

## Strength Through Collaboration: How Prosecutors & Forensic Interviewers Can Work Together To Build a Successful Case September 24, 2020



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### Objectives



- Discuss and analyze several research articles that relate to child forensic interviewing
- Identify stumbling blocks that occur in the course of a forensic interview and/or investigation and ways to address those in court
- Categorize information about child development and forensic interviewing techniques which would help jurors better understand the evidence in child abuse cases
- Recognize and apply the principles addressed about during trial preparation
- Develop strategies to enhance communication between the forensic interviewer and the prosecutor for better collaboration in child maltreatment cases.

### Connect with prosecutor

- Introduce self to prosecutor
- Availability
- Training
  - Formal
  - Informal
- Provide resources
- Case by case



### Case Example What are the potential issues?

- Five-year-old girl
- Marital problems
- SA dad
- Hand to vagina
- Multiple incidents during bathing
  - At yellow house and baby in mom's tummy
- Accidental report to GM
- Inside/outside
- Dad's private out of shorts and pees in tub
- Game



## Examining & Understanding Research Relating to Forensic Interviews

### Suggestibility: The "Sam Stone" Study



Ceci, S.J. & Leichtman, M.D. (1995). The Effects of Stereotypes & Suggestions on Preschoolers' Reports. *Developmental Psychology*, Vol. 31(No. 4) 568-578

### Sam Stone Study

- Age: 3 – 6
- N = 176
- Questioned once a week for 4 weeks after encounter
- Conditions
  - **Control:** No suggestive questions
  - **Stereotype:** Pre visit expectations given
    - "Negative" information about SS
  - **Suggestion:** erroneous suggestions about misdeeds committed by SS embedded in interviews
  - **Stereotype plus suggestion:** pre and post visit leading questions and manipulations

### Summary: Sam Stone Study

- In the absence of any attempt by adults to taint the youngest children's reports, **their reports were largely, though not wholly, devoid of errors.**
- They were also able to provide accurate accounts of actual information about his visit.



### The "Bicycle Study" Replication of the Mousetrap Study



• *Ceci, S.J., Loftus E.F., Leichtman, M., Bruck, M. (1994). The Possible Role of Source Misattributions in the Creation of False Beliefs Among Preschoolers. The International Journal of Clinical & Experimental Hypnosis, Vol. XLII(4) 304-320.*

The Bicycle Study

- N=40
- Age: 3- 6
  - Younger group: 3-4 (20)
  - Older group: 5-6 (20)



The Bicycle Study

- **Conditions:**
  - Children questioned about actual, salient events
    - Info supplied by parents
  - Children questioned about fictitious events that never occurred
  - Interviewed 11 times for 30 minutes by same interviewer once per week

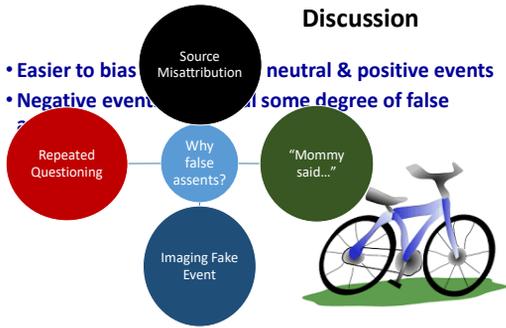


### Bicycle Study Results

- **Authentic Events**
  - Children rarely indicated they couldn't recall these events
  - Session 1 level of accuracy 91-100%
- **Fictional Events**
  - Younger children are more influenced than older
  - Multiple suggestive interviews increase the risk of false assents



≥ 50% in either group  
NEVER assented to fictional events



### Forensic Interview

- Definition
- General Guidelines
  - Research that informs them
  - Narrative Event Practice
- Dealing with imperfections in the interview
- “Inconsistencies”



### What is a forensic interview?

A forensic interview of a child is a **developmentally sensitive and legally sound** method of gathering **factual information** regarding allegations of abuse or exposure to violence. This interview is conducted by a **competently trained, neutral professional** utilizing **research and practice-informed techniques** as part of a larger investigative process.

Newlin, C., Steele, L. C., Chamberlin, A., Anderson, J., Kenniston, J., Russell, A., & Vaughan-Eden, V. (2015). Child forensic interviewing: Best practices (pp. 3-20). US Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention.

