



The National Children's Advocacy Center

Interviewing and Prosecuting Child Abuse Cases with Special Needs Clients

The NCAC models, promotes, and delivers excellence in child abuse response and prevention through service, education, and leadership.

Agenda

- Definitions
- Interviewing Basics
- Demystifying Disabilities Rubric
- Communication Disabilities
- Intellectual Disabilities
- Social/Emotional Disabilities
- Physical Disabilities



Introductions

- What types of disabilities have you seen in your program?
- What types of challenges have these situations created?
- Are there specific disabilities you want to discuss in this session?





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Hershkowitz, I., Lamb, M.E., & Horowitz, D. (2007).

Victimization of children with disabilities.
American Journal of Orthopsychiatry, 77(4),
629-635.

Victimization of children with disability

- Disabled children are more vulnerable because of a variety of situational factors:
 - *Dependence on caregivers for meeting their basic needs*
 - *Seeking approval from others/following others' leads*
 - *Limited understanding about sexual issues*
 - *Frequent isolation from conventional social environments*
 - *Limited social and communication skills*
- The purpose of this study was to examine the types and characteristics of child abuse involving disabled children as compared to the abuse of normally developing children.

Victimization of children with disability

- 40,340 children who were alleged to have been victims of either sexual or physical abuse interviewed using NICHD Investigative Interview Protocol
 - *Between the ages of 3-14*
 - *All child abuse reports made to authorities (law enforcement and/or CPS) in Israel between 1998 and 2004.*
- Identified as disabled based on assessments made in the educational, health, or welfare systems
 - *Severity of the abuse was based upon the investigators' assessment of the children's functioning during the investigative process.*

Victimization of children with disability

- Rate of disability:
 - *Minor - 11%*
 - *Severe - 1.2%*
- Physical Abuse of disabled children:
 - *Children, ages 3-6, more likely to be suspected victims*
 - *Children, ages 11-14, less likely to be suspected victims*



Victimization of disabled children

- Children with both minor and severe disability:
 - *More likely to delay disclosure at least one month after the incident/last incident than non-disabled children :*
 - Minor disability - 80.5%
 - Severe disability - 78.0%
 - No disability - 74.8%
 - *Alleged significantly more serious sexual offenses*
 - Suggests that they have a harder time identifying less invasive forms of sexual abuse as actual abuse.



Victimization of children with disability

- More likely to report being repeatedly sexually abused than children without disabilities:
 - *Minor disability - 50.8%*
 - *Severe disability - 48.8%*
 - *No disability - 38.4%*

- More likely to identify a parent or parent figure as the sexual perpetrator than other persons:
 - *Minor disability - 9.9%*
 - *Severe disability - 21.0%*
 - *No disability - 7.3%*

Definitions about disabilities come from a variety of sources

- The International Classification of Disease (ICD-10) is the sourcebook for medical diagnoses.
- The Diagnostic and Statistical Manual (DSM-IV TR) contains mental health diagnoses.
- The Individuals with Disabilities Education Act (IDEA, 2004) lists categories of disabilities that qualify a child for special education services.

Review of Special Needs/Disabilities

- Disability may occur at any age in life
- Approximately 15% of the U.S. population is considered disabled
- Factors impacting disability:
 - *Congenital vs. Incident-related*
 - *Hidden vs. Overt*
 - *Chronic vs. Temporary*
 - *Progressive/Degenerative vs. Static*



Four Primary Categories of Ability/Disability

1. Communication
 2. Intellectual
 3. Social/Emotional
 4. Physical
- Disability may involve one or more of these
 - All of us are on a continuum





Americans with Disabilities Act

- Qualified individual with a disability” means an individual who:
 - *Has a physical or mental impairment that substantially limits one or more of the major life activities;*
 - *Has a record of such an impairment; or,*
 - *Is regarded as having such an impairment.*
- Not just physical in nature
 - *Communication?*
 - *Appropriate materials present?*



Disability Categories from IDEA:

- Autism
- Deaf-blindness
- Emotional disturbance
- Hearing impairment, including deafness
- Mental retardation
- Multiple disabilities
- Orthopedic impairment
- Other health impairment
- Specific learning disability
- Speech or language impairment
- Traumatic brain injury
- Visual impairment, including blindness



Communication Basics

- Use “people-first” language
- Talk to the individual with special needs
- Don't discuss aspects of disability that may cause undue stress
- Normalize the experience without ignoring special circumstances



Caregiver Issues

- Lack of info/education: unrealistic expectations
- Lack of respite care
- Daily care: bathing, dressing, eating, transporting, and providing medical care
- Behavioral management: coping with challenging behaviors such as temper tantrums, aggressiveness and noncompliance
- Feelings of guilt or grief
- What if caregiver has a disability?
- How would your stress level be?



