THE CORNERHOUSE FORENSIC INTERVIEW PROTOCOL: RATAC®

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I. INTRODUCTION

Over three-quarters of a million children were determined to be victims of child abuse or neglect in the United States in 2007:[1] nearly sixty percent were child victims of neglect, approximately eleven percent were victims of physical abuse, and over seven percent were child victims of sexual abuse.[2] Not all of these confirmed cases of child abuse find their way into court; however, a recent study established child sexual abusers accounted for as many as six percent of all felony convictions, and child sexual abusers receive proportionately harsher sentences than other offenders convicted of violent felony offenses.[3] It is critical, therefore, to maintain a careful balance between ensuring the safety of alleged child victims and protecting the rights of alleged offenders of child abuse during the investigative process. The costs of allowing an abused child to fall through the cracks are equal to the costs of wrongfully convicting an innocent person. Professionals charged with investigating child abuse allegations, particularly child sexual abuse or serious physical abuse allegations, must be

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[*] This article was written by the forensic interviewers at CornerHouse, a non-profit child abuse evaluation and training center in Minneapolis, MN. Authors wish to acknowledge the 500 children who come to CornerHouse each year, who bravely tell us what they know about their experiences and who teach us so much each and every time we are honored to speak with one of them.

[1] U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, ADMINISTRATION ON CHILDREN, YOUTH AND FAMILIES. CHILD MALTREATMENT 2007 xii (Washington, DC: U.S. Government Printing Office, 2009).

[2] *Id.* at 25.

[3] DEAN CHAMPION, CHILD SEXUAL ABUSE CASES: EXTRALEGAL FACTORS IN SENTENCING HEARINGS IN THREE SOUTHERN STATES (Nov. 01, 2006) (Paper presented at the annual meeting of the American Society of Criminology (ASC), Los Angeles Convention Center, Los Angeles, CA).

able to interview children in a manner that is legally defensible, developmentally appropriate, and not unduly suggestive.

While there is no one forensic or investigative interviewing protocol to which all child abuse investigators adheres, there are several nationally recognized forensic interviewing protocols that are employed to determine what, if anything, may have happened to a child.[4] The purpose of this article is to provide investigative and legal professionals information regarding the science behind the CornerHouse Forensic Interview Protocol, RATAC.

CornerHouse is a private, non-profit Interagency Child Abuse Evaluation and Training Center, located in Minneapolis, Minnesota. In 1989, CornerHouse opened its doors, creating and utilizing the RATAC protocol to fulfill the mission of assessing suspected child sexual abuse, coordinating forensic interview services, and providing training for other professionals. CornerHouse provides forensic interviews and non-acute medical services to approximately 500 children and vulnerable adults each year when there are allegations of sexual abuse or when a child or vulnerable adult witnesses a violent crime. All interviews are videotaped and conducted by an independent forensic interviewer, and multidisciplinary team members ob-

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[4] *See* THOMAS D. LYON, TEN STEP INVESTIGATIVE INTERVIEW (2005), *available at* http://works.bepress.com/thomaslyon/5/; Lori S. Holmes & Victor I. Vieth, *Finding Words/Half A Nation*: *The Forensic Interview Training Program of CornerHouse And APRI's National Center for Prosecution of Child Abuse*, 15(1) APSAC ADVISOR 4 (2003); Michael E. Lamb, et al., *Structured Forensic Interview Protocols Improve the Quality and Informativeness of Investigative Interviews with Children: A Review of Research Using the NICHD Investigative Interview Protocol,* 31(11-12) CHILD ABUSE & NEGLECT 1201, 1204 (2007); Erna Olafson & Julie Kenniston, *The Child Forensic Interview Training Institute of the Childhood Trust, Cincinnati Children's Hospital,* 16(1) APSAC ADVISOR 11 (2004); Linda Cordisco Steele, *Child Forensic Interview Structure, National Children's Advocacy Center,* 15(4) APSAC ADVISOR 2 (2003). *See generally* STATE OF MICHIGAN, GOVERNOR'S TASK FORCE ON CHILDREN'S JUSTICE AND DEPARTMENT OF HUMAN SERVICES, FORENSIC INTERVIEWING PROTOCOL, 2003, at 1, *available at* http://www.michigan.gov/documents/FIA-Pub779_13054_7.pdf; SHERRY BOHANNAN, ET AL., OREGON INTERVIEWING GUIDELINES (2004), *available at* http://www.doj.state.or.us/crimev/pdf/orinterviewingguide.pdf; NEW YORK STATE CHILDREN'S JUSTICE TASK FORCE. FORENSIC INTERVIEWING BEST PRACTICES (2d ed., 2003).