### Some National Protocols

- Ten Step Investigative Interview (Tom Lyon)
- Individual Research Based State Guidelines
  - WI, MI, OR
- National Institute of Children’s Health and Human Development (NICHD)
- National Children’s Advocacy Center (NCAC)
- Child First
- Cornerhouse Forensic Interview Protocol
- RADAR

- Initial Rapport Building
  - Interview Instructions
  - \*Truth vs. Lie Discussion
  - Narrative Practice/Episodic Memory Training.
- Substantive Phase
  - Introduction to Topic/Transition to topic
  - Narrative & Detail Gathering
  - Alternative Hypotheses
  - Consultation with Multidisciplinary Team (MDT)
- Closure Phase
  - Something else FI needs to know
  - Questions
  - Thank child
  - Neutral Topic, as needed

### General Guidelines



### Narrative Event Practice

Lamb, M.E., Yi, M. (2017), The effects of narrative practice on children’s testimony and disclosure of secrets, *Applied Cognitive Psychology*, 2018, 32:326-336.

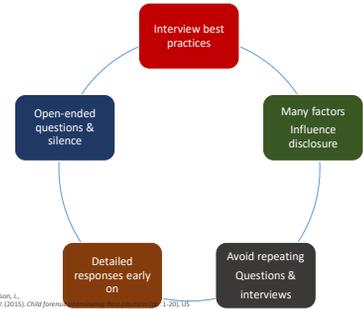
Results showed that children who were trained to respond to open-ended prompts early in the interview responded more informatively later, but the specificity of topics had no effect on their accuracy and informativeness.

## Benefits of NEP

- Interviewer engages child
- Interviewer shows that he/she is listening & is interested in child
- **Interviewer gets a baseline of child's ability & communication style**
- **Interviewer practices how information will be gathered**
- Interviewer allows child to tell in his/her own words
- Interviewer gets information that can be corroborated by investigators



## Child Forensic Interviews: Key points



Newlin, C., Steele, L. C., Chamberlin, A., Anderson, J., Kenniston, J., Russell, A., ... & Vaughan-Eden, V. (2015). *Child forensic interviewing: Best practices* (pp. 1-20). US Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention.

## Child Forensic Interviewing Best Practice

- Purpose of Child Forensic Interview
- Historical context
- Considerations regarding child
  - Development
  - Culture
  - Disabilities
  - Trauma
  - Disclosure



Newlin, C., Steele, L. C., Chamberlin, A., Anderson, J., Kenniston, J., Russell, A., ... & Vaughan-Eden, V. (2015). *Child forensic interviewing: Best practices* (pp. 1-20). US Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention.

## Child Forensic Interviewing Best Practices

- Considerations regarding interview
  - Timing
  - Documentation
  - Neutral & Objective Setting
  - Role of Interviewer
  - Question type
  - Use of Evidence
- Forensic Interview
- Other Considerations
  - Multiple, non-suggestive, non-duplicative interviews
  - Supervision & Peer Review
  - Vicarious Trauma & Self-Care



Newlin, C., Steele, L. C., Chamberlin, A., Anderson, J., Kenniston, J., Russell, A., ... & Vaughan-Eden, V. (2015). *Child forensic interviewing: Best practices* (pp. 1-20). US Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention.

## Masquerading as a Forensic Interview

- Interviewer has had FI training
  - Why is this not enough?
- Interview is being recorded
  - Is recording the litmus test?
- Some open-ended questions are being asked
  - Are most prompts narrative inviting?
- Child is answering direct, suggestive questions
  - Is child being allowed to tell EVERYTHING they know?
- Some indication of abuse
  - But is it???

## What does MY FI look like?

1. Did I use a protocol/guideline?
2. Did I follow the protocol/guidelines?
3. Did I deviate from the protocol/guidelines?
  - a) If so can I explain/justify?
4. Did I suggest answers with my questions?
5. Did I stereotype the suspect?
6. Did I repeat Q's over & over again-different A's
7. How many times did I interview the child?

24

### Is Training Enough? NO!!!!

- Difficulties Translating Research on Forensic Interview Practices to Practitioners: Finding Water, Leading Horses, But Can We Get Them to Drink? Michael E. Lamb
  - Training can enhance the acquisition of complex interviewing skills & interview quality CAN be improved BUT only if
    - Training is spaced over time
    - Extensive opportunities to consolidate learning & practice skills in contexts that ensure prompt feedback & guidance
  - **Traditional classroom learning only**
    - No significant effect on practice
    - May be harmful, may create an illusion of expertise and competence

### Inappropriate Use of Research

Hershkowitz, J., Ahern, E.C., Lamb, M.E., Blasbalg, Y.K-V, Breittman, M. (2017). Changes in Interviewers' Use of Supportive Techniques during the revised Protocol Training. *Applied Cognitive Psychology* 31: 340-350.

