Defending Your Interview in Court

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I’m going to court - Now What Do I do?

• Some first questions you may think you will be asked are:
  – Tell me who you are?
  – Your education?
  – What training do you have?
  – Do you use a protocol?
  – Is this a research-based protocol?
  – Do you know the research?
  – Do you participate in Peer Review?
  – What is a CAC?

What Do I need to know as an Interviewer? The Basics

• Keep a current updated vitae/resume
• Keep track of how many interviews you conduct
• Know about the training you have received
• Keep track of your on-going training hours
• Have a good understanding of your Child Advocacy Center and how things work (who does what)
• Know the policies and procedures of your multidisciplinary team approach
What Do I need to Know as an Interviewer?

- The field of forensic interviewing is ever changing.
- You must be aware of the emerging issues and research in the field
- You must know the current Best Practices in the field
- Standards & guidelines governing forensic interviewing
  - National Children’s Alliance
  - APSAC guidelines
  - NACCFI
- AFI - Association of Forensic Interviewers
- SIG - Special Interest Group - APSAC

We must continue to improve our skills and abilities!

- You must be well trained
- Completed a five-day forensic interviewing training course
- PLUS on-going and advanced trainings
- PLUS Peer Review and supervision

Protocols - OJJDP Article

- APSAC
- ChildFirst Protocol
- Childhood Trust
- CornerHouse Forensic Interview
- NCAC
- NICHD/Ten Step Investigative Protocol
- State protocols - Michigan, Florida, etc...
- Stepwise

*Be prepared to articulate the research that supports your protocol.
Protocols

• Stay true to your protocol – even though some are semi structured, don’t take bits and pieces from one and use in another! That will be difficult to defend.

• Faller (2007) states that a protocol should be:
  – Research-based
  – Endorsed by a national organization
  – Published

What Do I need to Know as an Interviewer?

• You must know your protocol
  – Why you do what you do
  – Why you modified or deviated from said protocol
  – Some “changes” may be to the flexibility of the protocol and may not be a modification or deviation (ex: teen interviews)
  – Why and what the research says about your protocol
  – Be able to explain the research within the process
  – Some defense attorneys are asking about the error rates of interviewers protocol – NONE of the protocols have this information available. You can’t apply legal concepts (reliability) to social sciences

• You must know the research
  – What is the research I should know?

Specific Research

Areas to focus with regards to research

• Anatomical dolls and Diagrams
  – GNCPTC recent Doll and Diagram Position Paper

• Disclosure Process - Delayed Disclosure
Forensic Interviewing

- Everything we do must be:
  
  Purposeful and legally defensible!

  #Whatsthepurpose

Anatomical Diagrams

- Discussion on Anatomical Diagrams
  - National discussions - only verbal disclosures
  - You are not alone!
  - Compared to doll research
  - It is really about what we do, how we do it, and can we defend our work
  - Many utilizing diagrams inaccurately
  - Research and discussing do not always apply to how we use anatomical diagrams

Our position

“The strong, even extreme rhetoric against dolls and diagrams, much less the disparagement of the forensic interviewers who utilize these aids, is neither professional nor supported by the actual research.”

www.gundersenhealth.org/ncptc
Anatomical Diagrams   Purposes for Use

- Diagrams should:
  - NOT be used in the field for FIRST response interviews
  - NOT be used for body safety during forensic interview

- Two purposes for use:
  - ChildFirst forensic interviewing protocol
    - Within protocol to name body parts
    - Within protocol to clarify terminology used by child

Examples of Proper Use

- After open invitation, using unclothed anatomically correct diagrams
- Child can make a representational shift
- Diagrams should be age and skin tone appropriate
- Diagrams utilized to name what the child calls their body parts. (not about alleged offender or allegation)
- Diagrams utilized for clarification purposes
- Maximize open-ended questions
  - How to Educational video to come soon (website)

Examples of poorly-used diagrams

- Utilizing diagrams that are gender-neutral or clothed
- Utilizing diagrams as a “last ditch” effort to get a disclosure
- Utilizing diagrams for body safety
  - We are neutral and should not be “teaching”
  - #whatsthepurpose
Use of Diagrams

- NEITHER RHYME NOR REASON: The Disconnect Between Research and Practice in the Use of Anatomical Diagrams
- We must discuss and compare apples to apples, not apples to oranges!

