

TIPS FOR CONDUCTING A DIRECT EXAMINATION OF A CHILD WITNESS

As the prosecutor begins to construct direct examination questions of the child victim/witness, he or she should always be mindful that evidence comes from the witness stand, not from the questions of the prosecutor. The prosecutor should not be doing all of the talking during the direct examination. The prosecutor should be forming the direct examination questions in a non-leading and non-suggestive format. The prosecutor's questions on direct examination should never suggest an answer to the child but in the alternative, the questions should invite a narrative. The prosecutor should allow the child during direct examination to testify to what happened in his or her own words.

TIPS:

Get rid of legal jargon

The prosecutor should always remember he or she is talking to a child on the witness stand. The prosecutor should utilize simple sentence structure and avoid compound sentences.



Frame questions in a non-leading and non-suggestive manner

Leading questions will draw an objection from the defense. Constant objections can often be confusing for the child. The prosecutor's questions should invite a narrative from the child. (e.g., "What happened next?") It is crucial for a child witness be able to testify about what happened in his or her own words without prompting from the prosecutor.

Avoid pronouns

The prosecutor should use proper names during the direct examination whenever possible. For example, "Tell me more about Mrs. Smith," is less confusing to the child than, "Tell me more about her."

Carefully consider questions about time

The prosecutor should avoid questions about time that are not age or developmentally appropriate. For instance, if you ask a child if something happened "a long time ago" or a "short time ago," that period of time may be very different for a child than an adult. The prosecutor should consider instead questioning the child about the timing of the alleged abuse around events or circumstances important to the child. An example would be to ask what school the child attended at the time or what house he or she lived in.



Use verbatim words of child

The prosecutor should employ in his or her direct examination of the child the words he or she has used. For example, if the child says his or her private spot was touched, the prosecutor should use that term in the direct examination so as not to confuse the child.



Employ sensory details

A child's testimony in sensory detail can be very powerful before a jury. For example, a child testifying to what the ejaculate tasted like, smelled like, and looked like is extremely descriptive. Obtaining sensory details from the child during direct examination can serve to enhance the corroborative details about what may have happened to the child. Sensory details elicited during direct examination gives the jury a sense of what the child was experiencing when the abuse occurred.

Age appropriate language

Know the developmental stage of the child witness. Consider whether this child would understand words like oral sex, penetration and ejaculation. The prosecutor must ensure the questions he or she asks the child on direct examination are worded so the child can understand.

Take your time

The prosecutor should not rush through the direct examination of the child witness. The prosecutor should not be afraid of silence in the courtroom as the child thinks about his or her response. In addition, the prosecutor should not engage in rapid-fire questioning of the child.

References:

Cordisco Steele, L., & Sawicki, M. (2018). [Forensic interviewing: What every prosecutor needs to know](#). Washington, DC: Association of Prosecuting Attorneys.

Stolzenberg, S. N., & Lyon, T. D. (2014). [How attorneys question children about the dynamics of sexual abuse and disclosure in criminal trials](#). *Psychology, Public Policy, and Law*, 20(1), 19-30.

Contact the Association of Prosecuting Attorney's Child Abuse Prosecution Project at www.APAInc.org or at www.childabuseprosecution.org for additional information concerning child abuse prosecution training and materials.