### Goals of the Study

- To investigate emotional factors that may impact completeness of child abuse disclosures. The study examines the effectiveness of non-suggestive support by interviewers when questioning reluctant children about abuse within the family.
  - Nowhere in this study does it indicate that it is best practice to utilize a certain amount of free recall prompts (only that structured supportive techniques enhance a child's level of informativeness so that the interviewer does not need to ask as many close ended questions)

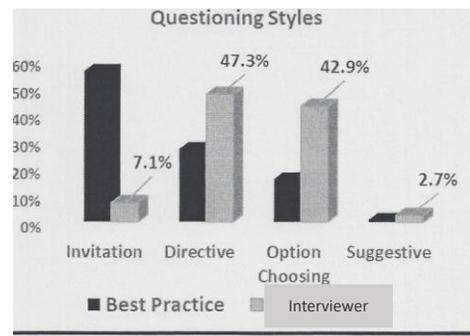
### Here is the Research

Table 3. Average proportion (SD) of utterance types by time point (unit of measurement is interviewer)

	Baseline Mean (SD)	After first training Mean (SD)	After second training Mean (SD)	After third training Mean (SD)
Invitations	0.58 (0.11)	0.58 (0.11)	0.58 (0.12)	0.55 (0.11)
Directives	0.25 (0.09)	0.26 (0.11)	0.26 (0.1)	0.27 (0.1)
Option-posting	0.13 (0.07)	0.14 (0.05)	0.14 (0.08)	0.16 (0.09)
Suggestive	0.02 (0.02)	0.02 (0.02)	0.02 (0.02)	0.01 (0.02)

Note: In order to examine the effects of change across the training period, the times of assessment were defined as baseline, after first training, after second training, and after third training. Baseline interviews included those conducted before the RP training.

### Here Is the Expert's Misrepresentation of the Research



## What are the issues?

- Is the research relevant to the topic being reviewed?
- What was definition of each question type in the study?
- What definition was used by the “expert”
- Was the context of the question taken into account?
  - Was the direct question a follow up to narrative?
- Alternate/multiple hypothesis?

## Abuse Dynamics

- Delay in Disclosure
  - The norm not exception
- Common reasons
  - Relationship dynamics
  - Fear, guilt, shame, embarrassment, love, loyalty
  - Lack of understanding
  - Pressure
  - Won't be believed



## Recantation

- Is it a recantation?
- Did assault happen ?
- Reasons for recantation
  - Fabricated report
  - Pressure from family/family reaction
  - Changes due to disclosure
  - Trial stress



## Trauma

- Sexual violence is traumatic
- Everyone reacts differently to trauma
  - Affect
- Impacts behavior & memory
- Central details more strongly encoded than peripheral details
- Memory gaps



## Manipulation By Offender

- Explore the Relationship
- Explore Nuances of Manipulation during the Forensic Interview
  - Victim selection
    - Personal appeal
    - Family vulnerabilities
    - Individual vulnerabilities
  - Child's Experience of Victim Selection
  - Rapport/Trust Development
  - Desensitization
  - Access

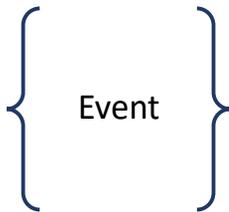


## Child Development

- Time frames
- Abstract concepts
- Language
- Fund of information



Time Frames

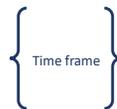


Maltreated children's' ability to make temporal judgments using a recurring landmark event

McWilliams, K.; Lyon, T.D.; Quas, J.A. (2016) Journal of Interpersonal Violence, 1-11.