serve the interview via closed-circuit monitor. CornerHouse operations are based on the doctrine of considering the needs of children first. Services aim to reduce trauma to children and their families and to ensure the rights of those accused by minimizing unnecessary multiple interviews of children and coordinating the response of multidisciplinary professionals in a neutral, fact-finding, and child friendly environment.

CornerHouse's staff members developed its Forensic Interview Protocol, RATAC, over a period of time; they have drawn from their own experiences and the research and expertise of others in the field. Modifications have been made as more has been learned about children's capabilities and perceptions. The RATAC protocol is semi-structured, allowing for the development and spontaneity of each child. The interview is specifically geared toward each child's age and cognitive, social, and emotional development. Interviews may incorporate the use of drawings, diagrams, and anatomical dolls.

Since 1990, CornerHouse has been providing a five-day child sexual abuse forensic interview training to investigating teams of law enforcement and child protection professionals, prosecutors, and forensic interviewers. CornerHouse has trained over 23,000 professionals throughout Minnesota, across the nation, and in nine countries.[5] CornerHouse's training curriculum teaches the RATAC protocol and supporting research; it is designed to produce competent forensic interviewers who can perform neutral, fact-finding interviews that help children describe their experiences.

In 1998, CornerHouse entered into a collaborative venture with the National District Attorneys Association to present the CornerHouse model of training, the RATAC protocol, and supporting curricula in a new format called *Finding Words*®. CornerHouse now partners with the National Child Protection Training Center (NCPTC) to present the same program under the name *ChildFirst*®. Since CornerHouse's inception, its professional staff has trained over 23,000 child abuse professionals from 48 states, seven foreign countries, and the International Criminal Court at the Hague on how to utilize the

[5] CornerHouse, http://www.cornerhousemn.org/index.html (2010).

RATAC protocol.[6] Additionally, the RATAC protocol has been replicated in seventeen states through the train-the-trainer program *ChildFirst*,[7] and courts from across the country have recognized and accepted the protocol as a valid means to interview children.

Similar to national forensic interview guidelines published in the United States and in the United Kingdom, the RATAC protocol is "not a universal prescription: each child is unique and the effective interview will be one which is tailored to the child's particular needs and circumstances."[8] However, the RATAC protocol does comport with the only published national guidelines in the United States[9] and conforms to interviewing requirements by the national agency that oversees children's advocacy centers.[10]

This article fully describes the RATAC protocol, providing supporting theory and research, auxiliary constructs specific to the questioning of children, as well as a stage-by-stage account of the protocol. This document is not intended for use in lieu of forensic inter-

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[6] CORNERHOUSE INTERAGENCY CHILD ABUSE EVALUATION AND TRAINING CENTER, 2008 ANNUAL REPORT 2 (2009), a*vailable at* http://www.cornerhousemn.org/annualreports.html.

[7] "*ChildFirst*," formerly called "*Finding Words*," teaches the RATAC protocol developed by CornerHouse Interagency Child Abuse Training and Evaluation Center in Minneapolis, MN. This program is jointly sponsored by CornerHouse and the National Child Protection Training Center (NCPTC), located in Winona, MN. *See* Victor Vieth, *Half a Nation by 2010*, 14(2) APRI UPDATE (Am. Prosecutors Research Inst., Alexandria, Va. 2001), *available at* http://www.ndaa.org/publications/newsletters/update_volume_14_number_2_2001.html. For more information on RATAC or "*ChildFirst*" forensic interviewing courses, see CornerHouse's website at www.cornerhousemn.org or NCPTC's website at www.ncptc.org.

[8] Great Britain, Memorandum of Good Practice on Video Recorded Interviews With Child witnesses for Criminal Proceedings (Home Office and Department of Health, 1992), *replaced in* Great Britain, Office for Criminal Justice Reform, Achieving Best Evidence in Criminal Proceedings: Guidance on Interviewing Victims and Witnesses, and Using Special Measures (Home Office, 2002, 2007), *available at* http://www.cps.gov.uk/publications/docs/achieving_best_evidence_final.pdf; *see also* Am. Prof. Soc'y on the Abuse of Children, *Investigative Interviewing in Cases of Alleged Child Abuse*, PRACTICE GUIDELINES (2002) [hereinafter APSAC].

