The Pitfalls and Hazards of Interviewing Non-Abused Children for Sexual Abuse and How to Avoid Them

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Introduction

One of the subject areas that is a driving force in forensic psychology and services today is investigative interviewing of children who are alleged to have experienced sexual abuse (Westcott & Kynan, 2006). Despite ongoing efforts by child advocacy organizations and child developmental researchers to provide comprehensive forensic interviewing guidelines (Wakefield, 2006; APSAC, 2012), a significant amount of non-abused children are being involuntarily forced to undergo sexual abuse interviews about events they never experienced (Poole & Lindsay, 1995). This problem creates a significant risk of emotional harm to these non-abused children who get caught in the dragnet of the children protection business which routinely removes these children (non-abused) from their homes without any substantiation that they have been sexually abused.

The Child Maltreatment report of 2008 published by the US Health Department of Human Services states in table 6.5 that 80,000+ non-abused (they call them non-victims) were removed from their homes due to an unsubstantiated petition for abuse or neglect (Child Maltreatment, 2008). A certain percentage of these non-abused children were assumed to have been sexually abused during the investigation process. That percentage is not published by the government so there is no way to know exactly how many of the 80,000+ non-abused children erroneously removed from their homes in 2008 were believed to have been sexually abused. The only statistic that references sexual abuse in the Child Maltreatment report (2008) is in the victim category which is calculated by the number of substantiated sexual abuse cases.

Very little research, current or past, has focused on the psychological harm caused to non-abused children after they have been forced or pressured during a forensic interview to describe partaking in sexual abuse that never happened (In re Morgan, 1998). Even when there is clear evidence from adult children who categorically state that they were forced to lie about being sexually abused during coercive or suggestive child sexual abuse interviews they experienced as children (Penn, 2008), there is no outcry in the child protection community or even among prosecutors who as a group generally refuse to acknowledge this form of psychological maltreatment (American Prosecutors Research Institute, 2005). In fact, when a falsely accusing parent is discovered to be the prognosticator of a child sexual abuse investigation, the
The major focus is usually on how bad the parent is instead of what potential harm may come to the child when that child is forced to think about or imagine that they were a victim of sexual abuse across multiple interviews about non-events. There is also no focus on the legal system that help facilitate the sexual exploitation of the non-abused child. While the interview protocols have changed over the past 30 years leading to some improvements in the way children are interviewed, the underlying attitudes, beliefs, and biases of many professionals who do the actual interviewing has not (Ceci, Kulkofsky, Klemfuss, Sweeney, & Bruck, 2007).

This is largely due to the continual endorsement of the child sexual abuse junk science theories of Roland Summit (Summit, 1983), Suzanne Sgroi (Sgroi, Porter, & Blick, 1982), Barbara Snow (Sorensen & Snow, 1991), and Kathleen Faller (Faller, 2007) who all claim that when a child initially denies being sexually abused it really means he or she needs to be re-interviewed or referred for sexual abuse play therapy until the child provides a statement to the interviewer or play therapist which validates the abuse believed to have occurred. As counter intuitive as this appears to most people who have common sense, these junk science researchers really believe that all children who are alleged to have been sexually abused keep the abuse secret and are reluctant to tell adults about the abuse. The major problem with this approach is that it leads child sexual abuse interviewers and investigators to confirm every allegation because it is based on a confirmatory bias and validating model (Summit, 1983; MacFarlame & Krebs, 1986; Sorensen & Snow, 1991).

For example, during the cross examination of a social worker in a 2003 divorce trial where the mother had falsely accused the father of sexual abuse, the social worker who interviewed the children was asked how many cases of alleged child sexual abuse she had worked on in her entire 20 year career. The social worker replied: 'about 2,000'. The attorney then asked her; "Of those 2,000 cases how many did you substantiate for sexual abuse", to which the social worker replied; "ALL OF THEM". As a consequence of this type of confirmatory bias among child abuse interviewers and the validating junk science theories being continually used to educate them, the current practice of investigative interviewing and interrogation by social workers, police officers, medical doctors, and therapists of non-abused children who are believed to have been sexually abused causes psychological harm and serious mental injury through “sexual exploitation” (In re Morgan, 1998, p. 661).