Who are clients with special needs?

- Developmental Disability:
 - *Begins before age 22;*
 - *Attributed to a mental or physical impairment, or combination of these;*
 - *Likely to continue indefinitely;*
 - *Results in substantial functional limitations in three or more:*
 - Self care
 - Receptive and/or expressive language
 - Learning
 - Mobility
 - Self-direction
 - Capacity for independent living
 - Economic self sufficiency



Who are clients with special needs?

- Developmental Disability Definition - Centers for Disease Control (www.cdc.gov/ncbddd):
 - *A group of severe chronic conditions that are due to mental and/or physical impairments that become apparent as a child grows*
 - *Are usually detected when a child falls away from the trajectory of normal development*
 - *Begin anytime during development up to 22 years of age*
 - *Usually last throughout a person's lifetime*
 - *Cause problems with major life activities such as language, mobility, learning, self-help, and independent living*





Myths about clients with special needs

- Can not remember past events with any accuracy
- Make up stories to get attention
- Are so suggestible that their statements can not be trusted
- Can not distinguish truth from lie
- Don't have communication strategies to share experience
- Can not testify in court
- Won't remember abuse experience
 - *So why worry about it?*
- Individuals with special needs are asexual
- Do not have a trauma response like others

Preparing for Forensic Interview

- Referral information
 - *What is obtained on every case referred?*
- How does this relate to the NCA Accreditation Standards for Cultural Competency?

Essential Components

- A. The CAC has developed a cultural competency plan that includes community assessment, goals, and strategies.*
- B. The CAC must ensure that provisions are made for non-English speaking and deaf or hard of hearing children and their non-offending family members throughout the investigation process.*
- C. The CAC and MDT members ensure that all services are provided in a manner that addresses culture and development throughout the investigation, intervention, and case management process.*



Preparing for Forensic Interview

- What is child's disability(ies)?
 - *How is child impacted?*
- Background information from school
 - *Individualized Education Plan (IEP)*
 - *Psycho-educational Evaluation every three years*
 - *Input from caregivers, teacher, therapists, etc.*
- How is child best prepared for novel experiences?
- What are areas of interest for child?
- What is child's routine? Any "best time" for interview?





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Cederborg, A.-C., La Rooy, D., & Lamb, M.E. (2008).

Repeated interviews with children who have intellectual disabilities. *Journal of Applied Research in Intellectual Disabilities*, 21, 103-113.



Repeated Interviews for clients with DD

- The purpose of this study was to determine if repeated interviewing could increase the amount of information provided by children with intellectual disabilities.
- 19 subjects (13 girls, 6 boys) from criminal cases in Sweden:
 - 8 – *mild developmental delay*
 - 2 – *moderate developmental delay*
 - 1 – *indeterminate developmental delay*
 - 3 – *ADD/ADHD*
 - 4 – *developmental delay with autistic features*
 - 1 - *autistic*

Repeated Interviews for clients with DD

- Coders reviewed interview transcripts and coded all interviewer utterances according to Lamb categories:
 - *Invitations*
 - *Directive utterances*
 - *Summary*
 - *Option-posing utterance*
 - *Suggestive utterance*
- Substantive information reported in both interviews was tabulated and compared between two interviews

Repeated Interviews for clients with DD

- Significantly more questions were asked during the first interview
- Even though the interviewers were not trained to conduct forensic interviews, they:
 - *asked few suggestive questions*
 - *asked mostly option-posing and directive questions*
- Information reported in repeated interview:
 - *Elaborated on information provided in first interview – 42%*
 - *New information – 39%*
 - *Repeated information from first interview – 17%*
 - *Contradicted information from first interview – 2%*

