

Understanding, Evaluating, and Admitting Forensic Interviews



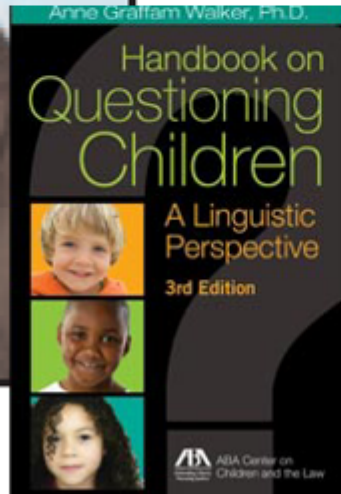
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WHY does HOW Matter?

- Certain types of questions reduce the reliability of responses
- Adult assumptions contaminate questions and answers
- Contaminated questioning impacts all systems' ability to respond to abuse



Anne Graffam Walker, PhD



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

Factors that Impact the Amount/Quality of Information

Child Related

- Individual Differences

Event Related

- How involved was the child
- Timeframe, level of trauma, relationship to offender, grooming

Interview Related

- Environment, type of questioning



How Children Talk About Events: Implications for eliciting and analyzing eyewitness reports

Brubacher, S.P., Peterson, C., La Rooy, D., Dickinson, J.J., Poole, D.A., (2019)

1. Describing Past Events

- Children describe past events beginning around their second birthday and can remember these events for many years
- Parents can often confirm accuracy of these reports
- Memories most likely to disappear over time are those devoid of emotion or not narratively coherent



2. Delayed Reports of Pre-verbal Children

- Reports from children who were preverbal at the time of the event(s) are sparse and riddled with error



3. Reports are piecemeal and incremental



- When open ended prompts are employed sequentially, children will continue to elaborate, starting with overarching themes and providing more detail in small packages

4. Children maintain accuracy

- When a series of open-ended prompts are offered, a majority of information children provide (80-90%) is accurate
- Keep in mind, inaccurate details can be present even when the event itself occurred



5. All age groups drift off topic

- You get 5 turns with a 5-year-old
 - Wandering mind
 - Perspective on the question
- Interviewer Tools
 - Topic shifters: Phrases that warn of topic changes
 - Topic markers: Repeating words or phrases in interview prompts related to topic of interest
 - Topic drift checks: Clarify whether the child is still on topic



6. Young children use words easiest to pronounce



- Stand-ins for words they are unfamiliar with
 - Yesterday = any time before today
- Words used may not mean the same thing to the child as they do to they adult

7. Narratives often contain non-fluencies and expressions of uncertainty

- Most common when children are constructing narrative vs. casual chit-chat
- Do not imply weak memory, fabrication, or coaching!



8. Detail errors are normal within accurate reports

- Can occur when “gist” trace memory gets mixed up with verbatim trace memory
 - When people fill in memory gaps with information that is false, but consistent with the meaning of an event, they are relying on gist rather than verbatim
- Also characterized as memory conjunction errors or source errors
- Oftentimes, both things are true, but child is confused about how they are related



9. Forced choice questions impair accuracy

- In many studies responses are accurate regardless of question type, but contamination can be more effectively ruled out with narrative inviting prompts.
- Poor answers could reflect
 - Length of time since the event
 - Child's age and ability
 - How the question was worded
 - Level of detail required by the question
 - Or ALL of the above

10. Focused prompts as memory cues

- Appearance of contradictions
- Unnecessary words or the way questions/focused prompts are worded may restrict meaning
 - Apron example: What did Bonnie show you? Vs. What did you see in the room
- Words that don't have same meaning to younger children e.g. swimming suits and pajamas are NOT clothes to young children
- When children appear to contradict themselves ask f/u prompts for clarification

11. Response style dependent on interviewer style

- Conversational styles are molded by style of conversational partner
 - NEP is done to model narrative
- Present vs. past tense
- Children are more responsive when they generate their own labels for events

12. Additional information recalled in subsequent interviews

- Reminiscence
 - May be reason to do a 2nd interview
- Previous research seems to indicate that we shouldn't do multiple interviews
- Truth is that, repeated **Suggestive** interviews can degrade memories not repeated interviews
- **When additional interviews are conducted we should expect some added details**