[9] *See generally* APSAC, *supra* note 8.

[10] *See generally* NATIONAL CHILDREN'S ALLIANCE, STANDARDS FOR ACCREDITED MEMBERS, REVISED 9-12 (2008), *available at* http://www.nationalchildrensalliance.org/index.php?s=76.

view training but as a reference for trained professionals who are engaged in the important work of helping children tell what they know. Section I of this article delineates the legal support for the RATAC protocol in courts across the country and discusses case law supporting the RATAC protocol and recognition of RATAC-trained interviewers as experts in the field of forensic interviewing. Section II describes general guiding principles of interviewing for the RATAC protocol. Section III outlines the five elements of the RATAC protocol in detail and demonstrates how they are supported by empirical research and years of practical experience of forensic interviewers.

II. LEGAL SUPPORT FOR THE CORNERHOUSE FORENSIC INTERVIEW PROTOCOL: RATAC®

A. Reference to RATAC® in Court Opinions

Numerous opinions from juvenile, family, and criminal courts across the country reference the RATAC forensic interviewing protocol, thereby clearly identifying the protocol as a recognized means of interviewing children. A Connecticut Superior Court found that an abused child's statements obtained in an interview conducted using the RATAC protocol to be truthful, credible, and consistent with disclosures the child made earlier to her social worker and foster mother.[11] In another case, the Supreme Court of Connecticut held that the defendant "failed to make a showing that the testimony of [the child interviewed with the RATAC protocol] was the product of unduly suggestive or coercive questioning" and therefore did not address whether the techniques employed by the interviewer were unduly suggestive.[12] The child did not disclose abuse in the forensic interview, but the defendant was convicted on the strength of the child's testimony in court and his spontaneous, inappropriately sexualized statements to his mother.[13]

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[11] *In re* Areilyz C., 2008 Conn. Super. LEXIS 1367, *21-22 (Conn. Super. Ct. May 27, 2008).
[12] Connecticut v. Michael H., 970 A.2d 113, 122 (Conn. 2009).
[13] *Id.*

A Georgia Appellate Court held that the statements elicited from abused children utilizing the RATAC forensic interview protocol "had the 'requisite degree of trustworthiness' to be admitted at trial."[14] In its opinion, the court specifically described in detail the stages of the RATAC protocol as it outlined the method the child abuse investigator utilized to elicit credible statements from two siblings about their victimization by their mother's live-in boyfriend.[15]

The Maryland Court of Special Appeals referenced a social worker's utilization of the RATAC protocol when it delineated how she evaluated the veracity of a child's statement in a family court matter.[16] The Mississippi Court of Special Appeals also described the RATAC protocol employed by a physician who evaluated a child for sexual victimization.[17] Similarly, the Minnesota Court of Appeals, in its recitation of the facts in a case of sexual abuse by a juvenile, described the structure of the CornerHouse RATAC protocol, and indicated that the protocol "uses nondirective questioning."[18]

The Indiana Court of Appeals has permitted a detective to testify that he received forensic interview training through "*Finding Words*," a national program that teaches the RATAC protocol.[19] Although the defendant challenged that this testimony improperly bolstered the credibility of the alleged victim, the court found "the State's decision to elicit testimony from [the detective] regarding his training in the use of non-leading interview questions was a permissible response to the defense's claim of witness-coaching."[20]

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[14] Baker v. State, 555 S.E.2d 899, 902 (Ga. Ct. App. 2001).
[15] *Id.* at 900.
[16] Tarachanskaya v. Volodarsky, 897 A.2d 884, 900 (Md. Ct. Spec. App. 2006).
[17] Pierce v. State, 2 So. 3d 641, 643 (Miss. Ct. App. 2008).
[18] *In re* G.E.F., No. A06-1778, 2007 Minn. App. Unpub. LEXIS 1042, *2-3 (Minn. Ct. App. Oct. 16, 2007). *See also* State v. Bobadilla, 709 N.W.2d 243, 247 (Minn. 2006) (reporting the CornerHouse RATAC protocol "instructs the interviewer to ask nonleading questions, to use terms children would understand, and to progress quickly since young children have short attention spans"); State v. Henderson, 2003 Minn. App. Lexis 525, *5-6 (Minn. App. May 6, 2003).
[19] Williamson v. State, No. A06-1778, 2009 Ind. App. Unpub. LEXIS 158, *4 (Ind. Ct. App. 2009); *see also* Vieth, *supra* note 7, and accompanying text for a discussion of "*Finding Words.*"
[20] *Id.* at *5.

