children will

be difficult to overcome in establishing rapport and an open line of communication with the child. The interviewer should also have knowledge of the following: child interviewing techniques, child development, child abuse dynamics and effects, legal issues regarding child witnesses and cultural issues affecting abuse interviews/investigations (APSAC, 1997; Bourg et al., 1999; Sattler, 1998; Sorenson et al., 1997). This knowledge base may come from literature review, experience, formal/informal training, or a combination thereof. Regardless of the source, the interviewer should be able to articulate the source(s) of this knowledge.

The interviewer needs to be flexible to allow for differences across interviews as well as changes occurring during an interview. The interviewer needs to be patient and able to adapt to the child's pace.

The interviewer also must be able to maintain objectivity, including the ability to prevent personal and professional biases from entering into or affecting the interview.

CASE SPECIFIC RECOMMENDATIONS

Choose an appropriate interviewer

When deciding who will conduct the interview, there may be circumstances specific to a case to consider in addition to the general recommendations. These issues may affect the success of the interview in both the short term, such as rapport building and effective communication, as well as the long term, such as the ability of the interview to withstand legal challenges.

Consider the impact of prior professional or social contact

Prior professional contact with the child or the child's family by a prospective interviewer should be examined to identify whether there may be effects on the current interview. These effects could vary widely, depending upon the nature of the prior contact. Similarly, interviewing children with whom the interviewer is socially or personally familiar could have a variety of effects. For example, while the familiarity may result in smooth and brief rapport building, the prior

relationship may introduce bias issues on the part of the interviewer, or reluctance on the child's part to disclose personal, possibly embarrassing details. The interviewer in this situation may also have a particularly difficult time remaining unemotional and objective. Interviewers should never conduct forensic interviews of children to whom they are related or have a close personal relationship. Furthermore, disclosures obtained from such interviews could be subject to challenge in court based on the prior relationship, regardless of the quality of the interview.

Consider all factors

Other factors to consider when deciding who should conduct the interview in a particular case include the nature of the allegations, the child's level of comfort in regard to gender, ethnicity, age, and native language (Sorenson et al., 1997), and any physical and/or cognitive impairments that the child may have.

WHO SHOULD NOT BE PRESENT AT THE INTERVIEW

Parents and concerned adults should not be present

A parent, guardian, teacher, therapist, or other concerned adult should not be present during the interview. However, there are occasions when a child will not speak with the interviewer unless a parent or other support person is present, or the parent will not authorize the interview unless he is present. This occurs more commonly with very young children or special needs children. The interviewer needs to consider the impact of that person's presence on the interview. On occasion, it is also necessary for individuals not directly involved in the forensic interview to be present during this process. This situation often arises when a child is interviewed at school or the hospital and the institution policy requires that a non-participatory adult be present during the interview of the child.

Discuss the impact of non-participatory adult involvement

When a non-participatory adult must be present, it is recommended that the individual be informed of the following:

1. Experience has shown that children often do not disclose accurate information when a parent is present because they feel embarrassed or ashamed regarding the abuse, fear the parent's

- reaction, or they attempt to protect the parent from the information.
2. The non-participatory adult's presence in the interview may be perceived as coaching and/or an indicator that the child has been coached.
 3. Any individual who witnesses the interview is subject to being called at a later date as a witness in any legal or civil proceeding.
 4. If an individual is later called as a witness, that person will not be available as a support person to the child at the time of the legal proceeding. The individual will need to determine at which phase of the investigation and subsequent prosecution she wants to be able to support the child.

Instruct non-participatory individuals to follow interview rules

If the non-participatory individual elects to stay for the interview or is required to stay, that person should meet with the forensic interviewer outside the presence of the child to discuss the interview process. In particular, the non-participating individual should be advised:

1. to sit out of the child's visual range, if at all possible, so that it cannot be said that the person influenced the child's disclosure.
2. not to speak during the interview, but instead remain silent throughout the interview.
3. not to take any notes during the interview.
4. to pay attention to the interview so that the child feels what he is saying is important.
5. to avoid any reaction to the disclosure, if one is forthcoming. This is especially true for audible reactions. Facial expressions and body posture also can have an impact on the child.
6. if a child does not disclose everything that she may have told the non-participating individual, or if the disclosure is different, to bring this to the interviewer's attention at a prearranged time prior to the end of the interview. This should be done privately rather than correct the child or point out the discrepancy in the presence

of the child.

7. if the child looks to the non-participating person for guidance, to simply remind the child of the importance of telling the truth.
8. to remember that whatever is discussed in the interview process is confidential and should not be shared with anyone unless legally mandated.
9. to remember that the interview and case should not be discussed with the suspect, or anyone else, as this can jeopardize the case.
10. if the parent or caregiver is the non-participating individual, then the parent or caregiver should be cautioned about discussing the interview with the child.
11. to remember that if the child initiates discussion, one can be supportive of the child's emotional well being without influencing the case.
12. if the early stages of the interview indicate the child can proceed without the support person, that person will be encouraged to leave before the topic of concern is introduced.
13. not to make promises to the child about what will or will not happen as a result of the interview.

DOCUMENTING THE INTERVIEW

OVERVIEW

There are a number of ways the child interview may be documented. These include note taking, audiotaping, videotaping, or some combination thereof. Use of these methods varies widely and may be dependent on agency or prosecutorial policy, as well as resources. *New York State Children's Justice Task Force Forensic Interviewing Best Practices* does not endorse any of these methods over another, but provides recommendations for each method. Regardless of the method employed, documentation of the interview should include the location, date, time (e.g., start and end of interview, as well as breaks), and who was present. Additionally, agencies should adopt policies and procedures for documenting interviews and make sure those procedures are consistently applied for all interviews. Any documentation that will occur during an interview should be explained to the child prior to the interview, including how and why the documentation will be done. Preservation of written material generated from a child interview is addressed in this section as well.

NOTE TAKING

Document both verbal and nonverbal communication

Written notes should be thorough and accurately reflect the interview. They should document both verbal and nonverbal communication by the child. Nonverbal communication may include shrugs, shaking of the head, changes in demeanor, attitude and/or behavior, physical withdrawal, etc. Documentation of nonverbal communication throughout the interview will help reveal when changes or responses occur in relation to the verbal aspect of the interview. Written notes should be devoid of opinions, idle scribbling, and any other material not related to the interview. The interviewer should be cognizant that the materials may be subject to discovery or subpoenaed in a legal proceeding.

Document disclosure questions and answers verbatim

Disclosure questions and answers should be documented verbatim (Sorenson, Bottoms & Perona, 1997). Thorough, accurate documentation of all conversation during the interview is important to show that the interview was conducted appropriately. Verbatim transcription of disclosure questions and responses is particularly important to show that the questions were not leading, biased, or misunderstood, and that the responses were accurately documented.

Written documentation by a note-taker, rather than the primary interviewer, will allow the interviewer to focus attention on the child and maintain an appropriate flow of the interview. The person documenting the interview should be positioned in a manner to avoid distracting the child, but enable observation of the child's nonverbal communication and to hear all of the child's verbal responses. The primary interviewer should review the notes after the interview and supplement them if necessary. In cases investigated in a multidisciplinary environment, agencies requiring interview notes should have access to, and be able to work with, this single set of comprehensive notes generated from the interview. This approach will require that the primary interviewer have an understanding of each agency's requirements, and that representatives from each agency are afforded an opportunity to ask follow-up or additional questions through the interviewer. A single set of interview notes does not relieve the child protective professional of the obligation to maintain progress notes.

Note taking by a primary, or perhaps sole, interviewer should be done in a manner that is not disruptive to the interview. In such cases, the interviewer may want to make notes immediately after the interview. Interviewers must consider that the reliability of notes made after an interview may be susceptible to legal challenge, more so as the time lapse between the interview and making of the notes increases. In such cases, the interviewer may want to jot down brief notes during the interview so that a complete and comprehensive note may be written immediately following the interview.

SWORN WRITTEN STATEMENTS

Determine if a sworn statement is necessary

There is no statutory requirement to obtain a sworn statement from a child. Sworn statements may be necessary to support a criminal complaint, search warrant or petition in a Family Court proceeding. After considering whether a sworn written statement is necessary for a particular purpose, the decision to take a sworn written statement from a child must consider the capacity to testify and swearability of the child (see establishing the child's testimonial capacity, page 20).

