

Anne Graffam Walker, Ph.D.

Handbook on Questioning Children

A Linguistic Perspective

3rd Edition



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Appendices

Section A: Checklist for Interviewing/ Questioning Children

*Developed by Anne Graffam Walker
Revised February 1994, 2013*

I. Framing the Event

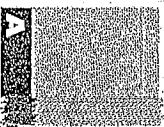
- ☐ 1. Did I tell the child my name and what my job is—in nontechnical words?
- ☐ 2. Did I help the child become familiar with the surroundings of the interview?
- ☐ 3. Did I tell the child the purpose of our talk, and why it is important, and what will happen afterward?
- ☐ 4. Did I give the child a chance to ask me questions about this talk?
- ☐ 5. Did I ask the child to narrate fully on a neutral event? Did I try to establish a common vocabulary for the things we talk about? Was I listening to the kind of words and sentences that the child used?

II. Using Clear Language

- ☐ 6. Did I use easy words instead of hard ones? (Do I know what a "hard" word is?)
- ☐ 7. Did I avoid legal words and phrases?
- ☐ 8. Did I use words that mean one thing in everyday life, but another thing in law (like "court")?
- ☐ 9. Did I assume that because a child uses a word, he or she understands the concept it represents?
- ☐ 10. Was I as redundant as possible? That is, did I use specific names and places instead of pronouns (like "he" and "we") and vague referents (like "it", "that", and "there")?

III. Asking the Questions

- ☐ 11. Did I keep my questions and sentences simple? Did I try for one main (new) thought per utterance?



- ☐ 12. Did I avoid asking "DUR-X" questions? (Questions that begin, "Do you remember", followed by one or more full propositions. Ex. with propositions underlined: (Do you remember) *telling me that somebody hurt you?*)
- ☐ 13. When I shifted topics, and when I moved from the present to the past or vice versa, did I alert the child that I was going to do so?
- ☐ 14. Did I give the child the necessary help in organizing his or her story?
- ☐ 15. Did I avoid asking the child about abstract concepts, like, "What is the difference between truth and lies?" Did I choose instead to give the child everyday, concrete examples and let him or her *demonstrate*, rather than *articulate* knowledge of abstract concepts, right and wrong?
- ☐ 16. Did I use as few negatives as possible in the questions I asked?

IV. Listening to the Answers

- ☐ 17. Were the child's RESPONSES to my questions, ANSWERS to my questions? Am I sure?
- ☐ 18. If the child's answers were inconsistent, did I ask myself if:
 - ☐ a. I, or someone else, had asked the same question repeatedly?
 - ☐ b. I had changed the wording of a question I had asked before?
 - ☐ c. I was forgetting that children can be very literal in their interpretation of language?
 - ☐ d. The child's processing of language might not be as mature as mine?

V. Global Checks

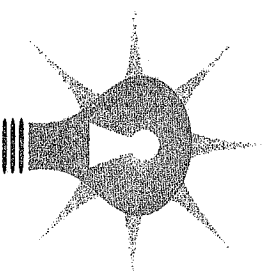
- ☐ 19. Did I stay in the child's world by framing my questions in terms of the child's experience?
- ☐ 20. Did I take the child's understanding of language for granted?
- ☐ 21. Was I listening to my OWN language, my OWN questions?
- ☐ 22. Did I ask myself before I began: Am I gathering information, or am I doing therapy?
- ☐ 23. Did I question my assumptions and test my hypotheses?

Appendix B:

A Few Suggestions for Questioning Children

Developed by Anne Graffam Walker, Ph.D.

Revised October 1997, 2013



General precepts:

1. Reduce the processing load that children must carry: aim for simplicity and clarity in your questions. If the child uses simple words and short sentences, so should you.
2. Be alert for possible miscommunication. If a child's answer seems inconsistent with prior answers, or doesn't make sense to you, check out the possibility that there is some problem:
 - * with the way the question was phrased or ordered,
 - * with a literal interpretation on the part of the child, or
 - * with assumptions the question makes about the child's linguistic/cognitive development or knowledge of the adult world.

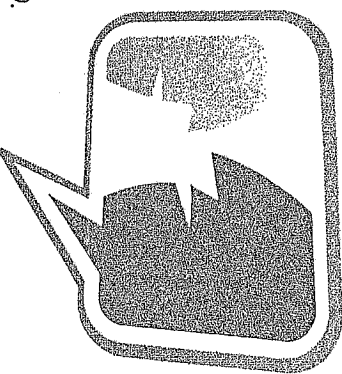
Some specifics:

1. Break long sentences/questions into shorter ones that have one main idea each.
2. Choose easy words over hard ones: use Anglo-Saxon expressions like "show," "tell me about," or "said" instead of the Latinate words "depict," "describe," or "indicated."
3. Avoid legal jargon, and "frozels" (my term for frozen legalisms) like "What if anything," "Did there come a time."
4. It is important that you and the children use words to mean the same thing, so run a check now and then on what a word means to each child. Although children generally are not good at definitions, you can still ask something like, "Tell me what you think a ____ is," or "What do you do with a ____?" "What does a ____ do?" Don't expect an adult-like answer, however, even if the word is well-known. The inability to define, for example, "wind" does not mean that the person does not know what the wind is. Definitions require a linguistic skill.