13. Children witnessing same event will recall different details



- Contradictions in the overall plot are rare.
- “Contradictions” exist because
 - Children may view thing from different physical or emotional space
 - Children have different cognitive and linguistic abilities.
 - Varied questions by different adults
- Do not assume child is confabulating because later interviews produce more information.
- **Is the overall plot consistent**

14. Narratives can get better AND worse over time

- Children's memories do not necessarily degrade extensively over time.
- Some preschoolers gave more detail 10 years after injury because of larger vocabulary and better verbal skills.
 - Telling things with knowledge and language of their current age.
- **Do not assume knew information is fabricated or suggested when later reports contains age appropriate descriptions that were absent before.**

15. False narratives can be detailed and coherent

- False narratives can be a product of things beyond investigators control.
- Children are capable of generating false details.
- Continue to elicit detailed narratives with nonleading invitations.
- Test for alternative hypotheses *appropriately*
- Despite issues is “story” still plausible and coherent.



Five Considerations About Memory Processes for Child Investigative Interviewers

Meaghan C. Danby

Policing: A Journal of Policy & Practice, 2024, 18, 1-11

MEMORY FORGETTING RATES ENCOURAGE A PROMPT INTERVIEW,
BUT NOT AN UNPLNNED ONE



**NON-LEADING OPEN-ENDED PROMPTS SHOULD BE PRIORITIZED
TO ENCOURAGE DEEP AND ACCURATE MEMORY RETRIEVAL**

How Question Phrasing Impacts Children's Memory Retrieval Processes

- Phrasing of question guides witnesses' search through memory
- Non leading, open-ended prompts
 - Encourage elaborate responses w/o dictating details to report
 - Witness must select and retrieve accessible details
 - Even young children can do this
 - Most witnesses will retrieve details they are most confident in thus resulting in highly accurate responses
 - Initial invitation followed by breadth, then depth

THE RECONSTRUCTIVE NATURE OF MEMORY MEANS THAT
INCONSISTENCIES AND ERRORS SHOULD BE EXPECTED IN TRUE
REPORTS, AND THAT LEADING QUESTIONS CAN CAUSE FALSE
REPORTS

Reconstructive Memory

- Errors and inconsistencies are inherent in memory reports.
 - (This isn't just for children!!!!)
 - Doesn't mean statement is false
- Increases with age
- Central details are generally well remembered
- Needless & excessive questions about peripheral details may increase errors and inconsistencies
- Post event information can be problematic

RECALLING INDIVIDUAL INCIDENTS OF ONGOING ABUSE REQUIRES
EXTRA SUPPORT

Eliciting Details from Different Subsystems of Long-term Memory

- Declarative (memory) system
 - Semantic memories – Generic knowledge
 - Offender's name, relationships between individuals, layout of room, location, well known objects
 - Episodic memories – Personally experienced events
 - Happenings of an abusive event

Script vs. Episodic Memory

Script Memory

- An organized mental structure for things that commonly or frequently occur
- Low frequency, high frequency, and variable details
- Always, Usually, Most of the time
- Child speaks in present tense

Episodic Memory

- Individual Events
- Child speaks in past tense
- Interviewer frames questions in past tense
- Time you remember most, time something different happened

Eliciting Details from Different Subsystems of Long-term Memory

- Focus on one type of memory at a time
 - Switching can exhaust the child - TAKE NOTES
 - Episodic details are more fragile and should be retrieved first
 - Actions/Acts before peripheral details
- What usually happens
 - Can help children provide more information overall

Child Related: Memory

- Encoding
 - Not every detail of event is encoded
 - Impacted by trauma
- Storage
 - Not every detail of event is stored
 - Some stored memories may not be reported
- Retrieval
 - Allow ample time



Child Related: Core vs. Peripheral Details

Core Details

- Things that are emotionally significant and personally experienced
- Focus on actions, “What happened...”

Peripheral Details

- What they were wearing, color of belt
- Questions strategies should not be closed-ended

Is it Memorable, KNOWABLE, and Reportable?

	Who	What	Where	When	Structured Report	Context Details
3 years						
4-6 years						
7-8 years						
9-10 years						
11-12 years						

Age-Appropriate
Questions

Child May or May Not Be
Able to Answer

Reliability of Children



There is no evidence that a professionals' opinion about the rates of false allegations is a valid indicator of actual rates of false allegations.

