

EFFECTIVE FORENSIC INTERVIEWING OF CHILD WITNESSES

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"Children may be able to perceive and encode an event accurately, and to store it in memory, but they may have difficulty effectively communicating the existence or content of the memory" (Perry, 1992).

The following quotes are taken from two trials of the same defendant; the first trial resulted in a hung jury, probably because the child victims disclosed little of their abuse in response to questioning by the prosecutor. The children testifying were a nine-year-old female and a seven-year-old male. The children had disclosed that while their father, an Air Force Officer, was stationed in Korea that their mother had invited a man she met on the beach to move into their home (they lived in base housing). This man had physically abused the children, beating them with a rubber hose which had been nailed to a broom handle. The children were also forced to walk through fires he had set, using lighter fluid, and made one of the children hold a firecracker in her hand until it exploded. Their mother had done nothing to interfere with their abuse, even laughing during some of the beatings. The natural father had no idea his wife had moved the man in with his children until his tour of Korea was over and the children disclosed this to him. He reported this to the police.

In trying to understand why the children said so little while testifying in the first trial when they had disclosed this abuse in vivid detail during therapy, it became apparent that the prosecutor needed to use many more memory cues, specific questions, and language appropriate for the age of these children in questioning them during the second trial. When she did this, the child victims were able to provide much more information describing their abuse. The abuser was found guilty in the second trial and sentenced to jail.

- **Children have limited ability to use memory cues.**

Q. You never told Daddy that Mommy spanked you, did you?

A. I told him that my Mom spanked me.

Q. You did tell your Daddy that?

A. But I didn't remember until now.

Free recall is the most complex form of memory. In using free recall, 6-7 year olds typically can remember only one or two facts about an incident.

- **By using questions that allow a child to reconstruct his or her memory, the amount of facts a child provides can be significantly increased. Reconstructive questions help a child to recreate the scene in their mind that they are asked to remember.**

Q. *Do you remember the house you lived in when you were in Florida? What color was it?*

A. *Green*

Q. *What did the yard look like?*

A. *It had two trees in the front.*

Q. *What did the living room look like?*

A. *It had a couch and a chair.*

Q. *Did it have anything else in it?*

A. *A TV and some tables.*

Q. *Was there a rug on the floor?*

A. *Yes, a brown one.*

Q. *Can you remember being in that room when Mr. Ray was there?*

A. *Yes.*

Q. *Close your eyes and remember being in that room with Mr. Ray. Was Mr. Ray ever mean to you in that room?*

A. *Yes, he hit me with the rubber hose.*

- **Use concrete examples when qualifying a child witness during the process of asking this child to describe the difference between the truth and a lie:**

Q. *If I said today in court that I'm a cat, is that the truth or a lie?*

A. *A lie.*

Be careful using the word 'story' for lie, children may not mean 'lie' when they say 'story'.

Q. *Is it right or wrong to tell a story?*

A. *Right.*

Q. *And what did I tell you to say?*

A. *You told me to tell the truth and tell my story.*

Q. *What did you do when you saw Dr. Davis?*

A. *I told stories.*

Q. *What kind of stories?*

A. *We used a tape recorder... stories about rabbits and trucks.*

- **Children are typically afraid to lie in court after they have been warned not to lie but may go to the opposite extreme and say 'yes' when they don't remember. If this occurs, the victim may seem to be describing events that did not take place as described.**

Q. *Do you remember telling the man that day that Rodney told you and Susan to make up stories to get Ray out of the house?*

A. *I think so.*

- **Use simple and direct child-like words since children are quite literal or concrete when interpreting language.**

Q. *How do you know Mr. Ray?*
A. *I met him.*

Better:

Q. *Do you know a man named Ray?*
A. *Yes.*
Q. *How did you meet him?*
A. *At the beach.*
Q. *When was the first time you met Mr. Ray?*
A. *In the summer, after my Dad left.*

- **Children often do not know what their parents do for employment, except in general terms:**

Q. *What's your Dad's job?*
A. *I don't remember.*

Better:

Q. *Is your Dad in the Air Force?*
A. *Yes.*

- **Questions asked of children that are too broad or too general will rarely provide many details**

Q. *After you met Mr. Ray on the beach, what happened?*
A. *I don't know.*

Q. *Did he ever touch you, that you remember?*

Q. *Did you tell her everything?*

Q. *Now, what would you do so that he would spank you? Was there anything that you remember, in particular?*

- **Don't use words that are too advanced for children:**

Q. *Under what circumstances would he hit you with a rubber hose?*

- **If you are talking about physical pain or body sensations, be specific in your word use**

Q. *How did it feel when he hit you?*
A. *Sad.*

Q. *How did it feel when that happened?*
A. *It felt like it was stuck to my finger and I couldn't pull it off.*

Better:

Q. *How did your skin feel when he hit you with the rubber hose?*

A. *It stung.*

- **Children often get nervous and confused and deny something they know. If this occurs, restate the question in another way:**

Q. *Do you know what part of your body is your penis, do you know what that is?*

A. *No.*

Q. *What do you go to the bathroom with like when you wet the bed, do you know what part of your body you go to the bathroom with?*

A. *My penis.*

- **Children can seem like they are contradicting themselves, when they are actually remembering different occasions.**

Q. *Did other people know you had bruises on your legs?*

A. *No.*

Q. *Why not?*

A. *Because I would have to wear a pair of pants or a pair of shorts.*

- **Be careful asking questions that the child might misinterpret**

Q. *Did I tell you what to say in court today?*

A. *Yes (meant she was told to tell the truth or to tell everything).*

Better:

Q. *Did your Daddy tell you to tell the truth in court?*

A. *Yes.*

Q. *Did anyone tell you to lie in court today?*

A. *No.*

Q. *Are you saying the things you're saying today because you don't like Mr. Ray?*

A. *Yes.*

Better:

Q. *Are you mad at Mr. Ray?*

A. *Yes.*

Q. *Are you telling the truth about Mr. Ray?*

A. *Yes.*

Q. *How many times would you say he hit you with a belt?*

(this could mean how many times he got hit on one occasion or how many different times).

- **Young children rarely understand time sequence**

Q. *How many times did this happen to you last year?*

A. *I don't know.*

Q. *Who did you tell that to first, Dr. Davis or Mrs. Johnson?*

A. *I don't know.*

Better:

Q. *When did you see Mrs. Johnson?*

A. *When I was in Florida.*

Q. *When did you see Dr. Davis?*

A. *After I moved to Maryland.*

Q. *What grade were you in when you were in Florida?*

A. *First.*

Q. *What grade were you in when you were in Maryland?*

A. *I'm there now, third.*

- **If you are talking about sexual abuse or body type concerns, don't use words the child does not understand**

Q. *Did you ever recall Mommy getting some of his stool after he used the bathroom?*

Did you see him playing with the mess in the toilet?

Would the dog use the rest room in the house?

- **Children usually cannot describe feelings**

Q. *What do you feel like when you feel angry?*

A. *I don't know.*

- **Provide multiple memory cues to a child witness. These allows a child to access memory that is available, but needs the appropriate types provided by questioning to access. Children have been proven to have very accurate memories for events, but lack the ability to review their memories for specific incidents in the way that an adult can.**

Q. *Do you remember if Ray ever hit you with the rubber hose while you were standing up?*

- *laying down?*
- *kneeling or leaning over?*
- *running away?*

Q. *When Ray hit you with the rubber hose, where on your body did he hit you? Did he hit you on the butt?*

- *Did he hit you on the back?*
- *Did he hit you on the arms?*
- *Did he hit you on the head?*
- *Did he hit you on the face?*

Q. Did Ray do anything to your hair?

- your face?
- your ears?
- your mouth?
- your arms?
- your tummy?
- your legs?
- your private parts (or whatever the child's word is for genital area)?

Q. How did your skin feel when Ray hit you with the rubber hose?

A. Burning.

Q. When Ray hit you with the rubber hose, how long did the burning last?

A. A long time.

Q. Do you ever remember being in school and your skin burning/hurting from something that happened at home?

A. Yes.

Q. What do you remember?

A. I remember when I was in school, I would have to sit on one of my legs.

Q. Why is that?

A. Because when I got hit on my butt, it was hard for me to sit down.

Q. Did you ever get bruises from being hit with the rubber hose?

A. I don't know

Better:

Q. Did you ever look at your skin and see any marks that were caused by being hit with the rubber hose?

A. Sometimes when I looked down after I got whipped, I would have a bruise.

Q. Did Mr. Ray ever hit you with anything beside the rubber hose?

A. I don't know.

Better:

Q. Do you remember if Mr. Ray ever hit you with a belt?

A. Yes.

Q. Do you remember if Mr. Ray ever hit you with a stick?

A. No, he never hit me with a stick.

Q. What would your Mom do when Mr. Ray hit you with the rubber hose?

A. She would sit.

Better:

Q. Did your Mom say anything when Mr. Ray hit you with a rubber hose?

A. No.

Q. Did she cry.

A. No, she laughed.

Q. Did she tell him to stop?

A. No.

- **Explain unusual terms to a child**

Q. *Did you ever see Mr. Ray with a long can?*
A. *No.*

Better:

Q. *What did Mr. Ray keep the tennis balls in?*
A. *A can.*