5. Avoid asking children directly about abstract concepts like what constitutes truth or what the difference is between the truth and a lie. In seeking to judge a young (under 9 or 10) child's knowledge of truth and lies, ask simple, concrete questions that make use of a child's experience. Ex: [Point to watch on wrist and ask child] "What is this on my wrist? Pause. Child says it's a watch. "If someone said it is a shoe, is that the truth or a lie?" Then follow with: "What makes it a lie?" [Young children equate truth with fact, lies with non-fact.]
6. Avoid the question of belief entirely (Do you believe that to be true?).
7. Avoid using the word "story." (Tell me your story in your own words.) "Story" means both "narrative account of a happening" and "fiction." Adults listening to adults take both meanings into consideration. Adults listening to children, however, might well hear "story" as only the latter. "Story" is not only an ambiguous concept, it can be prejudicial.
8. With children, redundancy in questions is a useful thing. Repeat names and places often instead of using strings of (often ambiguous) pronouns. Avoid unanchored "that's", and "there's". Give verbs all of their appropriate nouns (subjects and objects), as in "[I want you to] Promise ME that YOU will tell ME the truth," instead of "Promise me to tell the truth." Better yet, ask the child, "Do YOU promise that YOU will tell the truth?"
9. Watch your pronouns carefully (including "that"). Be sure they refer either to something you can physically point at, or to something in the very immediate (spoken) past, such as in the same sentence, or in the last few seconds.
10. In a related caution, be very careful about words whose meanings depend on their relation to the speaker and the immediate situation, such as personal pronouns (I, you, we), locatives (here, there), objects (this, that), and verbs of motion (come/go; bring/take).
11. Avoid tag questions (e.g., "You did it, *didn't you?*"). They are confusing to children. Avoid, too, Yes/No questions that are packed with lots of propositions. (Example of a bad simple-sounding question, with propositions numbered: "[1] Do you remember [2] when Mary asked you [3] if you knew [4] what color Mark's shirt was, and [5] you said, [6] 'Blue?'" What would a "Yes" or "No" answer tell you here?) It does not help the factfinder to rely on an answer if it's not clear what the question was.
12. See that the child stays firmly grounded in the appropriate questioning situation. If you are asking about the past, be sure the child understands that. If you shift to the present, make that clear too. If it's necessary to have the child recall a specific time/date/place in which an event occurred, keep reminding the child of the context of the questions. And don't use phrases like, "Let me direct your attention to." Try instead, "I want you to think about..." or "Make a picture in your mind ..." or "I'm going to ask you some questions about..."
13. Explain to children why they are being asked the same questions more than once by more than one person. Repeated questioning is often interpreted (by adults as well as by children) to mean that the first answer was regarded as a lie, or wasn't the answer that was desired.
14. Be alert to the tendency of young children to be very literal and concrete in their language. "Did you have your *clothes* on?" might get a "No" answer, "Did you have your *p.j.'s* on?" might get a "Yes."
15. Don't expect children under about age 9 or 10 to give "reliable" estimates of time, speed, distance, size, height, weight, color, or to have mastered any relational concept, including kinship. (Adults' ability to give many of these estimates is vastly overrated.)
16. Do not tell a child, "Just answer my question(s) yes or no." With their literal view of language, children can interpret this to mean that only a Yes or a No answer (or even "Yes or No") is permitted—period, whether or not such answers are appropriate. Under such an interpretation, children might think that answers like "I don't know/remember," and lawfully permitted explanations would be forbidden.

Appendix C

Some Basic Sentence-Building Principles for Talking to Children



Developed by Arne Grafton Walker, Ph.D.

Revised March 1999, 2013

1. Vocabulary

- * Use words that are short (1–2 syllables) and common.
Ex: “house” instead of “residence”
- * Translate difficult words into easy phrases.
Ex: “what happened to you” instead of “what you experienced”
- * Use proper names and places instead of pronouns.
Ex: “what did Marcy” do? instead of “what did she do?”; “in the house” instead of “in there”
- * Use concrete, visualizable nouns (“back yard”) instead of abstract ones (“area”).
- * Use verbs that are action-oriented.
Ex: “point to,” “tell me about,” instead of “describe”
- * Substitute simple, short verb forms for multi-word phrases when possible.
Ex: “if you *went*” instead of “if you *were to have gone*”
- * Use active voice for verbs instead of the passive.
Ex: “Did you see a doctor?” instead of “Were you seen by a doctor?”

[Note: One exception: the passive “get” (“Did you get hurt?”), which children acquire very early, and is easier to process than “Were you hurt?”]

2. Putting the words together

- * Aim for one main idea per question/sentence.
- * When combining ideas, introduce no more than one new idea at a time.
- * Avoid interrupting an idea with a descriptive phrase. Put the phrase (known as a relative clause) at the end of the idea instead.
Ex: “Please tell me about the man *who had the red hat on*” instead of “The man *who had the red hat on* is the one I’d like you to tell me about.”
- * Avoid difficult-to-process connectives like “while” and “during.”
- * Avoid negatives whenever possible.
- * Avoid questions that give a child only two choices. Add an open-end choice at the end.
Ex: “Was the hat red, or blue, or some other color?”

BOTTOM LINE: SHORT AND SIMPLE IS GOOD.

Assessing Children's Competency to Testify

Developed by Julie Kenniston, M.S.W., L.S.W., and Thomas D. Lyon, Ph.D., J.D.

May 2013



Interviewing children has evolved over the last 20 years as research has offered a better understanding of children's abilities. Applying current knowledge to the court process means rethinking the way we assess children's competency.