In New York Criminal Court proceedings, children nine years and older are presumed to be able to provide sworn statements (NYS CPL 60.20). In no situation should a written statement be taken from a child who is unable to understand the nature of an oath because of mental disease, defect or some other reason. In some situations, the interviewer may provide a sworn written statement of information provided by the child during the interview. If there is uncertainty whether a sworn statement should be obtained from a child in a particular situation, check with the legal advisor to the proceedings.

AUDIOTAPING AND VIDEOTAPING

Provide an accurate record of the interview

Successful audiotaping provides an accurate record of verbal aspects of the interview, but does not provide for documentation of nonverbal communication. Therefore, the interviewer or a note-taker should also document, in writing, the nonverbal communication occurring during the interview. In all audio or video recorded interviews, consideration should be given to having a note-taker document the interview as a back up in the event a technical problem arises with recording equipment. Specific procedures should be the subject of written policy for any agency using mechanical recording techniques. The National Children's Advocacy Center has published pros and cons regarding the recording of interviews (see Appendix A).

Position recording equipment

The equipment used for either method of recording must be reliable and of sufficient quality to provide “clean” sound, as well as to capture low volume noises, such as whispers. While the equipment need not be hidden, it should be placed in an unobtrusive location to avoid distracting the child. Video recorders should be positioned so that both the interviewer and the child are recorded. This will provide documentation that the interviewer was not non-verbally suggestive, while also capturing the nonverbal communication of the child. Placement or control of the equipment must allow for recording all areas of the interview room in the event that the child moves about during the interview.

PRESERVATION OF INTERVIEW MATERIAL

Develop and adhere to guidelines

The term “interview material” refers to written documentation by an interviewer and/or note-taker, drawings by the child, interview aid drawings, audio and/or videotapes of the interview, and any other writings generated during the course of the interview. The manner in which each of these items is preserved will depend largely upon their intended use, that is, evidence in a Criminal proceeding as opposed to proof in a Family Court proceeding. Formal multidisciplinary teams should have written guidelines concerning these materials. For cases investigated jointly under less formal arrangements, a general rule to follow is to defer to the discipline with the most stringent requirements for retention and securing of evidentiary materials. In most cases this will be law enforcement.

Keep a case file

All written material associated with the case should be retained in the case file. Written notes by an interviewer or note-taker must be preserved, regardless of the writer’s profession or agency. Original notes should be retained in the writer’s case file. In cases involving multiple agencies working together “informally,” such as is often the case with law enforcement and child protective services, each agency should be provided with a copy of the notes.

Preserve the child's drawings and perishable writing

All drawings and other written material by the child should also be retained in the case file. Discarding seemingly irrelevant materials produced by the child could give rise to otherwise avoidable legal challenges. In the event a child wants to keep an apparently irrelevant drawing, the interviewer should photocopy it and retain the copy in the case file. Every effort should be made to avoid creating perishable writings, such as chalkboard disclosures, as they are difficult to preserve. In the event the child creates perishable documentation, every effort should be made to preserve it (e.g., by photographing).

Preserve recordings as evidence

Audio and/or videotapes of an interview should also be retained in compliance with agency procedures and legal requirements. Tapes that will be used for criminal proceedings should be considered evidence and should be processed and secured consistent with the agency's evidentiary policies and procedures.

CONDUCTING A FORENSIC INTERVIEW

THE NYS CJTF BEST PRACTICES INTERVIEW

OVERVIEW

Proceed with a staged approach

Most current protocols advise interviewers to proceed through a series of distinct interviewing stages, with each stage accomplishing a specific purpose. A variety of terms are used to describe this progression from introduction to closing, including The Step-Wise Method (Yuille, 1995). Some of the advantages of such a staged approach are that interviewers deliver recommended introductions and instructions to children and are encouraged to use open-ended questions as much as possible.

Use the NYS CJTF Forensic Interviewing Best Practices to encourage recall

The *New York State Children’s Justice Task Force Forensic Interview Best Practices* is an investigative interview. The procedure encourages and facilitates the child’s recall of events. Every opportunity is provided to obtain the child’s account of events. This is done by beginning with the most general, “open-ended” phase of the interview and proceeding to more narrow forms of questioning when required. The interviewer must demonstrate patience and allow the interview content to come from the child.

Factors To Consider When Performing Interviews

1. Developmental levels
2. Sex of the child
3. Culture and ethnicity of the child
4. Family background and parental reactions
5. Health status and history
6. Educational status and history
7. Behavioral patterns and possible psychological disorders and/or medications
8. Child’s personality and temperament

Sattler, 1998

PREPARING FOR THE INTERVIEW

Consider the logistics of conducting the interview including: who will transport the child to the interview, who needs to be involved in the interview, the physical setting, the immediate needs and safety issues of the child and family. Here are some factors that need to be considered prior to the first interview:

- Before the interview learn as much as possible about the child and family.
- Establish who will conduct the interview. In doing so, consider the purpose of the interview and the key issues to address.
- Make sure the room is ready and prepared for the child. There should be no interruptions.
- Consider the cognitive and developmental level of the child.
- Watch the tone of your voice. Your greeting should be polite, friendly, and warm.
- Be prepared to explain or expand your questions

Based on Sattler, 1998

FIRST CONTACT

Let the child adjust to the setting

Children are often confused about the purpose of interviews or frightened that they may be in trouble. Moreover, children take varying amounts of time to adjust to new environments and may be temporarily distracted by the sights and sounds of the waiting and/or interviewing room. The purpose of this period of first contact is to acclimate the child and the interviewer to one another and to set the neutral tone of the interview, as well as allowing the interviewer and recorder to explain their roles to the child in a developmentally appropriate manner.

Standardize the introduction

It is recommended that interviewers develop a standard manner in which they introduce themselves to the child and the child to the interview process. For example, “My name is ____, and I am a (social worker, police officer, doctor, etc.). My job is to talk to children about lots of different things” (Sorenson, Bottoms, & Perona, 1997).

Interviewing Tip

The greeting should be polite, friendly, and warm.

Sattler, 1998

ESTABLISHING RAPPORT

During this section of the interview, the interviewer should begin to assess the developmental skills of the child, such as language, reasoning, and any apparent developmental delays. Interviewers need to be aware that rapport building begins with the initial contact with the child. Never assume that the rapport building stage is unnecessary with any child. The following guidelines are designed to help interviewers build rapport.

Rapport Building Guidelines

1. Create a comfortable and safe atmosphere that allows the child to talk openly.
2. Build rapport on mutual confidence, respect, and acceptance.
3. Refer to the child by name as much as possible.
4. Make the interview a joint undertaking between you and the child.
5. Give the child your undivided attention.
6. Convey that you want to listen and can be trusted.
7. Give reassurance and support when required.
8. Listen openly and non-judgmentally.
9. Speak slowly and clearly in a calm, matter of fact, friendly, and accepting manner.
10. Interrupt only when necessary.
11. Use a warm and expressive tone.
12. Maintain a natural, relaxed, and attentive posture.
13. Make appropriate eye contact.
14. Ask tactful questions.
15. Time questions and comments appropriately.
16. Show interest.
17. Deal with anxiety.

Based on Sattler 1998

INTERVIEW GUIDELINES

**Provide
guidelines for
children &
adolescents**

Under some circumstances the child's understanding of the interview process may be assisted by going over some basic interview guidelines. How the guidelines are presented to the child will depend on the age of the child and the circumstances of the interview. Guidelines help to give the child some idea of what their role is in the process. The child should have some level of control in the interview, such as taking a break. These guidelines can be integrated throughout the interview process.

INTERVIEW GUIDELINES FOR YOUNGER CHILDREN

1. I want to understand you. Tell me if you think I don't "get it."
2. If you don't understand me, tell me.
3. Tell me if you feel uncomfortable.
4. I don't know everything. Try to tell me everything that you remember.
5. Tell me what you really remember. Don't guess.
6. If you are not sure about something, tell me.
7. I will not get angry or upset with you for anything you say.
8. Tell me what really happened. Don't make up any stuff.