In the case of In re Morgan (1998), the mother had continually engaged little Morgan in conversations where she was encouraged to verbally depict herself engaged in sexual acts with her father based on what her mother said happened to her when Morgan visited her father (In re Morgan, 1998). Because of this, JUDGE HESTER gave
custody to the father for the following reason he stated on the record: “Morgan was in imminent risk of child abuse by mother through the threat of sexual exploitation” (In re Morgan, 1998, p. 661 emphasis added). The reason why I cite this case in the context of examining child sexual abuse forensic interviewing techniques is that it is one of the few instances where a legal professional properly identifies what is happening to a non-abused child who has been repeatedly told and taught that they were sexually abused.

I. What Does the Literature Say About Interviewing Non-Abused Children for Sexual Abuse?

In order to understand the underlying processes involved with interrogative interviews that corrupt and sexually exploit non-abused children with factitious stories of sexual abuse, it is necessary to consult the literature concerning HOW children are interviewed and interrogated for alleged sexual abuse. Wakefield and Underwager (1988) suggest that sexual abuse interrogations are a “learning process” that teach children about what adults think happened to them (p. 19). A parent is often the first person to interview a child about a suspected incident of sexual abuse and this can generate a conversational type of informal interview between the child and the parent (Bruck, Ceci, & Francoeur, 1999).

a. The Accuracy of Mothers’ Memories of Conversations

Bruck, Ceci, and Francoeur (1999) found out that these conversational interviews between a child and a parent can create problems in the accuracy of reporting alleged sexual abuse. Their research involved having mothers interview their children immediately after playing games. Three days later, the mothers had a hard time remembering how information was elicited from their children. They could not identify whether their children’s statements were spontaneous or prompted or whether specific statements were spoken by themselves or by the children (Bruck, Ceci, & Francoeur, 1999). These results indicate that when probed about the context of specific utterances the mother alleges came from the child like: “my child said that a man touched him”, the mother is not able to “accurately recall whether these were the child’s own words or if her statement is a reconstruction of a conversation in which the child provided one-word answers to a series of direct and possibly leading questions from the mother” (p. 105).
b. Children’s Reports After Exposure to Misinformation from Parents

If a mother or a father is misinformed about what may or may not have happened to their child, it is very easy for them to begin gap filling a story with postulations of what they think may have happened (Lipmann, 1911). Early cognitive behavioral scientist OTTO LIPMANN explains that there is a difference between a “memory-report” and a “perception-report” (Lipmann, 1911, p. 255). If a child is requested by an interviewer to describe a picture that the child can see, the child gives a report of his or her perceptions based on a known object observed by the child. If the same child is asked to give a “memory-report” concerning a prior event which he or she did not experience, there is no memory from which to make a report (Lipmann, 1911, p. 255). This can lead an interviewer, especially a concerned mother or father, to change the form of the interview from an invited free-recall narrative form (i.e., describe what happened while you were at uncle John’s house) to an interrogatory form. An interrogatory form of interviewing involves soliciting answers to questions that invite speculation on the part of the interviewee if the questions contain misinformation or suggestions about an event that never happened (Lipmann, 1911).

Misinformation contained in the questions causes problems in the accuracy of children’s reports because the questions could refer to a real event actually experienced by the child (staying the night at uncle John’s house) along with suggestions about non-experienced details concerning that real event (Poole & Lindsay, 2001). Poole and Lindsay (2001) examined how suggestions from parents that contained misleading information affected children’s reports. 3 to 8 year old children observed and participated in some science demonstrations. Their parents then read them a story at a later date about those science demonstrations which described both experienced events and nonexperienced events (Poole & Lindsay, 2001). In response to open-ended questions that invited free recall narratives, many of the children reported things as true events that they did not experience (Poole & Lindsay, 2001).

c. Source Misattributions

This problem of children making false reports about non-events is believed to be caused by “source misattributions” (Ceci, Huffman, Smith, & Loftus, 1994, p. 388). Ceci, Huffman, and Smith (1994) report that “all children of all ages are equally susceptible to making source misattributions” (p. 391). These authors conducted an experiment that involved interviewing children concerning a list of real events provided by their parents that were experienced within the last 12 months as well as a list of fictitious events...