Problems with Recent Research

- Research does not replicate real world interviews
- Research does not address reluctance of child to report (Lyon, 2011)
- False reports not probed for details (Poole et al., 2011)
- Research uses gender-neutral diagrams (Aldridge et al., 2004; Teoh et al., 2010)
- Research uses clothed human figure diagrams (Bruck, 2009; Dickinson, 2011)
- Body parts imprecisely located (Brown et al., 2007; Willcock et al., 2006)
- Developmentally, children may not see HFDs as representative of them (Bruck, 2009; Willcock et al., 2006)

Where are the parts? (Bruck, 2009)
Helpful ... or Creepy?

• Aldridge et al., 2004
• Willcock et al., 2006

... or Super Creepy?
(Forensic Mental Health Associates, 1990)

Commonly utilized ...
Problems with Recent Research

- Research does not employ diagrams in manner consistent with forensic interview best practices
  - Purposeful introduction
  - Utilized with instruction/explanation to child
  - Yes/no questions paired with open-ended questions

Anatomical Diagrams
Utilized by ChildFirst/Finding Words

Encouraging Conclusions

- “We do not know whether the drawings might have been more useful, and less error inducing, if they had been introduced at the beginning of an interview, for example, to name body parts or to clarify verbal reports of touches as recommended by several professional and academic sources.” (Brown et al., 2007, p. 41)
Encouraging Conclusions

• “Perhaps HFDs could be used at the very beginning of interviews only to assess children’s knowledge of body part names while the interviewer is also assessing other cognitive functions.” (Bruck, 2009, p. 371)

Encouraging Conclusions

• “It appears that the advantages of using media outweigh the disadvantages… Interviewers should use media in a planned manner.” (Faller, 2007, p. 113)

Doll Research

• “In the proper hands, anatomical dolls are a highly effective and efficient tool for helping young children disclose and describe their sexual experiences.” Everson & Boat

• It is really about HOW we use the dolls...
  – If kids can’t make a representational shift, used as interactive play, pre-disclosure, and by untrained interviewer - these practices can create problems

• Use research that is appropriate for our real life interviews
Belong and Understand Your MDT

• Know the roles of the MDT (Multidisciplinary Team) members
• Know who does what - from the first report all the way to the courtroom.
• Don’t just rely on the forensic interview - Corroborate, Corroborate, Corroborate!
• Educate all team members on the developments in the field of forensic interviewing.
• Record your interviews!

Know your jurisdiction

• Know type of court
• Know the case file
• Know the type of witness you will be
  – Lay
  – Expert
  – Case law
  – How far can I go
• Rules of evidence - “sensory questions”
• Expectations of judges and juries
• Importance of peer review
  – One/One, local, regional, state, national (DCAC)

Practice/Prepare

• Preparation begins the day the case is reported!
  – Do you meet with your prosecutor?
  – Civil and Criminal
• Document - record
  – Can you review your interview?
• Interview is one piece of entire investigation
  – What did the MDT do after the interview?
Testifying - Direct Examination

- Be polite 😊
- If you made errors in your interview - admit it!
- If you bring them up first, the defense may not have anything else to bring up
- Work with your prosecutor to discuss research during direct that you may be attacked
  - Dolls
  - Diagrams
- Use language everyone understands.
- Watch the acronyms that we use so often in our job - MDT, RATAC, NICHD, etc...

What do I do to prepare for cross examination?

- Be polite
- Watch your non-verbal body language
- Don’t say something that is not supported by research (or common sense) e.g., Do children lie?
- Answer what you are asked and no more
- Yes and no questions - If you can’t answer with a yes or no, ask if you can elaborate. If defense won’t let you, it is the prosecutor’s role in re-direct to take care of this!
- “Of course not” answers

Attacks by Defense

- When defense experts “attack” forensic interviewing

  Protocols
  - More similarities than differences
  - Remember if you mix/match protocols - may be hard to defend
  - All supported by research - “as developed”
Reach out to ZAP and your network of professionals!!!

- We are here to help you!
- ZAP has a Fi at Trial (Forensic Interviewer at Trial) training
- Get involved in AFI, APSAC, NCA list serves
- Any research you don’t understand, ask, ask, ask
- Attend on-going trainings, advanced, peer review participation, etc..

Questions???

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Reference
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