INTERVIEW GUIDELINES FOR PRE-ADOLESCENTS AND ADOLESCENTS

1. If I misunderstand something you say, please tell me. I want to know. I want to get it right.
2. If you don't understand something I say, please tell me.
3. If you feel uncomfortable at any time, please tell me.
4. Even if you think I already know something, please tell me anyway.
5. If you are not sure about an answer, please do not guess. Tell me you are not sure before you say it.
6. Please remember when you are describing something to me that I was not there when it happened. The more you can tell me about what happened, the more I will understand what happened.
7. Please remember that I will not get angry or upset with you.
8. Only talk about things that are true and really happened.

Adapted from Dr. John Yuille, 1995

DEVELOPMENTAL ASSESSMENT

Obtain baseline information

The purpose of the developmental assessment is to give the interviewer some baseline information about the child's environment and capabilities, e.g., who lives in the home, who visits the home, what are the child's language skills. While building rapport, the interviewer can assess the developmental skills of the child, such as language, and any apparent developmental delays. This can be done through a series of open-ended questions. The child can be asked about various favorites (e.g., color, food, television show, or teacher). Whenever possible, the interviewer should attempt to prompt the child for more information. For instance, if the child remarks that her favorite class is art, the interviewer could ask, "What do you like about art class?" This will ease the way for specific questioning that comes later in the interview process.

Assess language skills and affect

This is also the time to assess the child's expressive and receptive language skills and affective behavior. Children develop at very different rates. What one child does at the age of six may not be possible for another until the age of eight. The interviewer should ask the child to describe in detail two verifiable, personally significant events, both of which are unrelated to the abuse allegation (e.g., a doctor's visit, holiday celebration, family vacation, last field trip, or the like). The child's description of a birthday party or a trip to a museum can give the interviewer a picture of the quality and quantity of detail the child provides about a memorable event. The interviewer should pay careful attention to the child's language abilities, both expressive and receptive. Note the length of sentences and the type of words that the child uses. Also note the child's ability to appropriately respond to baseline questions, for example, what is your favorite color? By the time the rapport phase is finished, the interviewer should have a fair idea of how much detail the child normally gives when talking about non-threatening events. This can be used to compare the child's memory production when the discussion turns to the allegations of abuse.

**Know the
child's
terminology for
body parts**

The interviewer needs to gather information about how the child refers to male and female body parts, regardless of the child's age. Sometimes dolls and drawings are helpful in identifying the body parts. If there has not been a disclosure, the interviewer could introduce the body chart. This can also be accomplished through discussion, dolls, drawings and or the introduction of a body chart. Take note of the child's demeanor and note change in affect when providing names for sexual parts. These changes may or may not be indicative of sexual abuse. It is recommended that the child be asked to identify body parts from head to toe rather than emphasize the private parts as this does not draw specific attention to the "private parts" and can withstand challenges of being leading in nature. Drawings should be neutral and non-detailed (e.g., gingerbread drawings, stick figures, baby dolls, teddy bear). (See page 31 for considerations related to anatomical detailed drawings, body parts, and dolls).

Interviewing Tip

Regardless of the child's age, questions should contain one main idea apiece. Longer questions should be broken down into shorter ones with a single focus.

Walker, 1994

ESTABLISHING THE CHILD'S TESTIMONIAL CAPACITY

The goal of the forensic interview is to gather accurate and complete information that is free of contamination. Establishing the child's competence is an essential element of the forensic interview. It should be noted that in a New York State Criminal Court proceeding, there is a difference between capacity to testify and swearability. A child less than nine years old may have the capacity to testify but not be able to testify under oath, and the unsworn testimony of a child must be corroborated to sustain a conviction (CPL 60.20 "3"). A child may have the capacity to testify in that he or she has demonstrated the ability to accurately recount what happened to him or her, yet not be "swearable" under the law

because he or she does not have full appreciation of the necessity for telling the truth and the fact that a witness who testifies falsely may be punished. Thus, the statement of a child who has the capacity to testify, but is not “swearable” can be relied upon by the investigator but efforts *must* be made to corroborate the statement to increase the likelihood of prosecution.

Determine the child’s ability to distinguish between a truth and a lie

The interviewer should start with simply asking the child what telling the truth means, what telling a lie means, and what should happen when a person tells lies and gets caught. If the child does not seem able to define truth and falsehood, the interviewer can then give a number statements true and false, each time asking the child whether or not the statement is the truth or a lie. If this is too abstract, attempt re-phrasing using the words “right” and “wrong.”

If a child has demonstrated knowledge of colors in prior baseline assessments, then colors may be used. For instance, as an example of a lie, if the child is wearing a blue shirt, ask the child, “If I said your shirt was red, would that be the truth or a lie?” Similarly, as an example of a true statement, if the child is wearing black pants, ask, “If I said your pants were black, would that be the truth or a lie?”

If the child does not demonstrate or have the understanding of the concepts of truth and lies or right versus wrong, the interviewer should continue with the interview, but with caution. It should be noted that just because the child can differentiate truth from lies, it does not necessarily mean that the child is telling the truth. Likewise, the inability to distinguish between truth and a lie does not mean the child is telling a falsehood. Interviewers should not confuse the ability to differentiate truth from lies with the ability to accurately report information.

Determine if there is a response set

Interviewers should observe the child’s answers to assess if the child used a “response set.” A response set is a relatively fixed or stereotyped way in which an individual tends to respond, such as always guessing, always answering “true,” or giving socially desirable answers. Another example of a response set would be

if the child consistently selects an answer in a particular order (e.g., first or last answer). If this takes place, switch the order of the possible answers and re-ask the question. Continued use of a response set by the child indicates that the reliability of the answers is suspect. It also means that any questioning technique other than open-ended inquiry should be used with caution.

INTRODUCING THE TOPIC OF CONCERN

Begin with a broad approach

The interviewer should begin with a broad approach followed by a more specific line of questioning. This phase of the interview should start with a restatement of the interviewer's name and an explanation of that person's role. "My name is _____. Do you know what my job is?" The child may then say something like "you talk to kids when bad stuff happens..." If not, then the interviewer can say, "I have a really important job, I'm a _____ (police officer, social worker, child protection worker). I get to talk to kids, lots of kids, about many different things. Do you know why you are here to talk to me today?" The child may disclose at this point.

Interview Step

If a child does disclose, the interviewer should move to the free narrative. See page 24.

If there is no disclosure, the interviewer can choose another topic that may move the discussion closer to the topic of abuse. If the abuse is alleged to have happened at school, for example, the interviewer could say, "Earlier you told me you go to school 'X'. What do you do before school? What do you do after school?" If the child supplies the names of people, the interviewer could explore their roles in the child's life as well as something the child likes about them and something the child does not like.

Ask about touch

The interviewer should also ask, “What are some different kinds of touch?” or, “What do you know about touching?” The interviewer can verbalize and or perform a variety of different touches using a prop (e.g. self, doll) and ask the child to label the touches (e.g., pinch, punch, hug, pat, handshake, kiss). The interviewer is never to demonstrate the meaning of sexual terms on a child or prop. ***Information about sexual touching should only be communicated verbally.*** One of the goals at this time is to gather information about the child’s perceptions of various touching behaviors. The child can be asked about any experience about touching (e.g. good, bad, confusing, secret touches) (Wellman, 1986). If the child does not make a disclosure during the discussion of the different kinds of touches the interviewer can do further exploration of this topic by asking broad questions: “Have you ever told anyone about of any good/ bad/ secret/ confusing touches?” “If someone touched you, who would you tell?” If the child still does not make any disclosure you may then want to ask the child more directly, “Do you remember talking to ____ (the person she made the initial disclosure to)? What did you tell_____?”

Probing Techniques

1. **Collaboration:** Tell me more about that? Please go on? What happened then?
2. **Clarification:** What did you say about_____?
3. **Repetition:** Let me ask that question again.
4. **Challenging:** To clarify inconsistencies in a non-threatening way (I’m having trouble understanding this.)

Decide whether or not to proceed

It is absolutely imperative that CPS conducts a thorough child safety and risk assessment. If there is no disclosure, the multidisciplinary team needs to decide whether to terminate the interview, or when available, schedule an extended forensic assessment. A team that reasonably believes the abuse did not occur

should choose the first option. If there is reason to believe the alleged abuse occurred, the decision on how to proceed should be based on balancing the child's needs for protection with legal requirements. If there is a disclosure, proceed with the Free Narrative and subsequent steps.