Suggestibility Studies of the 1990s

- Repeatedly asked children about fictional events
- Were often told by researcher that mother told interviewer fictional event occurred
- Repeatedly being asked to create images surrounding fictional event.
- Were often interviewed many times (sometimes up to 12) over an extended period of time
- Questions were often “misleading” vs. leading or narrative inviting
- Make sure the research matches the facts of the case

Suggestibility

- Past 10-12, no more suggestible than adults
- Studies on suggestibility are done mainly with preschoolers
 - Involve intentional programming over many sessions
 - Were misled to report fictitious neutral events, NOT SEXUAL ABUSE (see Goodman research)
 - Many children in these studies did NOT report false information
- Least likely to affirm a negative participatory event
- Children that are most suggestible are also the most incapable of fabrication or maintaining a coached statement

FIVs and Suggestibility

- Suggestibility research tells us that when intentionally mislead, young children are capable of making false reports, but ultimately fail to persist under even minor contrary conditions (good interview techniques)
- FIV evaluates suggestibility
- FIVs, when done correctly, are NOT LEADING OR SUGGESTIVE, rather they are COUNTER SUGGESTIVE

Children's Memory for Stressful Events

- Stress was never associated with a reliable negative effect on memory
- Children's memory for actions did not vary with age and were remembered relatively well
- Children in the most highly stressed group were less suggestible and recalled more correct information than less stressed children
 - Least suggestive about action details

Children's Memory for Stressful Events

- Children are more accurate on central details vs. peripheral details in response to recall questions regardless of stress
 - In response to misleading questions, children were equally accurate
- After one year, children did not show an increase in recall of incorrect information or false identifications (no hypermnesia effect detected)
- Strong emotions enhance consolidation of memory
- Both the quantity and quality of the emotion play a role in regulating memory
- Children were accurate in responses to abuse related questions

Do Children Lie?

- Early on as an expression of desires, not assertions of fact
- More adept at affirming false information or denying true information (recognition) than generating false information (recall)
- Generally motivated to protect self or others
 - Very reluctant to accuse parents of wrongdoing
- Lying is more cognitively demanding (especially with recall questions)
- Asking children to promise to tell the truth increases truthfulness
- Ability to lie seems to develop around the same age as T/L understanding
 - If a child cannot identify T/L, they are less likely to be able to lie

Do Children Lie About CSA?

- In summary, 1-6% INTENTIONALLY FALSE
- False allegations of abuse were most often made by the non-custodial parent
- When false allegations are confirmed, they are most often accompanied by a pre-existing dx of PTSD

Which hypothesis is most supported by EVIDENCE?

“...the issue is not whether children **can be led** to make false allegations, but whether **they are being led**”

Assessing Statements



Quantity and Quality of Details

- Idiosyncratic details
 - Sensory motor descriptions
 - Possible physical evidence
 - Identifying characteristics of alleged offender
 - Location of condoms, magazines, movies
- Circumstances surrounding report
- Imagability

Quantity and Quality of Details

- Dynamics of sexual relationship
 - Engagement
 - Progression of sexual acts over time
- Location of others, possible witnesses, other victims
- Corrections (self or interviewer)
 - Demonstrates child is listening to interviewer
 - Evidence that child is not overly compliant
 - “I don’t know”
 - “I forgot”

Consistency of Report

- Reproduction of conversations
- Consistency in core events and people involved
 - Internal: consistency within single interview
 - External: consistency of child's statements across time (initial disclosure, forensic interview, medical exam, report to others, child's testimony in court)
- Inconsistency vs. discrepancy

Consistency of Report

- Vocabulary may change but the events stay consistent
- Explore both episodic and script memory
- Consistency in face of challenge

Fabrication

- By age 3, children learn to bend the truth
 - no evidence that children are any more or less prone to lie/fabricate than adults
- Deliberate fabrication is uncommon
 - young children are not good at maintaining a lie
- Fabricated reports are more likely among adolescents
 - increased capacity to make up credible allegations
- Fabrication constitutes a relatively small fraction of reports
 - review of 5 major studies = intentionally fabricated reports occurred in 4%-8%

Plausibility

- Circumstantially congruent description of being sexually abused
- Credibility of description vs. borrowed scenario
- Description recounted in varied and rich manner as opposed to rehearsed litany
- Logical structure
 - Is description physically possible? Does it make sense?
 - Does description fit common patterns of abusive situations?