Traditionally, there are two types of competency. Basic competency concerns the child's ability to perceive, remember, and communicate. Rule 601 of the Federal Rules of Evidence states that "[e]very person is competent to be a witness unless these rules provide otherwise," and 42 states have adopted evidence rules very similar to the Federal Rules (Mueller & Kirkpatrick, 2009). As a result, most courts will not require any preliminary inquiry into basic competency, and this is sensible, because a truly incompetent child will falter under direct examination. Hence, the best means to assess a child's basic competency is to receive her testimony for what it is worth.

If a court does require an inquiry into basic competency, this provides an opportunity to engage in narrative practice during rapport building with the child. The child can demonstrate her competency by answering open-ended questions about a neutral event from the beginning through the middle to the end.

For example, in narrative practice during rapport building the attorney may ask the child, "Tell us about things you like to do." The child will likely respond with a few words, perhaps naming activities. The attorney then focuses on one of the activities and says "You like [soccer]. Tell us everything that happened the last time you played soccer." The attorney follows up with open-ended questions that ask the child to elaborate on details. For example, "You said you kicked a goal. Tell us more about kicking a goal." The attorney also asks the

child to narrate the sequence of events. For example, "What happened after you kicked a goal?"

Narrative practice during rapport building has many benefits. The trier of fact has the opportunity to see how the child describes an experience. It shows the child is able to understand and respond to questions. It provides insight into the child's ability to communicate as well as how the child uses vocabulary. Because it also increases the child's subsequent productivity (Sternberg et al., 1997), narrative practice is a good idea even if basic competency need not be tested, and we provide further discussion of the technique in Appendix F.

The second type of competency is truth-lie competency. Rule 603 of the Federal Rules of Evidence requires that "[b]efore testifying, a witness must give an oath or affirmation to testify truthfully. It must be in a form designed to impress that duty on the witness's conscience." Rule 603 does not explicitly require an inquiry into a child's understanding of the truth and his or her duty to testify truthfully, but it has been used to justify such an inquiry, and 15 states have explicit requirements in their rules of evidence that children must testify truthfully (Lyon, 2011). The assumption is that children must understand the affirmation to tell the truth in order for it to have an effect on their honesty.

If a court will allow it, the best approach to truth-lie competency is to ask the child to demonstrate her understanding without requiring the child to promise that you will tell a child-friendly version of the oath is "do you promise that you will tell the truth?" (Lyon & Evans, 2013). The use of the words "promise" and "will" ensure that even the youngest children, who may not understand promise, will understand what the questioner is asking for. Research has shown that children are most honest if they promise to tell the truth (Evans & Lee, 2010; Lyon & Dorado, 2008; Lyon, Malloy, Quas, & Talwar, 2008; Talwar, Lee, Bala, & Lindsay, 2002, 2004).

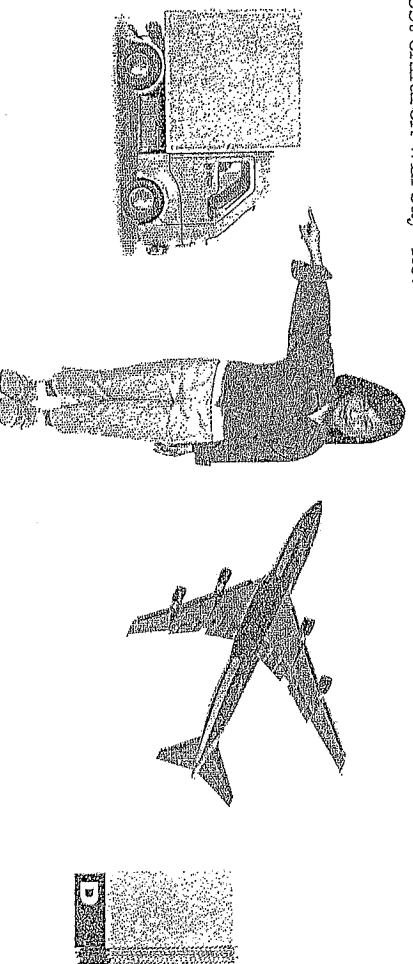
Questions about the meaning and morality of truth and lie are not helpful for several reasons:

- a) children who fail assessments of their understanding of truth and lie will nevertheless be more honest if they promise to tell the truth (Lyon et al., 2008);

- b) children's performance as eyewitnesses is not related to their truth-lie competency (Goodman, Aman, & Hirshman, 1987; Pipe & Wilson, 1994); and
- c) children who understand less about the meaning of truth and lie are less capable of lying. Even 2-year-olds adhere to a principle that one ought to say true things—they reliably reject statements that are clearly false (Hummer, Wimmer, & Antes, 1993; Pea, 1982)—well before they know the meaning of the words “truth” and “lie” (Lyon, Carrick, & Quas, in press).

Nevertheless, some courts insist that children demonstrate their understanding of truth and lie before testifying. In those cases, it should be sufficient to show that (a) the child understands that false statements are not the truth, and (b) the child understands that false statements are wrongful. This kind of understanding has been shown to emerge among children by the time they are three and a half years of age (Lyon, Carrick, & Quas, in press), and is firmly in place by four years of age (Bussey, 1992, 1999; Taiwar, Lee, Bala, & Lindsay, 2002).