FREE NARRATIVE

This is the most important step in the interview. The child must be given every opportunity to provide his own version of the events.

Allow children to go at their own pace

If the allegation is of a single incident of abuse, the interviewer may say to the child something like this, "Tell me everything you remember about what happened, start from the beginning." The child should not be interrupted during the free narrative, even if the child starts to describe seemingly irrelevant details or begins to contradict herself. The child should be allowed to go at her own pace and the interviewer must be patient when the child pauses. If, however, it seems that the child is not going to continue the account, the interviewer should attempt to restart the narrative. The best method for this is to simply say, "What happened next?" and/or "You were saying that _____ (restating the last thing the child said). And then what happened?" Particularly for younger children, who often will provide only a very short (telegraphic) free narrative, little information will be obtained without additional open-ended questioning.

Interviewing Tip

The interviewer should keep a relaxed, non-judgmental tone and proceed at the child's pace.

Thoroughly explore disclosures of multiple incidents

If the child discloses multiple incidents of abuse, the interviewer may respond in a variety of ways, "Tell me all about the first time this happened." "Tell me everything you remember from beginning to end." "Was there ever a time when it was different?" If the child responds affirmatively the interviewer may say, "Tell

me everything you remember about it.” Again, the child should not be interrupted no matter how lengthy or confusing her narrative may appear.

The interviewer can also ask the child if there are any other incidents that he remembers. The child might be asked about the incidents that are most clearly remembered. If there are such incidents, the child’s free narrative concerning them should be obtained. If the child becomes upset at any point in the interview, during this or any other step, acknowledge the distress and see if the child wants to pause or talk about something else. Sometimes the child may say he doesn't want to talk about this anymore. The interviewer might suggest they could talk about something else and then come back to it. For example, engage the child in non-threatening activity or conversation that helps the child transition away from the potentially anxiety-provoking material to a more normalized state. When the child has regained her composure, the interviewer can resume.

Dealing with Anxiety

1. Acknowledge fear/anxiety and indicate its naturalness.
2. Create a relaxed interview tone by being relaxed.
3. Save the most stressful questions for later in the interview.
4. If the child is showing excessive levels of anxiety, move away from the topic and return to it later when the child is less anxious.

OPEN-ENDED QUESTIONING

Use open-ended questioning

After the child has exhausted the free narrative for one incident, the interviewer can begin to ask open-ended questions. The purpose of this step is to assist the child in providing more details about the incident. If an open-ended question causes a child to disclose a new incident, the interviewer should ‘go back’ a step and obtain a free narrative on that incident.

Open-ended questions are requests for more details about the event disclosed in the free narrative. Examples include: “What else do you remember about the time it happened in the kitchen?” “Who else was in the kitchen?” “How did you get in the kitchen?” “Explain what you mean by that.” “Where were you in the kitchen?” “Tell me more about it.” Do not be discouraged by younger children needing more specific questioning such as “Do you remember what he was wearing?” as they sometimes will have difficulty in answering broad, open-ended questions. When asking open-ended questions, it is absolutely imperative that the interviewer let the child know that when it is true, “I don’t remember” is a perfectly acceptable answer.

Interviewing Tip

Interviewers should always use the most open-ended questions possible during questioning and clarification. If a specific question is necessary to raise an issue, the interviewer should try to continue with an open-ended question.

A useful memory aid during the open-ended questioning step is the construction of a “W-H chart.” Take a piece of paper and write on the top the label for the incident and along the side the prompts **WHAT, WHO, WHERE** and **WHEN**. Then the interviewer can say something like this, “Tell me everything you can remember about **WHO** was there during the Park Time.” The interviewer would

then repeat this for **WHERE** the Park Time happened, **WHEN** it happened, and **WHAT** occurred. The interviewer can thus non-suggestively obtain essential details that might be missing from the free narrative. The sequential order of these questions is at the discretion of the interviewer. This also can be used as an aid for the child in organizing memories of the different abusive incidents.

Key Questions

Who did you tell?
What did you say?
What did _____ say?
What did _____ do?
Who else did you tell?
Has anyone else touched you/done these things to you?
Has _____ done this to anyone else?
What would you like to have happen?
Has anyone told you what to say?

Avoid Why questions

Walker (1994) discourages the use of why questions. This kind of questioning is likely to be perceived as critical or evoke defensive feelings. For instance, “Why did you...” or “Why are you...” may result in feelings that interfere with the child’s ability to answer questions or force the child to justify her statements. In addition, why questions require a number of advanced cognitive skills, including self-reflection, motivations for actions, and the use of language to describe these processes. Instead, questions should be rephrased, for example, “What scared you?” versus, “Why were you scared?” The interviewer can also reframe why questions as the question “How come?”

ALTERNATIVE HYPOTHESES/EXPLANATIONS

Test rival explanations

As suggested in the preparation for the interview, the interviewer should developed alternate hypotheses, other than sexual abuse, for the child’s statements and behavior. Some explanations that might be considered, include:

- Coaching, prompting, and prepping. These would indicate the

possibility that someone is attempting to influence the child's statements, either directly or indirectly.

- Misinterpretation of routine health care.
- Displacement or misidentification of a suspect.
- Efforts to remove the accused from the environment and or an authority position.
- Efforts to cover up sexual activities.
- Generalization of prior abuse to current situation.
- Vindictiveness.
- Efforts “to get the heat off” the child for some misbehavior.

Depending on case circumstances, there may be additional rival hypotheses. Thorough investigation in conjunction with the interview should address these issues.

CLARIFICATION QUESTIONS

Ask clarification questions

The purpose of this step is to provide an opportunity to clarify and extend previous answers. Clarification of events in the child's statement should be addressed toward the end of the interview. Probe issues as gently as possible. For example, “You said he put his finger inside you but you also said you had a snow suit on. Can you tell me how that happened?” or “I'm a bit confused. You said _____ then you said _____.”

Interviewing Tip

Never include information obtained from another source in your question, as in “I understand from your mother that your Uncle Bob took some pictures of you.” Instead say, “What do you remember about some pictures?”

Clarify language or knowledge

If the child has displayed language and/or knowledge that seems inappropriate for her age, this would be the time to determine where the child learned that knowledge or those words. This also provides an opportunity to rule out rival explanations. Even when the child is using language that is appropriate, the interviewer needs to ascertain the child's own meaning for her words (e.g., the child may use the word "rape" when referring to digital penetration).

Interviewing Tip

Are the child's statements consistent with known facts?

Explore other potential abuse

The interviewer should examine whether the child has had other abuse experiences (e.g., sexual abuse with another perpetrator, physical abuse, or other forms of trauma.). If the child reveals prior abuse, a decision should be made whether to continue the interview regarding the prior abuse or adjourn the interview to see if prior abuse has been previously reported.

CONCLUDING THE INTERVIEW

Draw the interview to a close

The following sequence can be used to draw the interview to a close:

1. Ask the child if there is anything else you need to know.
2. Ask the child if he has any questions for the investigators. Questions that can be answered should be answered.
3. Explain to the child what will happen next in the investigation. Refrain from making any promises that cannot be kept.
4. No matter what the outcome of the interview, thank the child for participating.
5. Give the child a card with a name and phone number of an appropriate contact person.
6. In the event of a disclosure, address the potential "fall out" from the disclosure. This may be dealt with by saying, "Some children have an easy time after telling, and some kids have a hard time."

Some families are glad that the child talked, and others are not. Some of the kids are happy that they told, and others wish they had not. If you have any mixed up feelings about telling, it's OK to call. I'll be glad to talk to you."

7. Prior to leaving the interview room, the interviewer could engage in a neutral topic of conversation or activity with the child. The purpose of this transition is to allow the child to leave the interview with as little anxiety as possible.

SPECIAL TOPICS

QUESTIONS ABOUT TIME

These stages are for typically developing children.