Conducting the Forensic Interview

- Autism Spectrum Considerations:
 - *1 in 150 children affected*
 - *Intellectual impairment varies greatly (Asperger's)*
 - *Social interactions are objectified and often do not follow typical communication flow*
 - *Be concrete*
 - *Rapport may be difficult to establish depending on child*
 - *May need to allow "favorite object(s)" in interview to gain compliance*
 - *Avoid reinforcing stimuli for disclosure*
 - *Drawings are not typically useful*



Conducting the Forensic Interview

- Cerebral Palsy Considerations:
 - *Neuromuscular impairment from brain injury*
 - *May impact speech and intellectual function*
 - *Often, child can communicate (verbally or with device)*
 - *Unlikely to be able to draw, but may use drawings to help explain*
 - *Typically will not use anatomical dolls*
 - *Compliance for victimization*
 - Limited ability to avoid perpetrator
 - *Important to clarify role of perpetrator in abuse vs. other interactions*



Conducting the Forensic Interview

- Seizure Disorder/Epilepsy Considerations:
 - *Neurological impairment – may come and go*
 - *If sole disability, intellectual functioning likely to be OK*
 - *What type of seizure does child have?*
 - Assure potential safety in room
 - Be prepared for emergency response
 - *How does child behave just before seizure?*
 - Any particular triggers?
 - *Child should take medication as prescribed*





Conducting the Forensic Interview

- Intellectual Disability Considerations:
 - *Preferred term for describing children with below average intelligence and difficulties with thinking and reasoning. Also known as “cognitive disability” and “cognitive impairment”*
 - *Know level of adaptive behavior*
 - *Use appropriate level of concrete language and phrasing*
 - *Check for tendency to say “yes” all the time*
 - *Avoid slang, analogies, etc.*





Conducting the Forensic Interview

- Mental Retardation Classification:
 - *Borderline – 70-85*
 - *Mild – 55-69*
 - *Moderate – 40-54*
 - *Severe – 21-39*
 - *Profound – 5-20*





Conducting the Forensic Interview

- Adults with Intellectual Disability
 - *Similar to interviewing children with DD*
 - *Unique language may be used*
 - *Clarify abusive aspect of contact vs. potentially consensual contact*
 - *Appropriate setting for the interview?*
 - *NOC interaction?*





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Cederborg, A.C., Danielsson, H., La Rooy, D. & Lamb, M.E. (2009).

Repetition of contaminating question types when children and youths with intellectual disabilities are interviewed.
Journal of Intellectual Disabilities Research, (53)5, 440-449.

Can I ask it again?

- The purpose of this study was to explore the effects of repeating option-posing (OP) or suggestive questions in investigative interviews with children who may already have memory and communicative difficulties.
- 33 children from Sweden with intellectual disabilities who had been interviewed regarding allegations of childhood sexual or physical abuse
 - *Gender*
 - 25 females
 - 9 males
 - *Age - 5.4 – 23.7 at the time of the interview*

Can I ask it again?

- All interviews were recorded and transcribed, then reviewed with each interviewer utterance being classified based on the categories developed by Michael Lamb and colleagues:
 - *Facilitators*
 - *Invitations*
 - *Directive Utterances*
 - *Option-posing utterances*
 - *Suggestive utterances*
- In total, 49% (2,858 of the 5,764) of the questions asked in the substantial phase were focused prompts
 - *Option-posing - 32%*
 - *Suggestive – 17%*

Can I ask it again?

- 85% of the interviews included at least one repeated question
- 60% of the responses to these 260 repeated focused questions remained the same, and 40% of the responses changed.
- When the repeated questions were identical, 42% of the responses remained the same, but when the questions were similar yet not identical, only 34% of the responses remained the same.
- Responses were more likely to change if a question was repeated a third time or more.