Here is a task that enables even the youngest children to demonstrate their understanding (Lyon, Carrick, & Quas, in press). The attorney shows the child the picture below, points to the truck, and asks the child “What is this?” and accepts the child's label (usually “a truck”). The attorney then says, “this girl looks at the truck and says, ‘It's a plane.’ Did the girl tell the truth?” By $3\frac{1}{2}$ most children will say “no.” The attorney then asks “did the girl say something good?” Again, by $3\frac{1}{2}$ most children will say “no.”



Unfortunately, much older children routinely have difficulty answering questions about truth and lies in court (Evans & Lyon, 2012). As Bala and his colleagues (2010) note, inquiries about abstract concepts (oath, promise and truth) “can be confusing and intimidating, especially to younger children, and may result in children who would otherwise have been capable of giving important evidence being prevented from testifying” (p. 54).

The problem is not the competency of children but the competency of the questions. There are a number of pitfalls to avoid:

- * Asking children to define the truth and lies or to explain the difference between the truth and lies is much more difficult than asking children to identify whether statements are the truth or not (Lyon & Saywitz, 1999).
- * Children are often reluctant to call adults liars (Evans & Lyon, 2012). For example, if the attorney asks “Carol, if I said there is an elephant sitting on the table, is that the truth or a lie?” The child who understands the immorality of lying may be reluctant to label the statement a lie.

- * Asking whether the child would get in trouble for lying is difficult because the child is asked to imagine himself or herself lying (Lyon, Saywitz, Kaplan, & Dorado, 2001). For example, if the attorney asks “Would you get into trouble if you told a lie in court?” the child might say “no,” because she is certain that she will not tell a lie. Questions more generally about the consequences of lying are more difficult than questions about the wrongfulness of lying, probably because children are loathe to contemplate the consequences (Evans & Lyon, 2012).

- * Asking whether the child has ever lied is difficult because children will deny ever having told a lie (Evans & Lyon, 2012; Peterson, Peterson, & Seeto, 1993). Children apparently misconstrue the purpose of the question, which attorneys ask in order to set up the question “what happened when you lied?” It is better to avoid asking the child about his or her own lies, a topic that is unnecessarily threatening.

- * Asking whether troublemakers have lied or not is difficult because younger children associate all wrongdoing with lying (Wandrey, Quas, & Lyon, 2012). Some interviewers recommend asking children to identify liars by presenting stories about misdeeds. The problem is that when children first learn about lies, they think all “bad words”

are lies, and bad words include both admitting and denying that one has committed a misdeed. In other words, younger children will think that the child who admits wrongdoing is a liar!

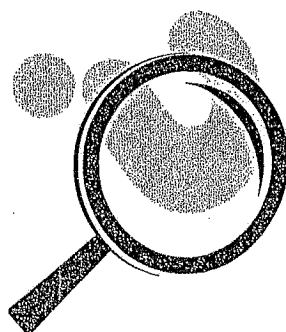
* It is unwise to ask children "do you know what a lie is?" Many children who do know will nevertheless answer "no." (Evans & Lyon, 2012). Why they do so is unclear; it may have to do with the nature of "do you know" questions, which pull for a "no."

Until children are presumed to be competent, there will be expectations to 'prove' their competency. The problem is that competency inquiries are too often developmentally insensitive. Asked questions in the right way, children are capable of telling us what they know in their own words. It is our duty to provide them that opportunity.

Appendix E

Questions Designed to Assess Competency

*Developed by Julie Kenniston, M.S.W., L.S.W.,
and Thomas D. Lyon, Ph.D., J.D.
May 2013*



A. Capacity to observe, remember and communicate/ narrative practice (modified from Lamb et al., 2008)

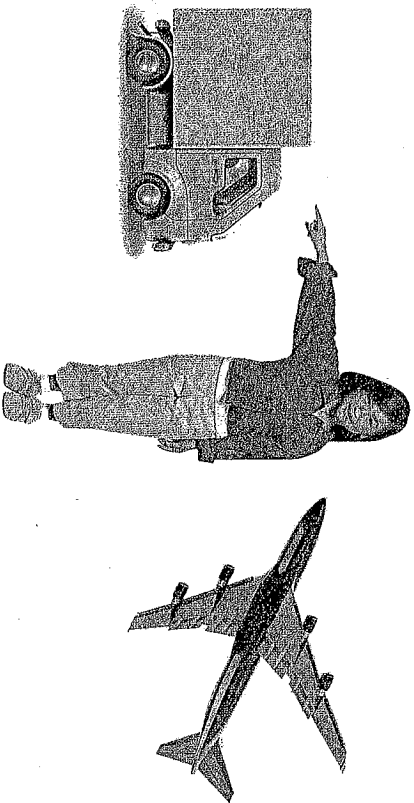
1. Hi [child's name]. My name is _____. First we'd like to get to know you better. Tell us about things you like to do.
2. You said you like to [pick an activity the child mentioned]. Tell us about the last time you [did activity], from the beginning to the end.
3. If child doesn't provide any activities in response to the question about things he or she likes to do, ask the child "Tell us everything you did from when you got up to when you came to court."
4. Ask follow-up prompts such as "Tell me more about [action]" and "You said you [action]. What happened next?"

B. Consciousness of duty to speak the truth

Because research shows that *children have acquired a good basic understanding of the meaning of "truth" and the wrongfulness of lying by elementary school*, it should not be necessary to ask truth-tell competency questions of children in this age group (Bussey, 1992, 1999; Talwar, Lee, Bala, & Lindsay, 2002; Lyon, Carrick, & Quas, in press). These children can simply be asked "Do you promise that you will tell the truth?"