Know the reasons a child might be confused about time

There are several reasons why it can be very difficult for children to describe when an event happened. In terms of language development, children learn words that mark temporal relationships gradually. Three year-olds, for example, often use “yesterday” to mean “not today.” The words “before” and “after” are poorly understood before seven years of age or even older. Regarding temporal concepts, children’s understanding of dates and clock time is limited before eight to ten years of age. Children may also fail to remember the time of an event if the event occurred a long time ago or was one of many similar events.

Assist children to pinpoint the exact time/ context of the event

Although the interviewer should try to identify when an event occurred, a child’s reliability may be weakened if the interviewer demands details that the child cannot provide. Due to developmental issues, some children will respond as if they are in school and attempt to answer even if they are uncertain. Some children might not be able to provide dates and times. The interviewer should try to get information about the timing of an event by asking about the context of the event. For example, information about a TV show that the child was watching can be used to identify a time of day. Similarly, knowing that the child was playing with a toy received for Christmas dates the event after Christmas. General questions about what grade the child was in or whether it was summer vacation also can narrow down the time.

ANATOMICAL DOLLS

Consider drawbacks of using an anatomical doll

One problem with interview aids is that they are models that represent something else. To use an anatomical detailed doll/drawing as opposed to a doll without sexual organs, for example, the child must realize that the doll is not only an object itself, but also a representation of the child. Children between the ages of two and four years may not have the cognitive sophistication to use interview aids representationally (DeLoache, 1995). As a result, dolls often do not help young children report more

information about events or help them report more accurately (Lamb et al., 1995). Furthermore, some preschool children who are not abused will insert fingers into anatomical dolls. The interviewer should never identify any of the dolls as the child or suspect.

Interviewers can be accused of suggesting sexual themes to children if they introduce interview aids before children have described abuse. All of the recent guidelines on anatomical dolls and drawings state that children's responses to these anatomically detailed aids are not diagnostic of abuse (Poole & Lamb, 1998). Anatomically correct dolls should only be used by professionals trained in their use.

CHILDREN WITH SPECIAL NEEDS

Begin with a developmental assessment

The interviewer should identify during the interview preparation whether the child has special needs that require accommodation. The child's parent or caregiver can provide valuable information for determining needed accommodations or a better understanding of the overall functioning of the child. Interviewers should ask parents or caregivers if the child receives special education services in school. If the answer is yes, the child's IEP (Individualized Education Plan) can also provide useful information on needed accommodations and the child's overall functioning level. Children with special needs are referred to differently by parents, school reports or within investigative preliminary fact finding (e.g. slow, developmentally disabled, learning disabled, deaf, mentally retarded, special ed etc.). It is important to remember that a child's label does not tell the whole story. For example, a child labeled deaf or blind, might in reality have some very useable vision or hearing that can effectively be used in the interviewing process. Therefore, it is important to establish from the beginning the exact nature of their disability or language impairment so that questions will not be raised later within the interview concerning their ability to comprehend or respond to questions.

Assess overall communication abilities

Children with special needs, in all categories of disabilities, are extremely varied with a range of literacy skills, cognitive abilities, residual speech, motor abilities and behaviors. Therefore, it is important to take all of this into consideration when working with these children and not automatically “assume” a certain level of communication based on written reports alone.

Open ended questioning for an individual whose speech is not functional, who cannot spell and/or is dependent upon the use of an augmentative or assistive communication (AAC) device or aid is a challenging situation. It may be that the child does understand or know the answer, but cannot express it because the vocabulary is unavailable to him. It is, therefore, important to work with a certified speech-language pathologist who may need to program in additional vocabulary for an individual so that it will be available for future testimony. It is important also to document in detail this vocabulary enhancement process (e.g. video taping, witnessed procedures, etc.) so that any testimony given by the individual cannot be brought into question. Open-ended interviewing of individuals with cognitive or learning problems may require the assistance of someone who can assist in presenting questions that are less abstract or confusing for individuals who are less able to process efficiently (Ames, & Samowitz, 1995).

Establishing rapport is especially important for children with disabilities in order to assess actual communication levels and understanding, and then to determine exactly what questioning accommodations might be needed. Older children may sometimes “try to pass” and hide their disability, being embarrassed to admit that they do not understand the question or issues being raised. And although there is a tendency to underestimate the abilities of children with disabilities in certain instances (e.g. especially those with labels of mental retardation, or developmental delay, learning problems), a caution is warranted, since a child’s mental age may not truly reflect their ability to tell a story or explain a situation using gestures or pictures. In addition, the tone and manner in which a question is

spoken will be extremely important so as not to raise a child's anxiety, which could disorganize them to an even greater extent.

Using a qualified sign language interpreter for individuals who are deaf for communication purposes is extremely important. Section 390 of New York State Judiciary Law states that whenever any deaf person is a party to a legal proceeding of any nature, a qualified, certified interpreter must be appointed. The Registry of Interpreters for the Deaf (RID) is a recognized authority in this regard, and provides interpreters who operate under a strict code of ethics, which among other things guarantees confidentiality, and unbiased renderings of communication on all sides. Practice in working with a sign language interpreter is an important skill for any interviewer.

CULTURAL ISSUES

Culture is one of the filters that people use to interpret life experiences. Culture is different from race or ethnicity. It is not based on the color of our skin, but our accumulative life experiences. Culture encompasses many different factors: language, family structure, socioeconomic status, gender and gender roles, moral and religious values, traditions, history, parenting practices, sexual attitudes, tolerance level for emotionalism, and individual vs. group orientation.

Recent research indicates that members of different cultural groups may respond differently to children's disclosure of sexual abuse (Feiring, Coates & Taska, 2001). A child's cultural background may also impact upon the child's appraisal of the abusive experiences (e.g., level of self-blame) and the level of social support that the child may receive. Furthermore, the manner in which emotionality may or may not be expressed is also related to culture and ethnicity.

Explore cultural issues

In the investigative process, the interviewer should explore: family structure (e.g., extended, nuclear, single), gender role expectations, child care practices, financial management of the household, reasons for immigration, level of contact with

family in the country of origin, religious belief systems, social networks, and attitudes about sexual violence.

Integrate cultural issues

Interviewers need to integrate these cultural concerns into the interview process. Very often, the factors that make it more difficult for some children to disclose sexual abuse are culturally related (e.g., gender role expectations). Cultural issues may also contribute to the likelihood of a recantation.

Ask what language is spoken at home

Language proficiency is another important consideration for the interviewer. It should never be assumed that English is a universal language understood by all children. Ideally, children should be asked what language they speak at home, as well as what language they would prefer to use. In sex abuse investigations, it would not be appropriate to utilize another family member or neighbor for the purpose of translation. Translation, in and of itself, raises additional considerations and therefore, the selection of an interpreter should be a thoughtful and deliberate process rather than a haphazard practice of simply finding someone who speaks the language (see Appendix B for guidelines on using interpreters in forensic interviews).

DEFENSE/COPING MECHANISMS

Children, as well as adults, utilize psychological mechanisms to protect them from anxiety-provoking materials. These mechanisms are often referred to as defense mechanisms or coping mechanisms. It is not uncommon for children to feel a heightened sense of anxiety when they are questioned about dynamics and/or possible abuse.

Consider any defense mechanisms

Interviewers need to consider the child's defense mechanisms during the course of a sex abuse interview. If the interviewer notices a significant change in the child's demeanor when the issue of sexual abuse is addressed, the child's defense mechanisms may in part, contribute to that change in demeanor. For example, some children, who had been verbally interactive in the early parts of the

interview, may become extremely quiet, hesitant, and avoidant when the interviewer begins to ask the child about possible sexual abuse. Some children may become far more physically active when they are asked about abuse. Other children may become overtly defensive and/or offensive. A number of children avoid eye contact and begin to speak in a softer tone of voice. Others may try to change the topic of conversation (see Appendix C for a list of possible defense/coping mechanisms used by children).