Plausibility

- Logical consistency of report
- Elimination of other explanations
- Fantastic elements
 - abuser's explanation (Popsicle)
 - consider from child's point of view
 - interviewer should avoid jumping to conclusions or making assumptions

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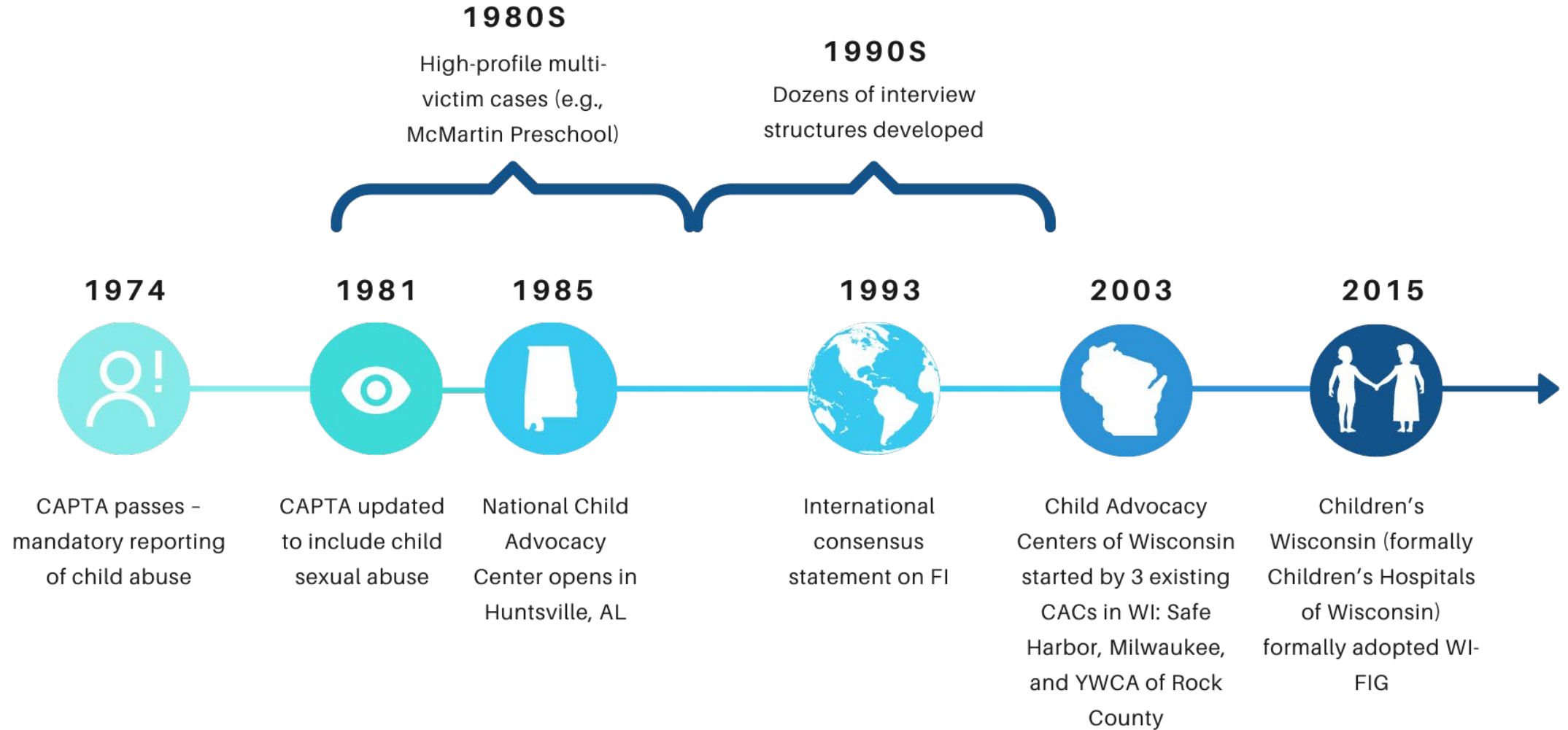
Meaghan C. Danby

Policing: A Journal of Policy & Practice, 2024, 18, 1-11



Forensic Interviewing in Wisconsin

Evolution of FI in Wisconsin



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. 1-20). US Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention.