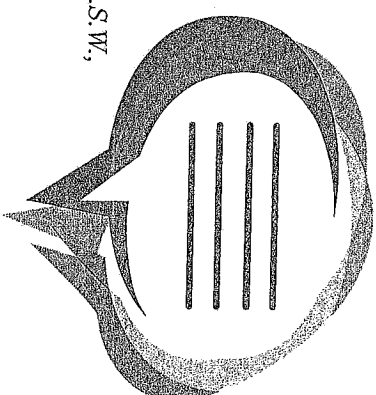
younger children:

1. I have a picture that will help us ask you what the "truth" means.
2. Here's a picture. What is this? [pointing to the truck]
3. O.K., that's a truck. This girl [pointing to the girl] looks at the truck and says, "That's a plane." Did the girl tell the truth? [If the child gives a different name for the truck, accept that term and use it in place of "truck"]
4. So the girl looked at the truck and said "That's a plane." Did the girl say something good?



Appendix F: Giving Children Instructions on Testifying

*Developed by Julie Kemniston, M.S.W., L.S.W.,
and Thomas D. Lyon, Ph.D., J.D.
May 2013*



Judges and attorneys often admonish child witnesses that they should not guess and that they should indicate when they don't understand a question or they don't know the answer. There are two problems with this approach:

- * First, unless the young child is given practice, the instruction will have no effect (Geddie, Fradin, & Beer, 2000; Memon & Vartoukian, 1996; Moston, 1987).
- * Second, if the child is only given an example of when he or she should say "I don't know" or "I don't understand," then he or she is likely to overuse the response (Gee, Gregory, & Pipe, 1999; Saywitz & Moan-Hardie, 1994). Fortunately, interview protocols now provide guidance that can also be utilized in court.

Instructing the child that it is o.k. to say "I don't know."

1. If I ask you a question and you don't know the answer, then just say, "I don't know."
2. So if I ask you "What is my dog's name?" what do you say?
3. [If child says "I don't know"] O.K., because you don't know. [If child guesses] No, you don't know what my dog's name is. Let's try another one: "What is my cat's name?" [If child says "I don't know"] Good, because you don't know my cat's name.
4. But what if I ask you "Do you have a dog?"
5. O.K., because you do know.

Because the attorney doesn't want the child to guess, it is important that the question in (2) be a question that doesn't easily pull for a guess.

Therefore, it's important not to ask a yes/no question, or a question with limited possibilities. Because the attorney wants the child to know the answer to (4), it is important that this question be easy to answer, so a yes/no question or something simple is a good idea. And of course the attorney should substitute other pets (or family members) if he or she doesn't have a dog or cat! The attorney could say, "So if I ask you 'What did I have for breakfast this morning?' what do you say?" The follow up question for the child would be, "But what if I ask you 'What did you have for breakfast this morning?'"

Instructing the child that it is o.k. to say "I don't understand."

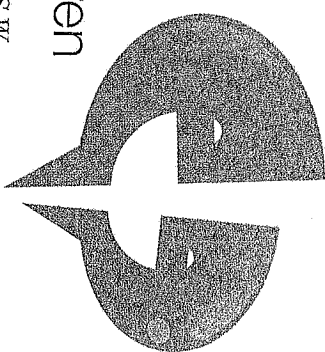
1. If I ask you a question and you don't know what I mean or what I am saying, you can say "I don't know what you mean," and I will ask it in a different way.
2. So if I ask you "What is your ocular pigmentation," what do you say?
3. [If child says anything indicating they don't know] That's because "ocular pigmentation" is hard. So I'll ask it in a different way: "What color are your eyes?"

We don't recommend using the word "understand" because some *younger children don't know what "understand" means*. It is important that the question in (2) not pull for a guess. If a child does know the answer, the attorney can try a different difficult word. It is important that the question in (3) be easy to answer. If the child says he doesn't know his eye color, reinforce that it was good that he did not guess. If the attorney's eye color is easy to identify, he or she could ask "What color are my eyes?" *Examples are not necessary for older children* and if used might disrupt rapport because the older child might feel patronized. Explaining the instruction will suffice.

1. Today when we are talking, it is important to tell me what you know. If you don't know the answer to a question just tell me that you don't know. I don't want you to make things up or guess. I will do the same thing. If I don't know I will tell you.
2. I will have questions when I don't understand what you are telling me. I want you to do the same thing. If I say something you don't understand tell me and I will try to explain.

Appendix G: Using Narratives and Narrative Event Practices in Interviews with Children

*Developed by Julie Kenniston, M.S.W., L.S.W.
May 2013*



It is not a new phenomenon to use narrative-inviting questions in interviews with children. Research shows that children give more information and more accurate information when asked free recall questions. The focus has shifted from merely asking lots of narrative questions to planning for and using a narrative event practice. The National Institute for Child Health and Human Development (NICHD) interviewing protocol (Lamb, Hershkowitz, Orbach & Esplin, 2008) suggests adding a *narrative event practice* (training episodic memory) in the early stages of the interview on a neutral topic (Lamb, La Rooy, Malloy, & Katz, 2011; Price, Roberts & Collins, 2012).

Most national child forensic interviewing models now incorporate this narrative practice early in the interview. This practice allows the child to explain what happened in a neutral event with little prompting and offers a baseline of the child's abilities. Here is a sample narrative event practice between an interviewer (I) and child (C).

I: Tell me all about your morning from the time you woke up until you left your house.