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(hand got caught in a mousetrap and they had to go to the hospital to get it removed) contrived by the experimenters (Ceci, Huffman, & Smith, 1994). Here is what the experimenter said to the children while holding the list of all events on index cards:

I am going to read some things that may have happened to you and I want you to think real hard about each one of them that I am going to read. Try to remember if it really happened. We made this list up by talking to your mother and father to get them to tell us about things that really happened to you when you were younger, but not all of the things that I am going to read to you really happened (p. 394).

With this instruction, the children were informed that what was read to them may or may not have happened and that the source of the information came from their parents. After going through a series of interviews, Ceci, Huffman, and Smith (1994) discovered that 44% of the younger children “assented to false events at the initial interview” (p. 396). This was surprising because the researchers thought that during the initial interview more children would deny the false events and gradually assent to them during subsequent interviews. Another important finding from this study was that the true events “were nearly always recalled accurately, with little variation in all conditions” (Ceci, Huffman, & Smith, 1994, p. 395).

d. Stereotype Induction: The Incrimination of Dale

Another way that experimenters were able to produce assents to false events is through stereotype induction (Ceci & Bruck, 1995; Leichtman & Ceci, 1995). Ceci and Bruck (1995) report on an experiment where 4 to 6 year old children played some games with a man named Dale. Dale played with toys and also asked the children to help him take off his sweater. Following this event, half of the children were interviewed by a neutral interviewer who asked them to tell everything that happened when Dale was in the room with them. The other half of the children were interviewed by an interviewer who suggested to them that Dale was bad, thus inducing the negative stereotype: ‘Dale does bad things’. All of the children were then asked a series of direct questions requiring yes or no answers, about what had happened with DALE. Children who were given negative information about Dale during their interview provided more inaccurate responses to the direct yes/no questions than children in the neutral condition (Ceci & Bruck, 1995). Children from the incriminating interview group also embellished their incorrect responses in the direction of the incriminating suggestions made about Dale including information about who Dale touched, where he touched them, how he touched them, and how he took their clothes off (Ceci & Bruck, 1995).


e. Programming & Brainwashing

As can be seen from these experiments and research studies, children are suggestible during interviews for alleged sexual abuse and if those interviews contain misinformation or incriminating statements about an alleged perpetrator, false memories can be created at an unconscious level (Ceci & Bruck, 1995). Unconscious alterations to the memories of non-abused children can have devastating effects to the child’s ability to recognize reality since the child’s version of reality is overwritten with false information (Clawar & Rivlin, 2013; Clawar & Rivlin, 1991). Clawar and Rivlin (1991) refer to this as a type of brainwashing as: **rewriting reality syndrome** (p. 34). Rewriting reality syndrome involves a malignant process of breaking down the child’s version of reality and replacing it with the adult’s version like Ceci and Bruck (1995) found with the incrimination of Dale experiment. A parent who repeatedly vilifies the other parent in front of their child can create a stereotype induction and if the content and theme of that vilification involves false allegations of sexual abuse the child can be programmed to become a proxy for the falsely accusing parent.

f. Munchausen by Proxy & Factitious Disorder by Proxy

A child proxy in this kind of scenario becomes a *weapon* used by the vilifying parent to punish and destroy the other parent (Clawar & Rivlin, 2013). In order to weaponize a child successfully, the child’s mind must be corrupted to accept the notion that the other parent does bad things to the child (Garbarino, Guttmann, & Seeley, 1986). Once the child accepts this notion, the next step is to repeat the program until the child not only believes that bad things happened to them but is willing to tell someone in a position of authority that the bad things manufactured by the vilifying parent really happened. This is a form of exploiting emotional abuse and occurs in concert with a corrupting false program that has been successfully induced in the child (Clawar & Rivlin, 2013). According to Deidre Rand, this type of corrupting and exploiting child abuse is a contemporary type of Munchausen by proxy (Rand, 1993). She explains that this type of Munchausen by proxy “occurs when the mother creates the appearance that the child has been abused by someone else, generally the father in a divorce and custody or visitation dispute” (p. 21). The most recent version of the Diagnostic and Statistical Manual of Mental Disorders (DSM-V; American Psychiatric Association, 2013) refers to Munchausen by proxy as *Factitious Disorder by Proxy* and has subsumed it within the diagnostic criteria of “*Factitious Disorder*” bifurcated as follows:
1. Factitious disorder imposed on self
2. Factitious disorder imposed on another