Summary



- Issue: Are maltreated children capable of judging the location & order of significant events with respect to a recurring landmark event?
- Asked whether “near” their birthday and “before or after” their birthday.
  - Current day, last court visit, last change in placement
- Children exhibited a prospective bias, preferentially answering with reference to a forthcoming birthday rather than a past birthday.
- Recurring nature of some landmark events makes questions about them **referentially ambiguous** and children’s answers **subject to misinterpretation**

**Helping the Prosecutor Figure Out “When”**

WHO + WHAT + WHERE = WHEN

What can be **corroborated** and provide **time-related info**

**Who:** was there; wasn’t there; why—where were they; who saw/heard/was told something—can lead to calendars, work-places and schedules, birthdays and possible witnesses

**What:** was done on that particular time—not just the assault, but everything, especially the unusual; what happened because of what was done

**Where:** place descriptions, and places within places—can verify with leases, calendars, school records, photos, other witnesses; can also provide basis for separating and adding criminal charges

Language



Anne Graffam Walker, PhD



*“We do not question children. We question one child at a time.”*

Another Great Resource!



Abstract Concepts

- Truth/Lie
- Up/Down
- Inside/outside
- How long, how big, how far, how many



Truth induction in young maltreated children: The effects of oath-taking and reassurance on true and false disclosures

- Lyon, T.D., Dorado J.S. (2008), Child Abuse & Neglect (32), 738-748
  - Suggests that a child-friendly version of the oath increases testimonially competent maltreated children's true disclosures without increasing false disclosures.
  - The ultimate test of truth induction must take place in the field.



Young Children's Understanding That Promising Guarantees Performance: The Effects of Age and Maltreatment

- Lyon, T.D., Evans, A.D. (2014), Law & Human Behavior, Vol. 38, No. 2, 162–170.
  - Offers practical advice for courts that wish to modify the oath in a child friendly way.
  - Age 4 "promise" is almost synonymous with "will". They understand that both indicate certainty and are morally binding. But for older children "will" might appear weaker than "promise"
- Best solution- "Do you **promise** that you **will** tell the truth?"

Fund of knowledge

- Sex/Sex acts
- Developmental concepts
- Ability to give narrative & Provide details



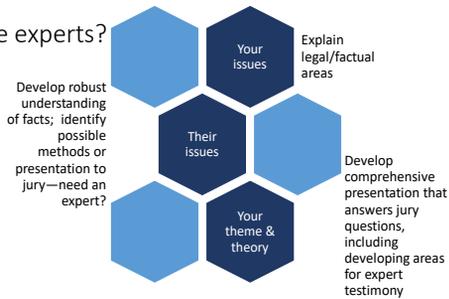
Making the Interviewer—Prosecutor Connection



First, prosecutor basics



Consult the experts?  
Why?

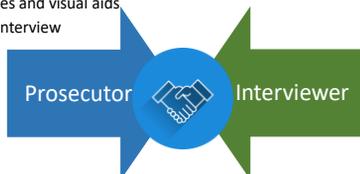


The interviewer basics, case by case

Your role?	Case issues	Interview issues
<ul style="list-style-type: none"> <li>• Fact witness</li> <li>• Expert</li> <li>• Response to defense expert</li> </ul>	<ul style="list-style-type: none"> <li>• Abuse dynamics</li> <li>• Family dynamics</li> <li>• Child specific</li> <li>• Corroboration</li> </ul>	<ul style="list-style-type: none"> <li>• Leading questions</li> <li>• Child specific</li> </ul>

Addressing Issues in Court

- Strategizing with prosecutor
  - Fact
  - Expert
- Developing questions with eye toward what needs to be presented in evidence to explain and clarify issues
- Language choices, examples and visual aids
- Address imperfections in interview



Case Example

- Five-year-old girl
- SA dad
- Hand to vagina
- Multiple incidents during bathing
  - At yellow house and baby in mom's tummy
- Accidental report to GM
- Inside/outside
- Dad's private out of shorts and pees in tub.
- Game



## Defense challenges

- Multiple hypothesis
- Question types
- Source misattribution
- Multiple interviews vs. Multiple suggestive interviews
- Speculation

## Resources

- <https://works.bepress.com/thomaslyon/>
- <https://www.nationalcac.org/>
- American Professional Society on the Abuse of Children. (2012). Practice Guidelines: Forensic Interviewing in Cases of Suspected Child Abuse. Chicago, IL: APSAC.
- Newlin, C., Cordisco Steele, L., Chamberlin, A., Anderson, J., Kenniston, J., Russell, A., Stewart, H., & Vaughan-Eden, V. (2015). Child Forensic Interviewing: Best Practices. Washington, DC: U.S. Department of Justice.