B. Adequacy of RATAC® Training

Several state courts have done more than merely recognize the RATAC protocol in their decisions: they have specifically held that professionals responding to child maltreatment who have been trained in the RATAC protocol have received specialized knowledge and skills that enable them to effectively conduct forensic interviews with alleged child victims. For example, the Georgia Court of Appeals determined that a deputy sheriff trained in the RATAC method of interviewing received "sufficient specialized training" to interview children in sexual abuse cases, and that the RATAC protocol is a known interview method.[21]

Furthermore, many courts have recognized graduates of RATAC training programs as sufficiently knowledgeable in the field of child abuse forensic interviewing to qualify as expert witnesses. Testimony regarding "common behavioral traits of sexually abused children" provided by a forensic interviewer in Kansas who was "not a psychiatrist, psychologist, social worker, mental health technician, or family therapist" was within the lower court's discretion according to the Court of Appeals of Kansas.[22] The forensic interviewer's credentials enabling her to offer information regarding these dynamics of sexual abuse was based in part upon her training to interview sexually abused children provided by the "*Finding Words*" training, which teaches the RATAC protocol.[23]

In a case before the Supreme Court of Mississippi, the court held that two forensic interviewers trained in the RATAC protocol were appropriately qualified as experts in child sexual abuse and that the interviewers testimony would "assist the jury in deciding a contested issue."[24] In its recitation of the facts of a case for fondling a child and

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[21] *In re* A.H., 578 S.E.2d 247, 250 (Ga. Ct. App. 2003).
[22] State v. Gaona, 208 P.3d 308, 311 (Kan. Ct. App. 2009).
[23] *Id.* at 311-12.
[24] Smith v. State, 925 So. 2d 825, 834-39 (Miss. 2006)*; see also* Williams v. State, No. 2006-KA-01850-COA, 2007 Miss. App. LEXIS 577 (Miss. Ct. App. Sept. 4, 2007) (where forensic interviewer trained in the *Finding Words* RATAC protocol was qualified as an expert witness in the fields of child abuse and forensic interviewing).

sexual battery, a Mississippi Appellate Court described the RATAC protocol taught in the "*Finding Words*" program as "a particular method designed to determine whether [the alleged child victim's] version of the events was consistent with a child who had suffered sexual abuse."[25] In response to the defendant's challenge that the court erred in qualifying the forensic interviewer as an expert, the intermediate court accepted the prosecution's proffer of the interviewer as a "qualified . . . expert in forensic interviewing, using the 'Finding Words' technique."[26]

The Court of Appeals of South Carolina upheld a lower court's qualification of a forensic interviewer as an expert in child sexual abuse based on her completion of a 40-hour training course in the RATAC method of forensic interviewing.[27] The court held that the "specialized training on the RATAC method, which is used on a nationwide basis and is nationally recognized for interviewing child victims of sexual crimes," provided sufficient knowledge in the subject matter to "give guidance and assistance to the jury in resolving a factual issue which is beyond the scope of the jury's good judgment and common knowledge."[28]

The Court of Appeals of Minnesota qualified a forensic interviewer as an expert in child sexual abuse to proffer testimony on typical characteristics of abused children based on forensic interview training received as an employee of a child advocacy center.[29] Additionally, the Texas Court of Appeals ruled that the lower court did not abuse its discretion when a forensic interviewer trained in the

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[25] Williams v. State, 970 So. 2d 727, 730 (Miss. Ct. App. 2007).
[26] *Id.* at 735.
[27] State v. Douglas, 367 S.C. 498, 519 (S.C. Ct. App. 2006).
[28] *Id.* The Supreme Court of South Carolina reversed the intermediate appellate court's finding that the forensic interviewer was qualified as an expert on the grounds that it was an unnecessary qualification: the witness's testimony was not, in fact, an expert opinion. However, the Court acknowledged that many jurisdictions have allowed forensic interviewers to testify as expert witnesses and left open the door for the admissions of such testimony in South Carolina. State v. Douglas, 671 S.E.2d 606 (S.C. 2009).
[29] State v. Rottelo, No. C1-02-954, 2003 Minn. App. LEXIS 682, at *7-8 (Minn. Ct. App. June 10, 2003).