LANGUAGE CONSIDERATIONS

Consider the child's use of language

Children acquire the wide variety of language skills at different rates. Interviewers should maintain an awareness of the child's use of language by considering the following issues. Does the child use and interpret language very literally? Does the child experience difficulty in using abstract concepts, and therefore require very clear, concrete examples; for instance, in the discussion of what it means to tell the truth vs. to tell a lie, the interviewer may need to use especially clear examples of truthful and false statements. If the child appears to experience problems putting things into categories, the interviewer should avoid questions like, "Has anything like this happened before?" and substitute a more specific question, for example, "Has anyone else touched your pee-pee?" Similarly, the interviewer should avoid passive and negative questions. As an example of changing passive to active voice, instead of asking, "Has your brother been touched by him?" you can ask, "What happened to your brother?" Phrase questions in a positive manner; for example instead of asking, "He didn't touch your sister, did he?" ask, "What happened to your sister?" Additionally, given that some children respond to questions even if they have no knowledge, it is helpful for the interviewer to avoid questions that can be answered with "yes" or "no"; instead, ask open-ended questions which request the child to give some detail. Any yes/no questions require a follow-up inquiry.

At different developmental phases, children use common words in uncommon ways. For example, a young child may refer to his mother's romantic partner as

“daddy”; the child’s use of this term needs to be clarified by asking also for his name. In the same way, family friends are sometimes referred to as “uncle” or “aunt,” which also requires the interviewer to ascertain the person’s real identity and relationship to the family. Similarly, children also make errors with pronoun referents. Descriptive words, especially those in relation to others, such as “big” and “little” may also require clarification. To a young child, a twelve year old may be a “big person.” In addition, the child may use words referring to periods of time in an atypical way. For example, a child may say that something occurred for “a year” when the child simply means that it happened for what he perceives as a long time. This is also true for the word “minute” which many young children use to connote a relatively short period of time. Interviewers are advised to avoid using the usual terms when asking for estimates of size or duration from young children and/or children with delays since their use of these terms is often imprecise.

Young children sometimes have difficulty understanding more complex sentences and complex negation. It is helpful to use simple and positive sentences, for example, ones using the subject-verb-object structure. Similarly, children often have difficulty understanding prepositions. It is often helpful for the child to use simple objects to demonstrate what is meant by phrases such as “on top of,” “in front of,” or words like “behind,” in order to have sufficient clarity. Organizing details of a narrative are often confusing for children and they often do not tell accounts of events with the component details in a chronological order. In this situation, interviewers will have to undertake additional steps to understand the correct sequence of events. Younger children sometimes leave out seemingly important details. Sometimes, for example, they focus on one aspect of the event or situation and fail to consider other aspects. For these reasons, the interviewer should ask clarification questions designed to elicit additional information.

For adolescents, these language considerations may still be applicable. Although most will have a firm understanding of time concepts, some may still have trouble

with sequencing and terms for time. Even those that can recognize time concepts will not necessarily be good at narrative skills. Complexity will continue to be difficult at this age and the interviewer is encouraged to avoid complex negations and long, complex questions. Despite the age difference, some adolescents will still be operating at the school-age level and all of the above language considerations will need to be recognized.

Interviewing Tips

- Use simple, common everyday words
- Use questions that keep the number of ideas to a minimum
- Start questions with a main idea
- Stay away from negatives
- Use names and places instead of pronouns
- Use sentences with no more than 2-3 words more than the child's sentence length
- Avoid tag questions
- Be cautious in using prepositions with children under 7 years
- Connect time questions to a concrete event

REFERENCES

- American Professional Society on the Abuse of Children (1997). *Guidelines for Practice*. North Charleston, SC: Sage Publications.
- Ames, T.R., & Samowitz, P.C. (1995). Inclusionary standards for determining sexual consent for individuals with developmental disabilities. *Mental Retardation*, 33, 264-267
- Biklen, D. (1992). Typing to talk: Facilitated communication. *American Journal of Speech-Language Pathology*, 1(2), 15-17.
- Bourg, W., Broderick R., Flagor, F., Kelly, D.M., Ervin, D.L., & Butler, J. (1999). *A child interviewer's guidebook*. Thousand Oaks, CA: Sage Publications.
- DeLoache, J. S. (1995). The use of dolls in interviewing young children. In M. S. Zaragoza, J. R. Graham, G. C. N. Hall, R. Hirschman, & Y. S. Ben-Porath (Eds.). *Memory and testimony in the child witness* (pp. 160-178). Thousand Oaks, CA: Sage Publications.
- Gelman, S., Coley, J., Ronsengren, K., Hartman, E., & Pappas, A. (1998). Beyond the role of labeling: The role of material input in the acquisition of richly structured categories. *Monographs of the society for research in Child Development*, 63, (1).
- Lamb, M.E. (1994). The investigation of child sexual abuse: An interdisciplinary consensus statement. *Expert Evidence*, 2, 151-156.
- Luckasson, R., Coulter, D.L., Polloway, E.A., Reiss, S., Schalock, R.L., Snell, M.E., et al (1992). *Mental retardation: Definition, classification, and systems of supports*. Washington, DC: American Association on Mental Retardation.
- Mansell, S., Sobsey, D. & Moskal, R. (1998). Clinical findings among sexually abused children with and without developmental disabilities. *Mental Retardation*, 36 (1), 12-22.
- Poole, D.A., & Lamb, M.E. (1998). *Investigative interviews of children: A guide for helping professionals*. Washington, DC: American Psychological Association.
- Poole, D.A., & Lindsay, D.S. (1995). Interviewing preschoolers: Effects of nonsuggestive techniques, parent coaching, and leading questions on reports of nonexperienced events. *Journal of Experimental Child Psychology*, 60, 129-154.
- Poole, D.A., & Lindsay, D.S. (1996, June). *Effects of parental suggestions, interviewing techniques, and age on young children's event reports*. Paper presented at the NATO Advanced Study Institute, Recollections of Trauma: Scientific Research and Clinical Practice, Port de Bourgenay, France.
- Sattler, J.M. (1998). *Clinical and forensic interviewing of children and families*. La Mesa, CA: Jerome M. Sattler, Publisher, Inc.

Sobsey, D., Wells, D., Lucardie, R. & Mansell, S. (1995). *Violence & Disability: An annotated bibliography*. Maryland: Brookes Publishing, Inc.

Sorenson, E., Bottoms, B. L., & Perona, A. (1997). *Intake and forensic interviewing in the children's advocacy center setting: A handbook*. Washington, DC: National Network of Children's Advocacy Centers.

Turnbull, A., Turnbull, R., Shank, M. & Leal, D. (1999). *Exceptional Lives: Special education in today's schools: 2nd edition*. New Jersey : Merrill, Prentice-Hall.

Valenti-Hein, D.C. & Schwarts, L.D. (1995). *The sexual abuse interview for those with developmental disabilities*. Santa Barbara, CA: James Stanfield Co.

Walker, A.G. (1994). *Handbook on questioning children: A linguistic perspective*. Washington, DC: American Bar Association Center on Children and the Law.

Wellman, H. & Estes, D. (1986). Early understanding of mental entities: A re-examination of childhood realism. *Child Development*, 57, 910-923.

Yuille, J.C. & Farr, V.L. (1987, Fall). Statement validity analysis: A systematic approach to the assessment of children's allegations of sexual abuse. *The British Columbia Psychologist* 19-27.

Yuille, J.C., Hunter, R., Joffe, R., & Zaparniuk, J. (1993). Interviewing children in sexual abuse cases. In G. S. Goodman & B. L. Bottoms (Eds.), *Child victims, child witnesses: understanding and improving testimony* (pp. 95-115). New York: Guilford Press.

APPENDIX A

Pros and Cons of Videotaping Child Interviews

Morgan, J. T. & Brickman, J. (1999). Videotaping child victim interviews: Eight reasons why it works. *The National Child Advocate*, 2:3, 1, 6.

Every child should have the right have his/her testimony presented in court under the most persuasive of circumstances. Unfortunately, that doesn't always happen because cases are often not scheduled for trial until a year or more after the incident occurred. During this gap in time, the child, especially if she didn't receive therapy, may have blocked out the abuse and will appear "flat" when talking about it. Fortunately, videotaping can eliminate this problem, and others, and allow the prosecution to put on its case in the best possible light.

Although there are other effective means of documenting forensic interviews, it has been our experience that videotaping is one of the most powerful tools available.

Eliminates note-taking

It's extremely frustrating to take notes while interviewing, so we tell our interviewers to put away their pencils and focus on the child's body language, as well as what the child is saying. Videotaping allows the interviewer to have a free-flowing conversation with the child without worrying about simultaneously making a written record of it.