Conducting the Forensic Interview

- ADHD Considerations:
 - *Child should take medication as prescribed*
 - *Determine approximate maximum length of interview*
 - *Use same question if necessary to repeat*
 - *Drawings, materials may help child focus*
 - *Physical activity – not to be confused with lack of attention*
 - *Engage eye contact as much as possible*





Conducting the Forensic Interview

- Social/Emotional Disability Considerations:
 - *Gather information about baseline behaviors beforehand*
 - *Gather information about anxious behavior beforehand*
 - *Spend time transitioning child from the caregiver to the Forensic Interview*
 - *Review the structure, room and interview process*
 - *Schedule the interview at a time of the day that is least stressful for the child*
 - *Remove environmental stimuli from the waiting and interview rooms*





Conducting the Forensic Interview

- Sensory Impairment Considerations:

- *Hearing*

- Understand child's normal communication strategy
- Always use certified interpreters
- Train interpreter on forensic issues
- Look at child, not interpreter

- *Visual*

- Understand child's mobility
- Limit physical contact
- Be sure to inquire about other senses (smells, sounds, touch)



Conducting the Forensic Interview

- Non-Verbal Client Considerations:
 - *Distinguish from Pre-Verbal*
 - What is status of child's verbal skill development?
 - *May be impossible to interview*
 - *Communication strategies?*



Communication Strategies

- Augmentative Communication
 - *Low-tech*
 - *High-tech*
- Sign Language - ASL
- Facilitated Communication
 - *Resistive pressure*
 - *Used training professional*





Facilitated communication comes under fire: A metro Detroit father was accused of repeatedly raping his daughter. His defense attorneys wanted to prove she was so severely autistic she couldn't have authored the claims using facilitated communication.

MIKE BROOKBANK/ Detroit Free Press

Facilitated Communication

- FC became popular in the 1990s, a method lauded as a way for autistic children to communicate. But support for it faded fast after research showed it was always the facilitator communicating -- not the person being facilitated.
- Director of the Autism Language Program at Children's Hospital Boston/Associate Professor at Harvard Medical School expressed astonishment that FC was still being used in 2007 in the Wendrow case.





Preparing for Court

- Criminal investigation vs. “other agency” investigation
 - *What else has been done?*
- Forensic interviewer and/or therapist should be involved with prosecutor/victim witness:
 - *Sharing information about child*
 - *Initial meeting between prosecutor and child/family*
- Craft appropriate questions based on child's developmental status
- Assist in identifying expert witnesses for prosecution
- State-specific case law



Going to Court

- Charge or Not Charge?
- Plea Bargain vs. Trial
- Expert Witnesses
 - *Pro AND Con*
- Voir Dire
- Modifications to the Courtroom
 - *Based on special needs of child*
- Opening and Closing Statements



Resources

- Moving Mountains: Enabling Children, Disabling Child Abuse(Butler Child Advocacy Center at the Children's Hospital at Montefiore, NY)
- Child Abuse Victims with Disabilities: A Curriculum for Law Enforcement First Responders and Child Protective Services Frontline Workers(Child Abuse and Neglect Disability Outreach Program of Arc Riverside, CA)
- Project Ability – Demystifying Disability in Child Abuse Interviewing (CARES Northwest in Portland, OR)
- Responding to Maltreatment of Children with Disabilities: A Trainer's Guide(Child Development and Rehabilitation Center at Oregon Health & Science University)

Resources

- Alriksson-Schmidt, A. I., Armour, B. S., & Thibadeau, J. K. (2010). Are adolescent girls with a physical disability at increased risk for sexual violence? *Journal of School Health, 80*(7), 361-367.
- Sedlak, A.J., Mettenburg, J., Basena, M., Petta, I., McPherson, K., Greene, A., and Li, S. (2010). Fourth National Incidence Study of Child Abuse and Neglect (NIS-4): Report to Congress. Washington, DC: U.S. Department of Health and Human Services, Administration for Children and Families.
- Rand, M. R., & Harrell, E. (2009). Crime against people with disabilities, 2007. The Bureau of Justice Statistics. U. S. Department of Justice.

Resources

- Sullivan, P. M., & Knutson, J. F. (2000). Maltreatment and disabilities: A population-based epidemiological study. *Child Abuse & Neglect*, 24(10), 1257-1273.
- McCormack, B., Kavanagh, D., Caffrey, S., & Power, A. (2005). Investigating sexual abuse: Findings of a 15-year longitudinal study. *Journal of Applied Research in Intellectual Disabilities*, 18(3), 217-222.
- Crosse, S.B., Kaye, E. & Ratnofsky, A.C. (n.d.). A report on the maltreatment of children with disabilities. Washington, D.C.: National Center on Child Abuse and Neglect, DHHS.

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