RATAC method of forensic child interviewing was qualified to testify as an expert based on her knowledge, training, and experience.[30]

In *Mooneyham v. State*,[31] the Court of Appeals of Mississippi held that there was a "credible basis for accepting [a forensic interviewer] as an expert in the area of forensic interviewing," based on the fact that she had "completed a forty-hour training course [in the RATAC interview method] that was nationally recognized and accepted in the field."[32] The court went so far as to recognize the RATAC training as the "'gold standard' for training in forensic interviewing."[33]

The Supreme Court of South Carolina declined to make a finding on whether a victim's assistance officer trained in the RATAC protocol may be qualified as an expert; however, in response to defendant's challenge that there was not a field of expertise in forensic interviewing, the court delineated several decisions in which numerous state courts upheld qualifications of expert witnesses in the field of forensic interviewing.[34] Therefore, this state's high court clearly and persuasively lays the groundwork to recognize "forensic interviewing" as a legitimate field of study and practice across the country.

The remaining sections of this article describe the RATAC protocol in detail as well as applicable principles, methods, and techniques. This reliable method for interviewing children is based on scientific evidence, facts, and data reasonably relied upon by practitioners and experts in the field of forensic interviewing.

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[30] Wright v. State, No. 2-06-219-CR, 2007 Tex. App. LEXIS 4700, at *6 (Tex. App. June 24, 2007).
[31] Mooneyham v. State, 915 So. 2d 1102, 1104 (Miss. Ct. App. 2005).
[32] *Id.* at 1104 (The interviewer in *Mooneyham* received training on the RATAC protocol through a "Finding Words" course.).
[33] *Id.* at 1108 (Chandler, J., specially concurring).
[34] State v. Douglas, 671 S.E.2d 606, 608 n.2 (S.C. 2009).

III. GENERAL GUIDING PRINCIPLES FOR THE RATAC® FORENSIC INTERVIEW

A. A Developmentally Appropriate Approach

The *Child First Doctrine*, which states that "the child is our first priority,"[35] is a fundamental principle in the CornerHouse RATAC Forensic Interview Protocol. CornerHouse strives to maintain the Child First Doctrine in all interviews, and this principle has served as a foundation for the development and the utilization of the RATAC protocol. RATAC involves five possible stages: Rapport, Anatomy Identification, Touch Inquiry, Abuse Scenario, and Closure. However, RATAC is, by definition, a semi-structured process, and it is expected that these stages "may be modified or eliminated, allowing for the developmental considerations and/or spontaneity of each child."[36] Because every child is different, it follows that every interview should be different. A flexible, semi-structured protocol provides the interviewer with a reliable and defensible format without denying the uniqueness of the individual child.

As indicated above, developmental considerations are a primary reason for maintaining flexibility in the interview process. Developmental factors not only set children apart from one another; they also set children apart from adults. Children are not merely miniature adults–they think, understand, and communicate differently than adults.[37] While perspectives may vary regarding how this idea ap-

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[35] CORNERHOUSE INTERAGENCY CHILD ABUSE EVALUATION AND TRAINING CENTER, CORNERHOUSE CHILD SEXUAL ABUSE FORENSIC INTERVIEW TRAINING MANUAL, at Effective Interviewing 1, 4 (2008) [hereinafter CORNERHOUSE MANUAL]; ANN AHLQUIST & BOB RYAN, INTERVIEWING CHILDREN RELIABLY AND CREDIBLY: INVESTIGATIVE INTERVIEW WORKBOOK 18 (1993).

[36] CORNERHOUSE MANUAL, *supra* note 35, at RATAC 1, 9.