Records emotional responses

Written notes can never substitute for an effective videotaped interview, which allows the jury to see and hear the effect of the abuse on the child. Furthermore, it enables them to understand how difficult it is for the child to answer questions about the perpetrator and specifics of the assault. And, in the event the child recants, an effective videotape can also overcome any doubt the jury may have about the validity of the charges, especially if the child gave an emotional and credible interview.

It is also helpful to the other members of the Team, who can see the child's interview and responses, even though they were not present during the interview.

In addition, videotaping the interview can counter claims by the defense attorney that the child consented to the sexual encounter, especially if the victim is now a teenager. Some of these cases may take years to reach trial, so it's not unusual for the child to have literally grown a foot and become a young man or woman in the time since the disclosure. A videotape not only allows the jury to see how young the child actually was at the time of interview, but also demonstrates how vulnerable a child really is.

Encourages pleas from offenders

The videotape can also help resolve a case before it goes to court. We have always allowed defense attorneys to bring their clients to our office to view these videotapes. This is extremely effective in many of the cases involving a situational pedophile, such as the father or grandfather, who may have some sense of compassion for the child. After viewing these tapes, a sizable number of perpetrators will admit that the crime occurred because they do not want to face the child in court.

Prevents preliminary hearing testimony

A videotape is extremely useful in preliminary hearings in lieu of the child's appearance. We want to keep the child off the stand during the preliminary hearing, which occurs within 72 hours of the perpetrator's arrest, because at the stage, the child is not mentally prepared to confront the perpetrator and should not be forced to testify so soon after the sexual assault.

A child hearsay statute is admissible in 28 states. Although this statute differs from state to state, it generally allows statements from children that describe an act of abuse committed upon them to be repeated in court if the statements are found to be sufficiently reliable and the child is available to testify and/or corroboration can be provided. While the defense attorney can subpoena the child, it rarely happens. If it does, we often dismiss the warrant and indict the case. This prevents the defense attorney and the magistrate judge from forcing the child to testify at a preliminary hearing.

Helps the child's memory

Videotaping is an effective means of refreshing the child's memory prior to testifying. For example, adult rape victims are always given a copy of their written statement before a trial. This helps their memories tremendously when they take the witness stand, because they have often forgotten the details surrounding the traumatic event.

However, trying to do that with a child is another matter. Most of the children we see are not old enough to read or write a police statement. Additionally, the child's first statements are frequently taken by police officers who may use language the child does not understand and who may not have written down the exact words the child used.

We first discovered how useful a videotape could be for court preparation while working with two young boys who had been sexually abused. They were extremely hyperactive and couldn't seem to remember anything they had told us during the initial interview. Finally, out of frustration, we showed them the videotape, and they were totally mesmerized. When they ultimately testified at the trial, they proved to be amazing witnesses. So now, prior to each trial, we meet with the child victim and give him/her the opportunity to view the videotape. This also gives us the opportunity to answer any question the child may have and to ask some of our own.

Stern, P. (1999). Routine videotaping of child interviews can create as many problems as it seeks to solve. *The National Child Advocate*, 2:3, 1, 8.

A paramount goal of every forensic interview should be to thoroughly and accurately document everything that transpires during the interview. Some people advocate that this is best accomplished by reliance on technology, such as videotaping or audiotaping the interviews. While this means of documentation has many advantages, it is not a cure-all. Video- or audiotaping can often be a less-than-reliable means of documentation, and its routine use can create other problems which should be carefully and critically considered.

I have participated in the review of hundreds of videotaped forensic interviews. In almost every interview, key words were inaudible and some hand gesture were masked by the background or

camera angle. In addition, the interviewers, who were perhaps relying too much on the camera to document everything, frequently failed to clarify garbled words or to articulate the gestures made. For example, when a child was asked how many times the suspect had fondled her, she held up some fingers. How many? Who knows, because she held them in front of her dress and the lighting and camera angle made it impossible to see her hand clearly. To make it worse, the interviewer failed to clarify by asking the child, “how many fingers are you holding up?” If the interview were being documented by the interviewer in a written format, these words and gestures would be clarified.

This failure is not, of course, evidence of the reason not to videotape interviews, but it does reflect that we still need to rely on the integrity of the interviewer to fill in words or information or explanations. At the same time, however, videotaping suggest that the interviewer is so inherently unreliable that we will not allow him or her to tell us what was said by the child.

Similarly, when we videotape only children – and not all persons who are the subjects of forensic interviews – we send a message that children are inherently less credible. For the most part, this is a scientifically unsupportable position and counter-productive to the ascertainment of just results.

We must recognize that the disclosure of child sexual abuse is “a process, not an event.” (Sorensen and Snow, 1991). Disclosure is a continuum where the child may at times minimize or deny the abuse for a variety of reasons (Lawson and Chaffin, 1992). The investigative interview with the child is merely one point along that continuum of disclosures. As such, it represents no more than a single snapshot in time and is only what the child told one particular person on one particular day. The investigative interview is, by definition, neither the first nor the last disclosure (Stern, 1992).

When we videotape only one interview, we place more emphasis on that singular interview than is deserved. There is no reason to believe that what is said in that one interview is more reliable and more compelling than any other disclosure by the child. Are the words the child says to the parents on the way home from the interview (“Mommy, I didn’t tell them about the time in the

barn”) less significant? When some statements are on videotape and others are not, the taped ones – thrones to be grandly replayed to the fact finder – will be given greater weight.

One forensic interview, no matter how good, does not deserve such enhanced status. Instead, a fact-finder should look at every interview in the same way, and afford each the same significance. There is, in fact, every reason to believe that what is said in the investigative interview is not necessarily any more important than any other statement made by the child. It is unlikely to be as emotional as the first disclosure made by the child, nor as complete as later statements. Instead, it is the first statement the child has made on one particular day to a new and unknown person, which of itself increases the chance that the statement will be incomplete and not spontaneous.

When a fact-finder is being given one statement in a more vivid manner than all others, the natural impulse by the fact-finder will be to give it more importance. That frustrates efforts to place all the child’s statements in a proper context for understanding.

Other drawbacks

All the technology in the world will not make someone a better interviewer. My preference is to use scarce resources to improve the training of interviewers, rather than on the purchase of equipment and the creation of systems to maintain the storage and security of the tapes.

When do we learn if the abuser used a video camera as part of the abuse...after we have turned the camera on for the child? We videotape the statements by the child inside the interview room; what about the statements made outside the room in preparation? If improper influences are going to be made, it is likely to be at that point. Again, we rely on the integrity of the interviewers to explain that process while sending a contrary message that we really do not trust them enough to report everything that occurred.

If children who were abused need to watch videotapes of their disclosures to refresh their recollection about what occurred in order to testify, I suggest that there may be greater problems with the truth and/or provability of the case than a single piece of technology can solve.

If videotaping of forensic interviews with children works well within your community, I commend you and urge that you maintain that system. However, routine videotaping of investigative interviews does not improve the quality of the interview, and it can create unnecessary problems in proving cases and frustrate the fact-finder's efforts to reach an accurate determination of guilt.

References

1. Lawson, L. & Chaffin, M. (1992). False negatives in sexual abuse disclosure interviews. *Journal of Interpersonal Violence, 7:4*, 532-542.
2. Sorensen, T. & Snow, B. (1991). How children tell: The process of disclosure in child sexual abuse. *Child Welfare, LXX:1*, 3-15.
3. Stern, P. (1992). Videotaping child interviews: A detriment to an accurate determination of guilt. *Journal of Interpersonal Violence, 7:2*, 278-284.

APPENDIX B

Interpreters in Forensic Interviews

Hiltz, B. & Anderson, J. (2002) Using interpreters in forensic interviews. *APRI Update* 15:12

Although there may come a day when forensic interviewers will have the skills to communicate with children in their native tongues, the present reality is that trained, multilingual interviewers are not readily available in many communities. This is especially true of languages not common in specific regions. It has been our practical experience that the best option in these situations is the use of a qualified interpreter to assist the interview process.

