

EFFECTIVE USE OF A FORENSIC INTERVIEWING EXPERT IN A CHILD ABUSE CASE

Oftentimes in a court case involving allegations of child maltreatment, the forensic interviewer is called to testify, to transmit specialized information and knowledge to the jury. It is important to keep in mind that forensic interviewing concepts are completely foreign to most jurors. Helping jurors understand the interview or other specialized topics permits them to better evaluate the facts of the case and make informed decisions.

TIPS:

Allow the forensic interviewer to educate you regarding the basic concepts of forensic interviewing prior to the trial



- Meet with the expert multiple times
 - First time to familiarize yourself with the material
 - Again, before trial to gather more information after developing a basic understanding of forensic interviewing
 - And to know the limitations of a forensic interviewer's expertise
- Understand basic forensic interviewing concepts or your jury will not
- Know if the defense expert makes incorrect statements regarding the forensic interview
- Do not assume the expert will "clean up misconceptions or misunderstandings"
- Review testimony prior to trial

Use opening statements to prepare the jury

- If allowed by the rules in your jurisdiction, disclose what the forensic interviewer is going to share on the stand
 - Talk about the specific issues (i.e., suggestibility, coaching, manipulation, etc.)
 - Be detailed as the jury will be interpreting testimony based on the leads you provide

Quality the forensic interviewer as an expert

- Never accept a stipulation (especially if there is a defense expert)
- The jury needs to understand why the forensic interviewer is an expert and has better credentials

Explain the different phases of the forensic interview, the research that supports each stage and how important each stage is to a successful forensic interview

- Rapport-building – What does the research say about rapport-building that is important?
- Rules/Guidelines –



- Promise - Research demonstrates that a child is more likely to tell the truth if asked to “promise to tell the truth”
 - Asking for a promise is more effective than asking a child to define truth/lie
- “Correct me if I get something wrong” increases the likelihood of accurate information
- Narrative Practice
 - Purpose is to educate child as to the level of detail required should he or she make a disclosure in the interview
- Other steps in the protocol/structure

Explain the forensic interviewing research in a way that jurors can understand. The forensic interviewing expert needs to be familiar with the major scientific studies which are important in the field. (i.e., suggestibility, coaching, how children disclose, etc.,)

- Expert should use “real world” examples and make scientific information understandable and relatable
 - Numbers are easy for jurors to understand (e.g., “The research shows 95% of children are...”), are easily digestible, and should be used when possible
- Expert should be able to explain “peer-reviewed” research and why the source of information matters



Anticipate possible misconceptions by the jury. Expert should be able to combat common myths regarding child maltreatment (e.g., abused children will tell a trusted adult, majority of persons who molest children are strangers, there are always physical signs of child sexual abuse, child abuse is rare, most children are emotional when discussing maltreatment, bad or numerous interviews can “implant” memories, etc.)

- If a concept does not apply in your case, do not bring it up unnecessarily (i.e., the issue of suggestibility if the child is over the age of 10)
- Ensure expert demonstrates what jury should observe in relation to the concept (i.e., most children do not display emotion when recounting maltreatment so the child may have a flat affect either in the recorded interview or during testimony)

Be prepared to address the suggestibility of children

- Important to explain whenever identified as an issue (majority of research has been on preschool children)
- Ensure expert explains how and why the issue is important in your case and what jurors may witness in other’s testimony
 - Older children are less suggestible
 - Protocols/structures are designed to reduce and eliminate suggestibility
- Explain how children resist suggestibility
 - Correcting the interviewer
 - Remain consistent over time

Anticipate other elements that may need to be addressed (if applicable)

- Positives and challenges within the interview
- Sensory or contextual details mentioned by the child
 - Number of contextual details counted
- Disclosure

- Delayed disclosures are common
- Elements which affect disclosure (i.e., family dynamics, perpetrator induced, diversity/culture, system blocks, emotional state, etc.)
- Hearsay/tender years exceptions
- Coaching

Anticipate objections

- Issues with testimony
- Admission of expert testimony
 - Obtain case law to support
- Common Objections
 - Forensic interviewer is not an expert
 - Forensic interviewer is exceeding scope of expertise
 - May be true
 - Can a question be rephrased to fit within interviewer’s training and experience?

Use forensic interviewer’s testimony in closing arguments

- Advise the jurors that interviewer’s testimony provides the keys to understanding other aspects of the case
- Weave specific examples of the concepts that the interviewer explained into closing arguments (i.e., contextual details, child correcting interviewer to demonstrate child is not suggestible, etc.)

A forensic interviewer has received specialized training and knowledge in order to conduct high-quality investigative interviews of children. His or her understanding of interviewing best practices, appropriate question types, child development, suggestibility, and other issues related to child maltreatment qualifies the interviewer to help jurors understand concepts that can be confusing and easily misunderstood.

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.