[37] *See generally* CHARLES J. BRAINERD, PIAGET'S THEORY OF INTELLIGENCE 4 (Prentince Hall 1978); Robert L. Campbell, *Jean Piaget's Epistemology: Appreciation and Critique* (2006), *available at* http://hubcap.clemson.edu/~campber/piaget.html (last visited July 2, 2010) (Revised version of two lectures presented at the Institute of Objectivist Studies Summer Seminar, Charlottesville, VA, July 7 and 8, 1997; revised April 25, 2002 and March 27, 2006); JEAN PIAGET, THE CONSTRUCTION OF REALITY IN THE CHILD

plies to forensic interviewing, the body of supporting evidence extends across time, source, and purpose: from Piaget's work on child development in the nineteenth century to Ceci's study of childhood suggestibility in the twentieth and twenty-first centuries. Children may focus on different aspects of events than adults,[38] and many children, particularly those under six, find it difficult to focus their attention on more than one salient aspect of an experience, topic, or issue.[39] A child may not be able to say how many times an act was performed or what someone was wearing; however, a child may be able to tell what an experience felt like or what was said. Developmentally inappropriate questions may cause a child to appear incompetent and valuable information may be missed. Asking questions a child can answer maximizes that child's competency and increases the quality, as well as the quantity, of the child's responses.

1. Factors impacting development

While there are patterns of commonality in the growth and maturation of children, the acquisition of skills and abilities can vary greatly from child to child. Chronological age is commonly used as a marker in development; however, it should be viewed only as a gen-

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(1954) [hereinafter, PIAGET, CONSTRUCTION]; JEAN PIAGET & BÄRBEL INHELDER, THE PSYCHOLOGY OF THE CHILD 155 (Basic Books, 1969) [hereinafter PIAGET & INHELDER]; Karen J. Saywitz, *Questioning Child Witnesses*, 4 VIOLENCE UPDATE 3 (1994) [hereinafter, Saywitz, *Questioning*]; ANNE GRAFFAM WALKER, HANDBOOK ON QUESTIONING CHILDREN: A LINGUISTIC PERSPECTIVE 84 (American Bar Association 2d ed. 1999) [hereinafter WALKER, QUESTIONING CHILDREN].

[38] ROBYN FIVUSH, *Developmental Perspectives on Autobiographical Recall, in* CHILD VICTIMS, CHILD WITNESSES: UNDERSTANDING AND IMPROVING TESTIMONY 1, 17 (Gail S. Goodman & Bette L. Bottoms eds., 1993). *See generally* SANDRA K. HEWITT, ASSESSING ALLEGATIONS OF SEXUAL ABUSE IN PRESCHOOL CHILDREN: UNDERSTANDING SMALL VOICES 27 (1999); WALKER, QUESTIONING CHILDREN, *supra* note 37.

[39] AMERICAN PSYCHOLOGICAL ASSOCIATION (APA) AND NATIONAL ASSOCIATION FOR THE EDUCATION OF YOUNG CHILDREN (NAEYC), UNDERSTANDING CHILD DEVELOPMENT AS A VIOLENCE PREVENTION TOOL 12 (2001) [hereinafter APA & NAEYC]. *See generally* PIAGET, CONSTRUCTION, *supra* note 37; Karen J. Saywitz, *Bullying Children Won't Work: Here are Interview Techniques that Will*, 10 FAMILY ADVOCATE 16, 19 (1988) [hereinafter, Saywitz, *Bullying*].

eral baseline, as the process of growth is impacted by a myriad of factors.

Child development can be organized into three primary domains: physical, cognitive, and socio-psychological.[40] Within and across these domains, there are multiple factors that can impact the skills and abilities of an individual child. The identification of influential factors varies and may depend on the perspective, theory, or principle applied. However, generally accepted factors are based on both research and common sense. These could include genetics, life experiences, culture, gender, health, disabilities, birth order, relationships−e.g., sibling, friend or parent,−socio-economic status, and school or day care attendance.[41] Additional factors may influence specific developmental tasks. For example, exposure to video games, television, and other media impacts children as it relates to attention span development[42] or trauma as it relates to memory.[43]

2. Developmental Considerations

In forensic interviews, communication issues often originate within the cognitive domain of child development. An adult interviewer, thinking like an adult in his or her execution of an interview, is not likely to obtain the optimal quantity and quality of information a child is able to provide. A child's participation in a forensic interview necessitates the utilization of innumerable cognitive functions. The following discussion highlights the most significant developmental concepts for interviewers to consider when conducting a forensic interview.