Information can be found on utilizing interpreters in various settings, including court, medical, therapeutic, and educational. Although professionals conducting forensic interviews can draw on information from these other domains to establish clinically-based guidelines, there remains a distinct lack of information and research specific to utilizing interpreters with children in a forensic interview. The following are offered as experience-based considerations for those who choose to utilize interpreters in their forensic interviews.

Assess the need for an interpreter

To establish the need for an interpreter, simply ask, “what language does this child use at home?” While children may speak English at school, in daycare, or when greeting the forensic interviewer, these factors do not diminish the need for an interpreter. In a forensic setting the child may talk about things she or he only has words for in the child’s native language, e.g. body parts or sexual acts. In addition, the added stress of the forensic interview process and the unfamiliar setting may cause children to revert to language which is comfortable and familiar.

Consider qualifications

Court Certification

In many jurisdictions, there are certification processes to train and educate interpreters on issues related to interpreting in a legal setting. Completion of this type of training allows interpreters to become “court certified.” Court certification is not available in all states, and both state and

federal court certifications are limited to particular languages.¹ It is recommended that interviewers learn what is available in their area and inquire about court certifications status of the interpreter they choose.

Neutral Party

As with the courtroom setting, the expectation in a forensic interview is that the interpreter is a neutral party, is not an advocate for the child, and does not try to explain or help witnesses by expanding or rephrasing question and answers.² Children may not want to share details of an experience in the presence of someone they know. In addition, issues of suggestibility may be raised. People with a personal connection to the child may display an emotional reaction (e.g., crying, gasping) or use verbal or non-verbal cues to prompt the child to speak (e.g., head nodding, encouraging the child to speak). Such behavior may affect the child's responses due to a desire to please a loved one.³

Consider variations within languages

Spanish spoken by someone from Mexico, for example, may be significantly different from that spoken in Venezuela. Social status, geography, degree of immersion in American culture, religion, accent, pronunciation, dialect, clan and other factors may account for language differences. Particularly with children, these differences may lead to misunderstanding or even inability to communicate. Communication problems may be reduced by gathering some specifics about the child prior to the interview and attempting to match the interpreter accordingly.

Meet with your interpreter prior to the interview

This meeting should not be underestimated, as the work of the interpreter can potentially aid or thwart attempts to gather accurate and reliable information. The following are some possible areas to be covered.

Explain the purpose and logistics

The interpreter should have basic information about what to expect, including (but not limited to) specifics regarding the nature of a forensic interview, any aids you might use during the

interview, your method of memorializing the interview, and the physical set-up of the interview room.

Don't change questions

Make sure the interpreter understand that she or he should not change the question or the question structure (i.e., multiple choice, open ended, yes/no). if the question cannot be interpreted directly, the interpreter should alert the interviewer so the interviewer can rephrase. It is not the role of the interpreter to offer suggestion or attempt to clarify the questions.

Keep it simple

The interpreter may have more than one way to word a sentence or question in the child's native language. Both sentences or questions may convey the same denotative and connotative meaning. However, interpreters should be instructed that in such cases, they should select the simplest, shortest, and most concrete method. Do not forget that the interpreter may not have the knowledge of child development and cognitive processes possessed by the interviewer.

Interpret everything

It is not the role of the interpreter to filter information or to decide what is relevant. For example, if the child answers a question with seemingly unrelated information, the child's words should be relayed and the interviewer can determine their relevance.

Caution against touching or gesturing

Inform interpreters that, amongst other things, they should avoid having children sit on their laps, hugging or stroking a child, nodding their heads and gesturing. The interpreter may overlook such pedestrian interactions, but forensic interviewers recognize the significance of these non-verbal communications and their potential implications for suggestibility. Be clear with the interpreter that if the child attempts to make physical contact with the interpreter, the interviewer will attempt to redirect and refocus the child's attention.

Ask questions

Interviewers can use this meeting to inquire about any nuances of the language they should be aware of, e.g., phrasing, the use of prepositions, or other idiosyncratic elements. Such preparation will minimize confusion and conserve time in the interview.

Arrange the physical space

It is important that the room positioning reflect the primary importance of the interviewer-child interactions. To do this, have the interviewer and child face each other, with the interpreter sitting slightly behind and to the side of the interviewer. This way, the child can look at the interviewer while maintaining sight of the interpreter over the interviewer's shoulder. If cameras are used, ensure that all parties and their interactions can be viewed within the frame.

Have the interpreter available

Introduce the interpreter to the forensic setting at the outset of the interview. Having an interpreter available in the interview does not necessarily obligate the interviewer or child to use her or him continuously. As with interview protocols, the use of the interpreter should be adjusted to developmental and situational factors. If the interpreter is not used for the entire interview, the interviewer must remain alert, looking for possible misunderstandings and confusion in communication. The interpreter can be drawn into a more active role at any point in the interview process.

Prepare the child

At the outset of the forensic interview the interviewer should introduce the interpreter and her or his role to the child. This can be accomplished through statement as simple as: "This is _____ (interpreter's name) and she is here to help us talk. She speaks _____ (child's language) and I don't know how to speak _____ (child's language)."

The child's developmental level and previous experience using an interpreter may alter this introduction. When appropriate, explain that the interpreter can be called upon to translate when the interviewer or child identifies a need. To check for understanding, have the child reiterate the purpose for the interpreter.

Speak to the child

Interviewers should focus their attention on the child being interviewed, not the interpreter. When speaking, speak directly to the child, not to the interpreter, and when the interpreter is speaking, continue to look at the child. Avoid using phrases such as “tell her...” or “ask him...”⁴ Such considerations will help the child feel connected to the interviewer and may reduce the child’s confusion of people’s roles.

Each individual interviewer is responsible for maintaining the integrity of her or his interview. These points should be viewed as a possible guide, not a recipe for success. In forensic interviewing, significant weight must be given to individual circumstances as well as developmental and cognitive differences among children. Practitioners must apply strategies that are feasible within their own settings and communities and adapt these strategies accordingly.

References

1. Mintz, D. FAQs about court interpreting. Retrieved July 26, 2002 from <http://www.najit.org/faq.html>
2. Hardy, M. (1998) Ten tips on using court interpreters in child witness cases. *APRI Update* 11, 1-2.
3. Ceci, S. J. & Bruck, M. (1995). *Jeopardy in the courtroom: A scientific analysis of children’s testimony*. Washington, DC: American Psychological Association.
4. Minnesota Supreme Court Interpreter Advisory Committee (1999). Best Practices Manual on interpreters in the Minnesota State Court System.

APPENDIX C

DEFENSE/COPING MECHANISMS

The following is a list of possible, but not all, defense/coping mechanisms.

1. *Avoidance*

Child is willing to cooperate and respond to prior inquiries, but when the topic of touching is approached, the child may become non-responsive, try to move the topic to something else, or physically remove himself from the question and answer interaction.

2. *Denial*

The child will provide a partial or blanket denial of facts known to the interviewer, such as denying that they had ever known the suspect when, in fact, there is evidence to the contrary.

3. *Reaction-Formation*

After providing material that is psychologically threatening, the child provides other materials that appear fantasy-like, but may, in fact, serve to reestablish the child's psychological sense of equilibrium and reduce anxiety. For example, "After Albert put his pee-pee in my butt, I locked him in the closet (or threw him out the window) and he never came back again."

4. *Minimization*

This mechanism is frequently seen in sexual abuse cases, particularly in the early stages of disclosure. This coping mechanism allows the child to minimize the number of incidents and/or type of abuse. For example, if the child was being abused one time per week for one year, she may say that it happened once or twice. Another example would relate to a situation in which a variety of sexually abusive behaviors took place and in the initial stages of disclosure the child reports only the sexual behaviors that are least psychologically threatening (e.g., he touched me on the pee-pee, rather than reporting fellatio or sodomy).

5. *Displacement*

This coping mechanism allows the child to avoid dealing with the person and/or situation that has promoted elevated anxiety in the child, by reporting that a less threatening person and/or situation prompted the cause for anxiety. For example, a 5-year old girl who has a sexually transmitted disease reports that it was her infant brother who put his "pee-pee" in her "pee-

pee”

6. *Rationalization*

Children who use this defense mechanism attempt to come up with an intellectual rationale for the reasons that they were abused. For example, “He thought that I was my mother” or “He was checking on me to make sure I was alright.”