The American Psychiatric Association (2013) indicates in parentheses that Factitious Disorder Imposed On Another was formerly known as Factitious Disorder by Proxy as described originally in the DSM-IV (American Psychiatric Association, 1994) on pages 725-727. The difference between Factitious Disorder by Proxy and Factitious Disorder Imposed on Another is worth noting. The DSM-IV defines factitious disorder by proxy as the “intentional production or feigning of physical or psychological signs or symptoms in another person who is under the individual’s care” (American Psychiatric Association, 1994, p. 727 emphasis added) while the DSM-V defines factitious disorder imposed on another as “falsification of physical or psychological signs or symptoms, or induction of injury or disease, in another, associated with identified deception” (American Psychiatric Association, 2013, p. 325 emphasis added).

With the latter of these definitions there is no requirement that the falsification of symptoms be intentional. Under this new diagnostic schema, a perpetrator of falsifying or inducing psychological symptoms in another can be under a delusional or psychotic belief that the symptoms are real. Differentiating between a delusional belief and a factitious intentional or quasi-intentional belief is difficult to assess forensically especially in cases like In re Morgan (1998) where the mother repeatedly made false allegations of sexual abuse using the daughter as a proxy while professing to believe that the allegations were true. The testifying psychologist in that case said the mother suffered from Factitious Disorder by Proxy but did not indicate whether or not the mother’s false beliefs were delusional or merely the product of hatred towards the father (In re Morgan, 1998). Regardless of whether or not the mother intended to falsify the condition of her daughter, the behavior of the mother and the harm it caused the child are what must be described and operationally defined if social workers and other mental health professionals are going to be able to identify and report it as a form of abuse.

Wakefield and Underwager (1991) and Rogers (1992) point out that in cases like In re Morgan (1998) where a parent induces in a non-abused child the false belief that they were sexually abused, it should be labeled folie a deux which the DSM-IV-TR refers to as “shared psychotic disorder” (American Psychiatric Association, 2001, p. 327). Although shared psychotic disorder is categorized within the spectrum of psychotic disorders, the DSM-IV-TR points out that psychotic in this context refers to delusions (American Psychiatric Association, 2001). This is diagnostically confusing since there can be an overlap of symptoms between a shared psychotic disorder and a
factitious disorder imposed on another especially in cases that involve false sexual abuse allegations. If a non-abused child is repeatedly interviewed about events that never took place but are believed to have taken place by the interviewer, the child is at risk of developing false memories (Brainerd, Stein, Silveira, Rohenkohl, & Reyna, 2008). This has been demonstrated in numerous experiments (Poole & Lindsay, 1995; Bruck, Ceci, Francouer, & Renick, 1995).

g. Potential Harm to Non-Abused Children who are Coerced into making False Statements of Sexual Abuse during or after Informal and Formal Interviews

What these experiments have shown is that non-abused children are suggestible not only to misinformation, but they can be successfully brainwashed to permanently believe they have experienced an event that never took place and provide false disclosures when being interviewed for sexual abuse. For example, in a Bruck, Ceci, Francouer, and Renick (1995) study, 3 year old children who were given a routine medical exam by a pediatrician falsely reported the doctor had touched their genitals. Despite the children being told the truth after the experiment, many of the children could not be deprogrammed and maintained a firm a fixed delusional belief that the doctor had touched their genitals with one girl from the experiment believing that the doctor pounded a stick into her vagina (Bruck, Ceci, Francouer, & Renick, 1995). Further research confirms that when non-abused children have been programmed and brainwashed to believe and report abuse that never took place, professionals cannot discriminate the truthfulness of their reports when compared with the reports of abused children (Bruck & Ceci, 2009).

h. False Confessions in Adults who are Coerced to Confess

The problem of non-abused children making false statements during interviews is also observed in cases of adults who falsely confess to crimes during police interrogations that utilize highly suggestive and leading questions (Ofshe & Leo, 1997). Ofshe and Leo (1997) report that when interrogators make suggestions to a criminal adult suspect during an investigative interview it can lead to false confessions. Ceci and Bruck (1995) report that when child sexual abuse interviewers use the same type of suggestive interviewing techniques while interviewing an alleged child victim of sexual abuse it can produce false disclosures. In this regard, false confessions and false disclosures share a common psycho-social and emotional etiology (Yates, 1991). Kassin (2006) explains that there are two types of false confessions/disclosures: (1) coerced compliant and (2) coerced internalized. The first can be seen in cases where a
non-abused child coercively complies with a false belief suggested by the interviewer. The second can be seen in cases where the same non-abused child completely internalizes the false belief and develops a shared psychotic disorder with the programming adult who imposed the false belief through brainwashing techniques.