APSAC Practice Guidelines

- 2023 (updated from 2012)
- Meant to be paired with the APSAC Handbook on Child Maltreatment
- Provide guidance on conducting forensic interviews based on current research and practice techniques
 - Interviewer Attributes
 - Interview Context
 - Interview Components
- APSAC Advisor, Forensic Interviewing Critical Updates for Professionals, September 2020

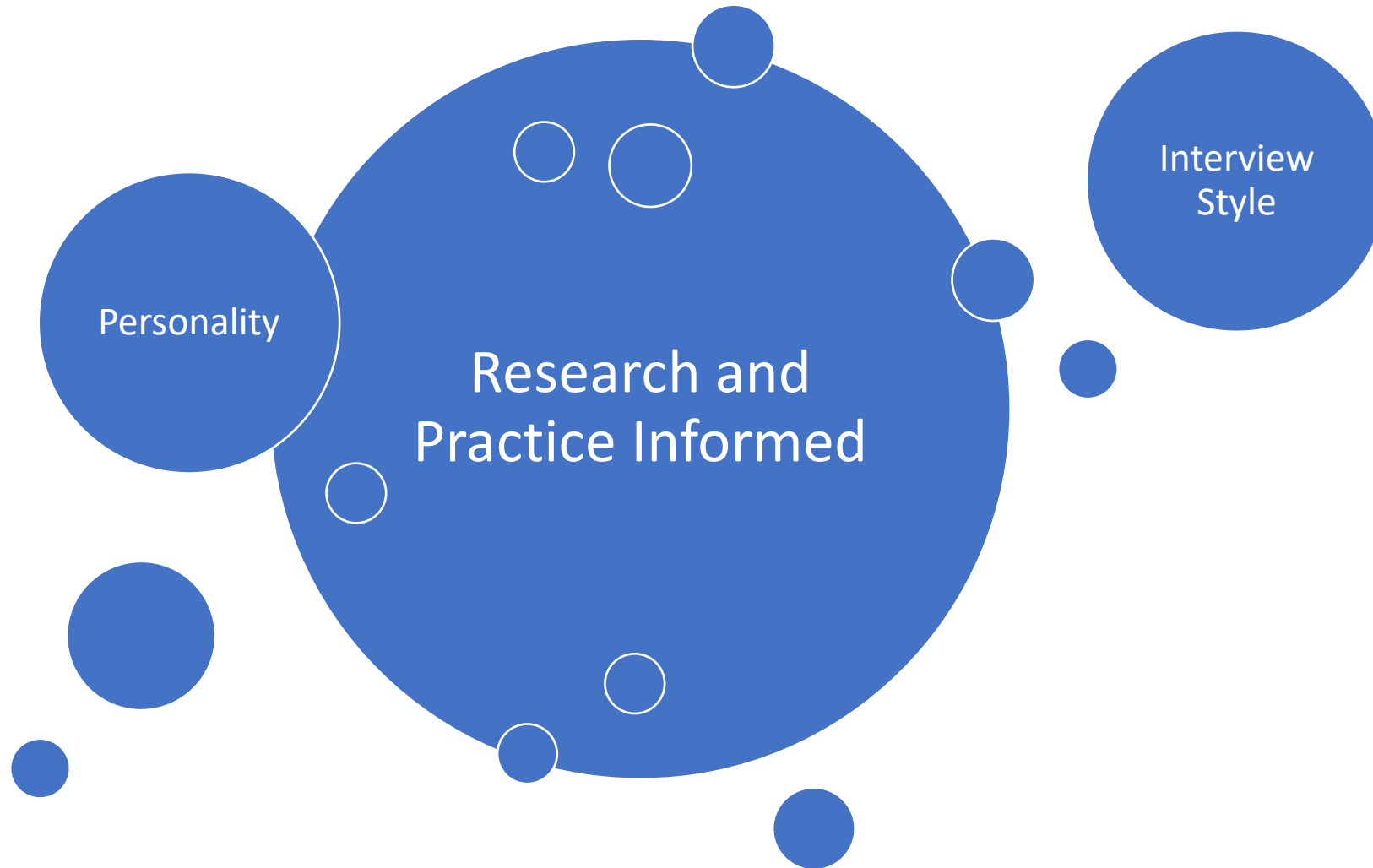


Goals of a Forensic Interview

- Minimize Trauma
- Maximize Information
- Minimize Contamination
- Maintain the Integrity of the Investigation



A Blending of Art & Science



Forensic Interviews at Child Advocacy Centers: NCA

- Have a far higher conviction rate for CAC cases that are carried forward.
- Ensure that child victims of sexual abuse are four times more likely to receive medical care and increased referrals for mental health treatment than children served by non-CAC communities.
- Can be found in every type of community from urban, suburban, and rural communities to Native American tribes.
- Provide services to children from 0-18, with nearly 27% of the children served being younger than 6 years old.