C: "My alarm went off but I rolled over. My mom yelled, 'get up now!' and I got up and went to the bathroom. Then I got dressed and ate breakfast. Got my stuff for school and left for the bus."

I: "I heard you say that you got dressed. Tell me all about getting dressed."

C: "I had to put on my school uniform. So I grabbed my shirt off the floor and put on my pants. They are the khaki ones. My blue ones were too dirty. I didn't have any socks so I went into my dad's drawer and took a pair of his. I put on my shoes by the front door."

Book: "Tell me all about your shoes."

C: "We can wear any kind of shoes we want as long as they are black. I have black sneakers. That way I can run fast when we have recess. I leave them by the front door when I come in the house so that I don't get dirt on the floor. I think my mom is gonna have to buy me new ones because my feet are getting big."

I: "That helps me understand about your shoes and you getting dressed. You also told me that you ate breakfast. Tell me all about eating breakfast."

C: "My mom made toast. I came into the kitchen before my sister Katie and grabbed the toast out of the toaster and grabbed a plate and a knife and put peanut butter on my toast. I got orange juice out of the fridge and drank it from the bottle. Mom yelled at me. She hates when I do that."

This is an example of asking an event narrative question (the morning routine) with narrative follow-up questions. The interviewer is getting a great deal of information that puts the moment in context and gets details that were unsolicited. There are many details that can be corroborated. The child has learned how the interviewer wants information. Once a transition to the topic of concern is made, the interviewer can say, "Tell me all about X, just like you told me all about your morning."

Inviting narratives in this way early in the interview has many purposes:

- The interviewer engages the child.
- The interviewer shows that she is a listener and is paying attention.
- The interviewer gets a baseline of the child's ability and willingness to communicate.
- The interviewer explains and practices with the child the way that information will be shared.
- The interviewer shows interest and doesn't interrupt.

- The interviewer demonstrates that there will be follow-up questions even when the child provides a lot of information.
- The interviewer shows that the child is the expert on his own life details by allowing the child to tell what he knows in his own words.
- The interviewer demonstrates that the child can recollect and recall.
- The interviewer gets a sense of the child's perception of events and ability to observe.
- The interviewer receives data that is unsolicited (not suggested by the interviewer).
- The interviewer gets information that can be corroborated by the multidisciplinary team in investigative activities post interview.
- The interviewer can refer to this part of the interview later when the child is answering with fewer words ("Just like you told me about your morning, tell me all about what happened the night the police came to your house").

Appendix H:

Interviewing Persons with Disabilities

*Developed by Julie Kenniston, M.S.W., L.S.W.
May 2013*

A forensic interview is a conversation between two

people where one person is seeking information to assist a team in making a decision about a report of maltreatment. We have addressed ways to minimize miscommunication with children and offered some suggestions to maximize their witness capacity, **see Appendix D**. Another group of people who require communicative sensitivity are those with a developmental or other disability.

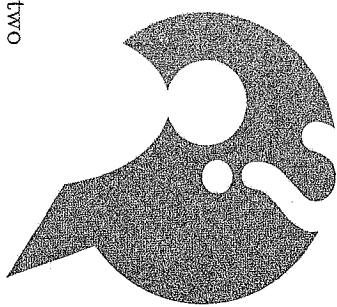
People with disabilities can be great witnesses. "Practitioners will need to tailor interviewing approach to the child's specific disability. Advance planning and efforts to meet the needs of each child will go a long way in making the interview comfortable for the child and productive for the case...Many simple steps can easily be incorporated into interviews that accommodate differences in how children with disabilities communicate" (Rainville, C. May 2012).

Preparing for the Interview

Every child brings his own abilities into the interview. Interviewers should gather as much information as possible when preparing to make accommodations that maximize the child's ability to communicate and minimize the impact of the interview.

Minimizing impact involves assessing the child's safety. Children with disabilities are highly vulnerable and dependent on caregivers just like their peers without disabilities. Often children will deny or recant when they feel unsafe. Interviewers should be aware of this dynamic and discuss with child protective services the potential barriers to disclosure.

Multidisciplinary teams should make decisions after learning about the child's functioning, including things that enhance and hinder the child's ability to communicate. Choose a time that best suits the child. Create an interview space that respects the child's unique needs. This



might include room arrangement, décor and lighting, seating, facilitated communication, interpreters, a support person, manipulatives or other accommodations. These interviews are not "one size fits all" and must be designed for each individual.

Remember that young children and those with developmental disabilities are literal and concrete. This means they are better at answering *who*, *what*, and *where* than they are at answering *when*, *how* many times, *how* long, and *why*.

Concrete vs. Abstract

Interviewers balance the art and science of interviewing while tending to the needs of the interviewee. The principles of language discussed in this book apply to people whose cognitive functioning is that of a young child.

Concrete people need concrete questions. The data necessary in an investigation (*who*, *what*, *where*, *when*, *how* and *why*) are a mixture of concrete and abstract terms. You can touch a *who* and interact with a *who* (like your Aunt Sally). You can see or hear or interact with a *what* (like a table or a baseball game). You can smell and experience a *where* (like a bedroom or a festival). These are concrete concepts. Young children and people with cognitive abilities equal to that of young children can provide this information. *Who*, *what* and *where* are solid pieces of data and can be gathered.

Abstract terms are more difficult. You can't touch yesterday or August 8th (a *when* piece of data). Twenty minutes and 100 times are equally as elusive (*how long* and *how many times*). Giving the motivation of someone else is also complicated ("why did he come into your room?"). These are difficult concepts for concrete people but they are still crucial in investigations.