### i. Sexual Exploitation

If the theme of the false program involves imagining the child has been the victim of sexual abuse, the process of interrogation or ‘forensic interviewing’ (Anderson et al., 2010) almost always involves an indirect request of the child to provide a verbal description of a child engaged in a sexual act (In re Morgan, 1998). This, by definition, under Michigan law is a form of sexual exploitation (MCL 722.622x, 2014). The difficulty in viewing these types of cases from this perspective is the unwillingness of the psychological and legal communities to acknowledge that they even exist in the sense of putting a proper label on the form and type of psychological abuse that produced the problem. Numerous jurisdictions make sure that whenever there are judicial opinions at the appellate level that acknowledge the existence of this form of sexual exploitation, especially in divorce cases, these cases go unpublished and therefore do not appear in the official reports of the court (K.M. v. S.M.M., 2011).

For many child protection agencies there is no such thing as cases that involve false allegations of sexual abuse only cases that do not have enough evidence to substantiate the allegations (Sorenson & Snow, 1991). Prosecutors often suffer from this same level of denial which is reinforced by the 40+ year old junk science maxim used by these two groups: children do not lie about sexual abuse (Summit, 1983; American Prosecutor’s Research Institute, 2005). In fact, a careful review of the literature used by prosecutors in their training manuals (American Prosecutor’s Research Institute, 2005) shows that most prosecution led interviews of children suspected of being sexually abused operate under Summit’s (1983) false maxim.

### j. Confirmatory Bias (Treating Non-Abused Children As Victims)

Belief in Summit’s (1983) maxim creates a validating and confirmatory biased investigative atmosphere which ignores or excludes any information or evidence that would pose an alternative hypothesis (Ceci & Bruck, 1995). This approach is unethical because forensic practitioners are required by ethical guidelines to “weigh all data, opinions, and rival hypotheses impartially” and “differentially test” them (American Psychological Association, 2013, p. 9 & 15). Let’s take a closer look at Summit’s
confirmatory bias model which he called the *Child Sexual Abuse Accommodation Syndrome* (Summit, 1983). This model operates under two false premises:

1. children never lie about being sexually abused and
2. children who have been sexually abused exhibit these behaviors:
   - Deny being abused
   - Delay telling they were abused
   - Recant the abuse once they do tell
   - Accommodate the abuse because they feel trapped
   - Keep any delayed, recanted, or denied abuse a secret

What is dangerous about using this theory is that denials must be invalidated because the interviewer has to assume that the child was sexually abused according to Roland Summit who says all children who were sexually abused deny it happened (Summit, 1983). This leads interviewers to engage in dangerous interviewing practices like repeating questions (Schreiber, 2006). Schreiber (2006) lists repeating questions as bad for finding the truth because it communicates to the child that they provided the wrong answer the first time the question was asked. This is what went wrong in the McMartin preschool interviews since it was one of Roland Summit’s protégés, Kee MacFarlane, who was in charge of interviewing the children (Schreiber, 2006).

According to Schreiber (2006), Kee MacFarlane used another dangerous interviewing practice called reinforcement. Interviewers who use reinforcement (a) praise the child when the child says what the interviewer wants to hear, (b) give the child negative feedback for failing to say what the interviewer wants to hear, and (c) tell a child interviewee that praise, rewards, or negative consequences are forthcoming depending on what the child says (Schreiber, 2006).

These dangerous interviewing practices of Kee MacFarlane and Roland Summit grew out of Suzanne Sgroi’s sexual abuse behavioral checklist theory (Sgroi, Porter, & Blick, 1982). Sgroi, Porter, and Blick’s (1982) behavioral checklist theory taught forensic interviewers like Kee MacFarlane that child sexual abuse can be “validated” when any of the following “behavioral indicators of child sexual abuse” are observed in a child (pp. 40-41):
• Overly compliant behavior
• Acting-out
• Pseudo-mature behavior
• Hints about sexual activity
• Lack of trust
• Inability to concentrate in school
• Running away from home
• Sleep disturbances
• Extraordinary fear of males
• Regressive behavior
• Withdrawal
• Clinical depression
• Suicidal feelings
• Nonparticipation in school
• Arriving early at school & leaving late with few, if any, absences
• Poor peer relationships and inability to make friends
• Detailed and age-inappropriate understanding of sexual behavior
• Inappropriate sexual play