Defending the Forensic Interview

- Employs highest standards – treats every case as if it's going to criminal court
- Results can be used in any context
- Most cases (even with disclosures) are not prosecuted for variety of reasons
- Well-done interview can be therapeutic for children



Defending the WIFIG Guidelines

- Follow APSAC Guidelines
- Consensus model
- State specific
- Flexible and sensitive to research updates
- Accredited by NCA
- Training approved by NASW



Alternative Hypotheses Generation and Testing

Cloud=Baseless Hypothesis

Hypotheses only get to come down if there is evidence to support them!



Keep in Mind...

Interviews are only **ONE** component of a larger investigation

- Require a balance of focus
 - Protection, safety, well-being of the child/family
 - Protection and safety of the community
 - Law Enforcement and Prosecution
- Child Centered and Neutral
- Guidelines are structured, but **flexible**
- Most cases, even with “disclosure” are not prosecuted



WIFIG Phases

- Introduction and Orienting the Child
- Interview Instructions and Oath
- Narrative Event Practice
- Transition to Topic
- Exploration of Topic
- Detail Gathering, Corroboration & Clarification
- Concluding the Interview
 - *Each phase can be adjusted to meet the needs of the child's developmental level*

Utility of Forensic Interviews

- Tools and techniques utilized enhance accuracy and reliability of information
 - These are not generally present when eliciting courtroom testimony

Utility of Forensic Interviews

- Interviews may contain relevant information even when the referral is unrelated
 - Polyvictimization screening is common
- Cases may be No Processed or Unsubstantiated even when the information shared by the child is concerning for abuse
- Best way to capture the child's demeanor
- Summaries of Forensic Interviews can be misleading and inaccurate
- Residual hearsay exceptions apply to people over 16 AND FIs of adults

908.08 Truth and Lie Assessment

- Embedded within the WIFIG Guidelines
 - A process for demonstrating the child's capability around understanding T/L concepts
 - The only research-based part of this is the PROMISE
 - Promising increasing child's willingness to disclose joint transgressions
 - Decreases willingness to provide a coached false report
- Children learn the difference between T/L around the same time that they learn to lie with intent to deceive
 - Children who can't differentiate also are not developmentally able to lie with intent to deceive

Theories of Admissibility

908.08 Audiovisual Recordings of Children

908.03(3) Then Existing Mental State

908.01(4)(a)(2) Prior Consistent Statement*

908.03 (2) Excited Utterance

908.03(24) Residual

Admissibility Considerations

Residual Hearsay Exceptions treat children's statements differently

You do not need to satisfy 908.08(2) or (3) *Mercado, 2021 WI 2*

- Time is measured by condition of excitement, not mere lapse of time.
- Courts *liberally* construe the excited utterance exception for children who do not immediately disclose.

Gerald L.C., 194 Wis. 2d 548, 556-57 (Ct. App 1995)

Huntington, 216 Wis. 2d 671 (1998)

Admissibility Considerations

“Use of the residual exception in child sexual assault cases is even less reliant upon immediacy of statements because other indicia of reliability support its trustworthiness.” *Sorenson*, 143 Wis. 3d 226 (1988)

“While the defendant is correct to point to **inconsistencies** in Jeri’s statements as to the **number of occurrences** of abuse, in light of Jeri’s age and the stressful nature of the incidents, we do not find such ambiguities to be of sufficient weight to defeat the other indicia or reliability.” *Huntington*, 216 Wis. 2d 671, 690 (1998)

Admissibility Considerations

The court is not required to view the entire interview before ruling on it's admissibility.

“Recordings of children’s testimonies will differ depending on the facts of the case and the attributes of the child. Therefore, the circuit court will need to exercise its discretion in determining how much of each recording it must review...in order to make the findings required...”

Mercado, 2021 WI 2 ¶ 46

Suppression and Redaction

- Commonly redacted portions of the forensic interview may be areas where the interviewer is testing alternative hypothesis
- If the FI witness is asked about alternative hypothesis testing, this may elicit information about redacted portions of the interview

APSAC Advisor, Forensic Interviewing Critical Updates for Professionals, September 2020

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Thank You!