When

One way to maximize information from individuals with developmental disabilities is to focus on literal, concrete concepts. *Who*, *what* and *where* can give you *when* data. An individual who describes all the people present, what was happening at the time, and the place where abuse occurred might provide time markers for investigators to establish when the event happened.

"Mom and Dad went to see the Batman movie so my neighbor came over to play video games. We played Mario Kart in my basement on the new couch. He touched me. I didn't like it. I just wanted to play my game." The details provided allow the investigator to pinpoint when this event happened. The Batman movie can be corroborated by the parents as well as the timing of the purchase of Mario Kart and the couch.

If the parents were aware that the neighbor came over that night, this detail can also be corroborated and the investigator will have an "on or about date." If the interviewer had asked the developmentally disabled individual when this happened, he might have given a date or said something like "yesterday" (when the neighbor had no access to the child). This is often seen as inconsistency or lying; in reality it is the responsibility of the interviewer to ask questions in a developmentally sensitive way.

How

How questions require a different strategy. "How long" is a difficult question for high functioning adults, let alone children and those with developmental disabilities who have not mastered abstract concepts. "How many times" is quite important in child abuse and witnessing violence cases. It should be noted that chronic abuse is difficult to quantify.

Can you give the number of times you have ridden a bike? Most people cannot. For some children, abuse and violence is as frequent as you riding your bike. It would be impossible to give an accurate number. Interviewers should focus on individual episodes or events that the child can remember and narrate. Last time, time remembered most, first time, and different time are all possible events about which the interviewer can ask for *who*, *what*, and *where* information from the child.

Trying for narratives first, the interviewer can get the event in context ("Tell me everything that happened the last time your neighbor came over"). If needed, the interviewer can invite information in a more focused way about the people, place and what happened (before, during and after). Once one event is discussed, the interviewer can focus the child on another event and continue the process.

Minimizing Miscommunication

Interviewers can minimize miscommunication by focusing on the concrete questions that support the interviewee's cognitive ability. By asking a lot of narrative questions around who was there ("Tell me all about the people"), the interviewer can get information that could possibly corroborate witness statements. This includes not only the people who witnessed the event but also people who know about the event.

Occasionally it helps to have the child focus first on where the event took place. This is concrete and provides context for the interviewer as the conversation progresses. In addition, the location is sometimes easier to talk about and keeps the child engaged. What happened can be the most difficult part. Interviewers should be patient but still use narrative-inviting questions as much as possible. If needed (and the child is able) the interviewer can suggest the child write the answer if speaking is too difficult.

Art of Interviewing

The other important part of interviewing people with developmental disabilities is the art of engagement and building rapport. Interviewers set a tone that creates comfort and openness. Projecting nonconditional warmth is a useful skill for the interviewer.

The witness is the expert and should be provided ample opportunity to talk about what she knows and the way she knows it. The interviewer should be prepared for self-soothing behaviors that might occur in the interview. Rocking, flapping or singing might happen mid-discussion. The interviewer should allow the child time and restate questions once the child is calmer. Patience and silence are necessary components in these interviews. In addition, interviewers should be genuine. Trying to trick the child or repeat questions to see if he will remain consistent can cause problems.

A Pleasing Nature

Because some people with developmental disabilities aim to please, interviewers should emphasize it is ok to correct the interviewer and that the interviewer does not know what happened because she wasn't there. "Many [people with developmental disabilities] rely on caregivers

whom they trust without question; are naive and socially insecure and will do anything to have a friend without understanding what they are doing; and are nonassertive by nature and unable to say no" (Rainville, C. Dec. 2012).

Because these traits are common for this population, interviewers need to walk the line of empowering the child without being suggestive. Minimize suggestibility by using as many narrative prompts as possible (based on the child's ability). Closed-ended and forced choice (multiple choice) questions don't offer an opportunity for the interviewer to recognize miscommunication.

If the team determines that the child requires yes/no, closed-ended or multiple choice questions, it should be done thoughtfully. Questions that go in a direction other than the assumed direction can help show the child's commitment to telling what really happened.

For example, if the alleged abuse took place in the basement, the interviewer might pose the question in this way: "Did Terry touch you in the kitchen, the bedroom, or something else?" Be aware that if the child chooses one, it might be because the abuse happened both in the basement and in another room. Interviewers should consistently consider multiple hypotheses throughout the interview process and not make assumptions or hold a confirmation/disconfirmation bias.

These children might give the wrong response to a leading question to please the interviewer. Another reason a child gives a wrong answer is because the question is too difficult and the child doesn't understand it. Interviewers who ask narrative invites of children are less likely to fall into this concerning exchange.

Narrative Event Practice

Some children with developmental disabilities give basic information but no additional details. One way to assess a child's ability to narrate fully with details is by doing a narrative event practice in the early stage of the interview. This gives a baseline of the child's ability. If the child has difficulty describing a neutral event, this is a good indicator that it will be difficult to get lengthy narratives later in the interview.

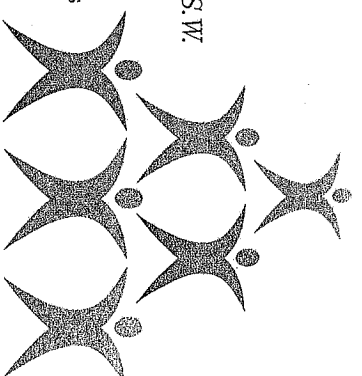
Interviewers will also get a sense of the child's ability to sequence events. If needed, interviewers can make accommodations that will help the child maximize information. See Rainville, C. (2012).