Under this theory, when a child has poor peer relationships or does not want to participate in school or is afraid of males it means the child was sexually abused (Sgroi, Porter, & Blick, 1982). This concept was not only adopted by MacFarlane and Summit but also four other researchers who developed a theory that all children investigated for sexual abuse go through a quasi-developmental process of “disclosure” (Sorensen & Snow, 1991, p. 9; DeVoe & Faller, 1999). According to Sorensen and Snow (1991), when a child is believed to have been sexually abused they have to go through a process in order to ‘actively disclose’ the abuse. In order for a presumed sexually abused child to reach the ‘active disclosure’ stage, child sexual abuse interviewers must treat any denials by the child as a sign and symptom that the child has been sexually abused and is in currently exhibiting the “inactive disclosure” phase (Sorensen & Snow, 1991, p. 11). Any contradictory statements elicited from a presumed sexually abused child during an interview must be treated as a positive sign of sexual abuse since this is considered by Sorensen and Snow (1991) and DeVoe and Faller (1999) as a stage within the disclosure process that a child needs validation and help to work through.
II. What Should We Do to Prevent Non-Abused Children from Being Interviewed for Sexual Abuse?

Studies into suggestibility have repeatedly shown that non-abused children who are assumed to be victims of sexual abuse under a confirmatory bias model are at a substantial risk of being severely psychologically harmed by forensic mental health professionals utilize their professional services as vehicles for validating sexual abuse allegations as did Dr. Joanna Silberg in the case of *K.M. v. S.M.M.* (2011) and Kee MacFarlane in the McMartin preschool cases (Schreiber, 2006). Unfortunately, the forensic mental health community has not, as a whole, denounced the junk science theories used by these validators. As a consequence, thousands of non-abused children are psychologically abused every year by validating or biased forensic mental health professionals who coerce, encourage, or solicit non-abused children to repeatedly imagine or verbally describe themselves engaged in sexual acts that never occurred. The difficulty in identifying and remediating this problem is reaching a consensus on who is qualified to conduct a child sexual abuse interview and how, where, and when should it take place. Too many research studies focus on the disposition of the child and tend to gloss over or ignore the disposition of the interviewer.

From a forensic evaluation perspective, it would be prudent to screen both the interviewer and the interviewee for (a) competence to interview and (b) fitness to be interviewed. Too often, children who are believed to be sexually abused are taken into protective custody and immediately interviewed by a CPS social worker who may or may not have the training, education, experience, knowledge, and/or disposition (unbiased) to conduct a valid forensic interview in a competent and unbiased manner (Bruck & Ceci, 2009). Likewise, there are no built-in legal procedural safeguards to screen out non-abused children from undergoing unnecessary sexual abuse forensic interviews due to the low burden of proof required to involuntarily force a child to participate. The only burden required is a reasonable suspicion that the child was sexually abused based on a verbal or written description of what was alleged took have place (Bruck & Ceci, 2009). Under this paradigm, a simple anonymous phone call to CPS alleging sexual abuse of a child is sufficient to mandate that child be interviewed for sexual abuse. The anonymous caller does not even have to provide any evidence that sexual abuse actually took place and there is no judicial oversight on this process.

This, by its nature, accounts for an unknown portion of the 80,000+ non-abused children removed from their homes in 2008 due to a report of child sexual abuse that
was not substantiated (Child Maltreatment, 2008). 2008 was the last year that the US Dept. of Health and Human Services actually keep track of how many non-abused children were taken from their homes without a substantiation of abuse. Keep in mind that the threshold for substantiating sexual abuse in a CPS report is by a preponderance of the evidence and by evidence it simple means any or all reports alleging abuse received by a social services child protection agency that they choose to review. This is different than the legal standard of by preponderance of the evidence.