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[40] LAURA E. BERK, CHILD DEVELOPMENT 4 (Allyn and Bacon 5th ed. 2000).
[41] *See generally* APA & NAEYC, *supra* note 39; BERK, *supra* note 40.
[42] Dimitri A. Christakis et al., *Early Television Exposure and Subsequent Attentional Problems in Children*, 113 PEDIATRICS 708, 708 (2004), *available at* http://www.mindfully.org/Health/2004/ADHD-TV-Ped4apr04.htm.
[43] Robert S. Pynoos et al., *Traumatic Stress in Childhood and Adolescence, in* TRAUMATIC STRESS 331, 347 (Bessel A. van der Kolk et al. eds., Guilford Press 1996).

a. Memory

Differential abilities in the memory functioning of children are highly significant in the interview process. Both the interviewer and the child must rely on the child's ability to recall past experiences. The questions and tools employed by the interviewer should be thought of as memory cues used to stimulate the child's recollection.[44] However, because the cognitive functioning of children is different than adults, their memory is also different. This is not to say that children lack the ability to recall information. In fact, Fivush noted, "[t]he single most important finding to emerge from research on children's autobiographical memory is that children's recall can be quite accurate."[45] While the accuracy of children's memory may not be an issue, access to the content of memory often is. Understanding the memory functioning of children is essential for gaining access to their experiences.

Recognition memory requires only the ability to perceive a given stimulus as something that was previously perceived. It is believed that even infants possess the capacity for recognition and that by age four this type of memory is well developed and precise.[46] More complex forms of memory demand more sophisticated cognitive abilities. Reconstructive memory requires the reproduction of a context in the absence of a specific stimulus.[47] The reproduction of context is accomplished through a cognitive process that typically involves the utilization of a learned narrative model.[48] In general, narratives could be defined as uninterrupted accounts, histories, or stories. Narrative models are developmentally acquired constructs that assist in the organization of information for the purpose of storing and retrieving

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[44] WENDY BOURG ET AL., A CHILD INTERVIEWER'S GUIDEBOOK 79 (Sage Publications, 1999).
[45] FIVUSH, *supra* note 38, at 18.
[46] Ann L. Brown & Joseph C. Campione, *Recognition Memory for Perceptually Similar Pictures in Preschool Children*, 95 J. OF EXPERIMENTAL PSYCHOL. 55, 61 (1972).
[47] What is referred to in this publication as *reconstructive memory* may be termed *recall memory* by other scholars.
[48] BOURG ET AL., *supra* note 44, at 90-96.

memories. As explained by Fivush, children learn not only *what* to remember, but *how* to remember it.[49]

It should be noted that narrative models are not only built through one's development, they are also culturally influenced. The typical Anglo-American model is chronologically ordered and it includes such components as the setting, sensory descriptions, the initiating action, the central action, motivations, consequences, and conclusion. Other models may emphasize different components, reflective of the cultures that support them.[50] Fontes noted "storytelling is a common practice for children from all cultures."[51] In a forensic interview, with the clarification that factual, autobiographical information is being sought, general prompts from the interviewer to "tell what happened" can elicit narratives from children of diverse backgrounds; however, the content of these narratives may vary. For example, Han et al. suggest that Eastern cultures are more likely than Western cultures to "discourage excessive talk about the self and consequently encourage less discussion of the personal past."[52] As a result, Berk concluded the narratives of Asian children might include less information about their own "thoughts, emotions and preferences"[53] than might the narratives of Western children.

As previously indicated, narrative models aid in the storage and retrieval of autobiographical information. Prior to the development of these constructs, young children have not fully developed the capacity for reconstructive memory. Instead, they may rely on *script* or *scripted memory* as a framework for their recollection. Frequent, routine events, repeatedly experienced by a child in his or her daily life, produce script memories.[54] However, according to Fivush, preschool children may report "as much information about the typical or routine

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[49] FIVUSH, *supra* note 38, at 16 (emphasis added).
[50] WALKER, QUESTIONING CHILDREN, *supra* note 37, at 22-23, 71-74. *See generally* BOURG ET AL., *supra* note 44.
[51] LISA ARONSON FONTES, CHILD ABUSE AND CULTURE: WORKING WITH DIVERSE FAMILIES 95 (Guilford Press 2005).
[52] Jessica J. Han et al., *Autobiographical Memory in Korean, Chinese, and American Children*, 34 DEVELOPMENTAL PSYCHOL. 701, 702 (1998).
[53] BERK, *supra* note 40, at 297.
[54] BOURG ET AL., *supra* note 44, at 95-96.

aspects of events as about the unique or distinctive aspects."[55] Therefore, both "script" and "unique" memories may be drawn from when young children are asked to recall events in the forensic context.