Best Practices for Interviewing Children with Disabilities.
ABA Child Law Practice, 31, 5 (May), 65, 70–72. Check
www.americanbar.org/child for information about her
upcoming book based on Rainville's article series in *ABA
Child Law Practice*. See also Appendix G: Using Narratives
and Narrative Event Practice in Interviews with Children.

Appendix I:

Color

*Developed by Julie Kenniston, M.S.W., I.S.W.
May 2013*



Color is one of many concepts interviewers have incorporated into forensic interviews. Although asking a child to name his colors doesn't indicate his ability to be a good witness to his own life, it does give information that might be corroborated later. Naming the color of someone's hair, or the color of a room, or describing clothing, are all examples of helpful pieces of information in an investigation.

Color and Development

Children begin to learn basic color terms at about 2 to 3 years old (Pitchford & Mullen, 2002). An early task in which parents engage children is the naming of colors. The way color is introduced in language can make a difference in how quickly a child learns. In English, colors are often used before nouns ("the red shirt"). Children focus on the *descriptor (red)* before the *object/noun (shirt)*.

This can be confusing because the child's attention is put on the color as if it were a proper name, "Red shirt" (Dye, 2012). The better phrasing is to put the color after the noun ("the shirt is red"). With the focus being on the object/noun, the child understands the word "red" as a property of the shirt (Dye, 2012). Dye concludes that this is the difference between just labeling something and being able to describe its properties.

Note that brown and grey are mastered last (Pitchford & Mullen, 2002). Adults asking children to describe the color of people, places and things should understand that children might provide answers that are inaccurate or inconsistent. These inaccuracies and inconsistencies do not indicate that a child is lying or incompetent. It is purely a matter of development.

Color and Competency

Color is not only used as a descriptor. Many adults in legal or forensic proceedings use color to show whether or not a child is competent.

"Andy, if I said that my shirt is red is that the truth or a lie?" This question was used to demonstrate an example of a lie because the shirt was green. Using colors in competency questioning can create several potential problems:

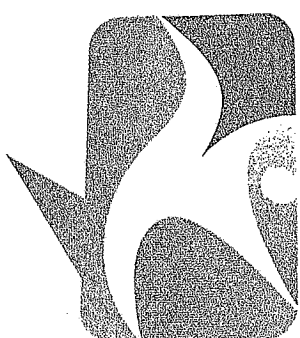
- * Regardless of age, some children are color blind. Color blindness affects about five to eight percent of males (approximately 10.5 million in the U.S.) and less than one percent of females. There are two major types of color blindness: those who have difficulty between red and green, and those who have difficulty distinguishing between blue and yellow (Liu, 2010).
- * A child might not know his colors.
- * Colors have both culture and gender implications.
- * Children might be inconsistent in naming colors depending on their mastery.
- * The child might think that the adult doesn't know her colors and gives the adult the benefit of the doubt.

Color questions with children in forensic interviews should only be used with care. Having an understanding of child development as well as the purpose for asking color questions is crucial. When considering using colors in competency inquiries, it is suggested that other processes are also used. **See also Appendix D.**

Appendix K

Adolescents

*Developed by Julie Kenniston, M.S.W., L.S.W.
May 2013*



A child by statute. An adult in his own mind. A continually developing brain. We put high expectations on adolescents because they have the language of adults.

Yet research shows that the adolescent brain is still developing well into early adulthood. Interviewers acknowledge that interviews with adolescents are different than those with younger children. Adolescents have more words in their vocabulary and a greater understanding of abstract concepts. They also have socialization that includes spheres of influence much greater than younger children. Their independence, attitude and hormones all impact what happens in conversations with them (Chamberlin, 2009).

Adults should consider all of the linguistic concepts presented in this book as they relate to teens. Keeping sentences simple and concrete benefits the adolescent too. It is equally important to engage teens and not assume that they are ready to "get down to business and get this over with." The narrative event practice is as helpful with teens as it is with younger children.

Use the concepts in this book with teens while applying your art of interviewing with this group.

Tips for Interviewing Teens

- * Respect the adolescent.
- * Be patient and pleasant, not creepy.
- * Don't make assumptions about a teen's abilities.
- * Keep questions simple and concrete.
- * Ask narrative inviting questions as much as possible.
- * Frame first. Ask second.
- * *Who, what and where* give you *when* information.

Handbook on Questioning Children

- If the teen says, "I am not sure" or "I don't know" that is a clue. Don't push for an answer because it will be a guess.
- Be nonjudgmental.
- You are not the teen's parent. Don't act like it.
- You are not the teen's peer. Don't act like it.
- Be nonconditionally warm and professional.
- Be honest.
- Be genuine.
- Know when to quit the interview.

Interview Instructions for Adolescents Go both Ways

"Today when we are talking, I know I will need you to explain something so that I understand it better. The same goes for me. If I say something that you don't understand, please tell me and I will explain."

"If I ask you a question and you don't know the answer, tell me that you don't know. But if you do know the answer, tell me."

"It is important that I understand what you tell me. So if I make a mistake or say something wrong, tell me."

"Today it is important that we talk about what is real/really happened/ the truth. No pretending or making things up. Do you promise that you will tell the truth today?" If teen says *no*, prompt the teen to explain by saying, "Tell me the reason you can't promise to tell the truth."