**a. Competence of the Interviewer**

Many mental health professionals who do forensic work assume that they are equivalent. They are not. Courts are bound by an adversarial evaluation process that requires them to hear and consider evidence in support of and against a set of sexual abuse allegations. Social services child protection agencies and police agencies are not required to report on or consider any exculpatory evidence they receive. If there is no effort to consider or gather exculpatory evidence by mandate of law, than the burden of proof is meaningless since a preponderance of inculpatory evidence always reaches the conclusion that sexual abused is more than likely to have occurred. This is why child protective services agencies act in concert with prosecutors and law enforcement. Therefore, none of these groups of professionals are qualified, by the nature of their position in this paradigm, to conduct a forensic interview of a child alleged to be a victim of sexual abuse because they are not compelled by law to seek the truth (weighing two alternative hypotheses) which only encourages and supports their desire to obtain a usable disclosure of sexual abuse which either validates the original suspicion of sexual abuse report made to CPS or law enforcement.

**b. Fitness to Be Interviewed**

Adults who are alleged to be either a victim or perpetrator of a criminal sexual act cannot be compelled to partake in an investigatory forensic style interview because the adults have a Constitutional right not to talk and to remain silent. Should not the same Constitutional right apply to children who are considered to be a victim of sexual abuse? Currently it does not. If a child is alleged to have been a victim of a criminal sexual act they are involuntarily compelled to be interviewed for sexual abuse.

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1 See Table 6-6 on page 86
III. Recommendations

In order to prevent non-abused children from undergoing psychologically harmful sexual abuse interrogations, examinations, or interviews, I would recommend the following three changes to how forensic professionals approach these types of cases and implement the proposed standardized set of GOOD FORENSIC INTERVIEW PROTOCOLS.

1. **JUDICIAL APPROVAL TO INTERVIEW:**

   Screen out non-abused children by mandating that child interviewers first prove in Court that there is a preponderance of credible and contested evidence that the child in question was sexually abused.

2. **RAISE THE QUALIFICATIONS OF INTERVIEWERS:**

   Mandate that only fully licensed developmental psychologists with a doctoral level of education and training be allowed to interview children suspected of being sexually abused.

3. **OBTAIN VOLUNTARY CONSENT OF THE CHILD:**

   Mandate by law and policy that any child believed to be sexually abused must provide consent to be interviewed and ensuring that the child has the right to refuse being interviewed at any time for any reason.

The review of the literature indicates that children are no match for adult interviewers in terms of being able to adequately and truthfully tell them what they know when they are being interviewed against their will or by a biased or unqualified interviewer (Schreiber, 2006). Even under the best of interviewing circumstances where good interviewing protocols are followed, non-abused children can give assent to false memories that were programmed into them from misinformation, suggestion, or stereotype induction (Wakefield, 2006). Wakefield (2006) provides a list of recommended good forensic interview protocols which I have modified and adapted to be utilized as a working model for implementing my previous recommendations as follows:
4. Proposed Good Forensic Interview Protocols

a. Building Rapport

Since no two children are alike and all children are vulnerable to suggestion, there is no one-size-fits-all forensic interview protocol. With that in mind, good forensic interview practice begins with developing a relationship and emotional connection with an individual child. This is the rapport building stage. There is very little guidance in the literature as to the specific boundaries involved with rapport building which is surprising and raises a lot of questions. How long should the rapport building stage last? What if the child does not like the interviewer? What if the interviewer is not able to establish rapport with the child, should the interview stop? Does the child have a say in the matter? Is the child allowed to say to an interviewer they do not like: “I do not like you and do not want to talk to you”? The answers to these questions are critical to understanding how policy and law makers should set boundaries for both the CHILD and the INTERVIEWER to protect both the child’s rights and the integrity of the interview. The child should also retain the legal right to abstain from the interview. After all, police do not compel 30 year old alleged rape victims to provide written or oral statements unless they give consent. Therefore, the rapport building stage should have the following 3 guidelines to be considered good forensic practice:

i. The interviewer must establish an emotionally positive trust and bond with the child.

ii. If no bond or trust is established, the interviewer should stop the interview.

iii. The child should be instructed prior to beginning the rapport building stage that he or she has the right to stop the interview at anytime for any reason.

These three guidelines act as an important foundation for establishing a good interrogative atmosphere.

b. Setting and Testing Ground Rules

Once an emotionally positive and trusting relationship has been established, Wakefield (2006) suggests that the interviewer needs to establish ground rules. Ground rules in this context refer to instructions given to the child that “it is all right for the child to say ‘I DON’T KNOW’ or ‘I DON’T REMEMBER’ and that the child should correct the interviewer if the interviewer says something wrong” (Wakefield, 2006, p. 62). These
instructions need to be tested by the interviewer to discern whether the child is able to understand how to apply them. One way that Wakefield (2006) suggests the interviewer test this is to ask an unanswerable question like: ‘What kind of car do I have?’ The child should respond: ‘I DON’T KNOW’. Another way to test is to supply the child with wrong information such as: ‘You said you have an older brother when the child only has a younger sister. The child should CORRECT the interviewer.

c. Ask Open Ended Questions

If the child interviewee is not able to respond I DON’T KNOW to an unanswerable question or does not correct wrong information provided by the interviewer, the interview should STOP. If the child does pass both tests, than the next guideline applies: asking open ended questions. Asking open ended questions help a child start talking in a free narrative style. Open ended questions should not be leading or suggestive. Leading questions are any questions that do not allow the child to lead the conversation. Good forensic interviews are child lead so that it is the child who initiates what is discussed. If or when a child says something that needs to be clarified as to specific details, then it is appropriate to temporarily lead the child. Here is an example:

| INTERVIEWER: Now that we have been able to set the ground rules, why did you come here to talk with me today? |
| CHILD: Because of the time I spent the night at my friend Joey’s house. |
| INTERVIEWER: What happened at Joey’s house when you spent the night? |

This is an abbreviated example of how an answer to an open ended question needs to be clarified by asking open ended leading question (Wakefield, 2006). Beyond these three core guidelines (building rapport, setting the ground rules, asking open ended questions), the following are good forensic interviewer practices:

- Dispel any and all prejudice or bias by exploring and posing alternative hypotheses
- Always video tape every minute of every interview
- Interview the child alone
- Do not use negative or positive reinforcement, always remain neutral
- Do not use:
  - play,
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- Do not use:
  - pressure,
  - coercion,
  - suggestion,
  - leading questions, or
  - repeated questions

IV. Conclusions

One lingering question that has emerged from my review of the literature: Should children who are the subject of a child sexual abuse investigation be involuntarily forced to participate in a forensic sexual abuse interview if there is no proof that the child was sexually abused? After discussing this question with Dr. Stephen Ceci from Cornell University (personal communication, January 19, 2015), it was his opinion that when there is no credible evidence that a child has been sexually abused, the child should not be forced into a forensic interview for sexual abuse. This may be a less than common position however it is one that is well grounded in Constitutional law. The United States Constitution provides certain guarantees to citizens of all ages including minors. Among those guarantees is personal liberty and the freedom of association which are protected by the First and Fourteenth Amendments (US Const. amend. I, 1787; US Const. amend. XIV § 1, 1868). Under these amendments, I believe a child has Constitutional right to refuse taking part in a forensic interviews especially when a good rapport cannot be established or the child fails the tests for competency as outlined by Wakefield (2006).

To safeguard both the legitimate process of investigating allegations of child sexual abuse (searching for the truth in an unbiased and scientific way) and the Constitutional rights of the children involved, there should first be a judicial process of screening out non-abused children prior to any formal interviews. Secondly, the qualifications of the interviewers should be raised (doctor of developmental psychology) to reflect the seriousness we want to place on the accuracy of information society wants to obtain from children placed in an interrogative atmosphere where sexual abuse allegations are involved. As stated earlier, CPS workers and police officers generally do not possess the educational training or unbiased attitudes necessary to conduct a good forensic interview because they frequently engage in bad forensic interviewing practices such as failing to test alternative hypotheses, sending non-abused children to sexual...
abuse play therapy or sexual abuse PTSD trauma therapy, inviting speculation, introducing suggestions and misinformation, repeating questions, using anatomically detailed dolls, using coercive (i.e., come on you have to tell me what happened) or pressure tactics, using any visualization procedures, and using positive or negative reinforcement. Thirdly, a formal child sexual abuse interview should not involve an abrogation of the child’s Constitutional right to refuse to participate. After implementing these three important safeguards, the pitfalls and hazards of interviewing children for sexual abuse can be avoided by adhering to the proposed good forensic interviewing protocols of building rapport, setting and testing ground rules, and asking open ended non-leading and non-suggestive questions.

References


US Const. amend. 1. (1787).

US Const. amend. XIV § 1. (1868).