Scripted memory is perhaps better understood when viewed from the perspective of how memories are created. Before any memory – scripted, recognition, or reconstructive–can be accessed, a series of cognitive tasks must be accomplished. The sequential stages of memory are metaphorically similar to the process of organizing data in a file cabinet: information from a specific experience is collected, identified, and labeled *(coded)*; it is then categorized, sorted, and stored in an appropriate file *(retained)*; and finally, when the information is needed, the file is located and the data is pulled *(retrieval*).

Each stage of the memory process is dependent on the developmental abilities of the individual undergoing the process and is influenced by its interaction with the other stages. For example, research indicates that young children encode a significant amount of information but find it difficult to retrieve that information.[56] Difficulties in retrieval may be the result of idiosyncratic coding, disorganized retention or both. Difficulties may also be due to limited retrieval aids.[57]

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[55] FIVUSH, *supra* note 38, at 17.

[56] *See* FIVUSH, *supra* note 38, at 18; HEWITT, *supra* note 38, at 92; *see also* Michael R. Leippe et al., *Eyewitness Memory for a Touching Experience: Accuracy Differences Between Child and Adult Witnesses*, 76 J. OF APPLIED PSYCHOL. 367, 377 (1991) (explaining a survey that shows obvious distinctions between children and adults; "retrieval abilities of children and adults cannot always be completely bridged by heightening motivation and interest); *see also* Karen J. Saywitz et al., *Interviewing Children in and out of Court: Current Research and Practice Implications, in* THE APSAC HANDBOOK ON CHILD MALTREATMENT 349, 352 (John E. B. Myers et al. eds., 2nd ed. 2002) [hereinafter, Saywitz, *Court*] (explaining that even though a child's recall may be difficult it is mostly accurate); Alison Perona et al., *Research-based Guidelines for Child Forensic Interviews, in* ENDING CHILD ABUSE: NEW EFFORTS IN PREVENTION, INVESTIGATION, AND TRAINING 81, 85 (Victor Vieth et al. eds., 2006).

[57] *See* FIVUSH, *supra* note 38, at 17; Robyn Fivush, & Jennifer R. Shukat, *Content, Consistency, and Coherence of Early Autobiographical Recall, in* MEMORY AND TESTIMONY IN THE CHILD WITNESS 5, 13 (Maria S. Zaragoza et al. eds., 1995); Michael R. Leippe et al., *Eyewitness Memory for a Touching Experience: Accuracy Differences Between Child and Adult Witnesses*, 76 J. OF APPLIED PSYCHOL. 367, 386 (1991); Perona et al., *supra* note 56, at 87.

Sternberg et al. stated that, "[u]nless children are asked by the interviewer to describe specific events, it is impossible to determine whether the child cannot retrieve information from episodic memory or does not understand the task."[58]

It seems logical to assume when an event does not fit a young child's recognition or script memories, it would be more difficult for the child to retrieve data about that experience. In a study by Pillemer and White, three-year-olds were not able to recall a fire drill as accurately as four-and-a-half year olds.[59] Pillemer and White argued that because the younger children did not understand the connection between the fire alarm and leaving the building, they were unable to provide a coherent, ordered recall of the events.[60]

Hewitt suggested that "scaffolding"[61] could assist developmentally immature children's retrieval of memory information. By asking a series of detail-oriented questions−"Did you do anything when you were at that house?" "What did you do?" "Was someone there when you did [what the child reported]?" "Who was there?",−the interviewer offers "cues"[62] or "cognitive supports"[63] that allow the child to access his or her memory. This process is perceived to be developmentally appropriate because, as previously mentioned, even very young children are believed to possess the capacity for recognition memory through the use of scaffolding.

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[58] Kathleen J. Sternberg et al., *The Relation Between Investigative Utterance Types and the Informativeness of Child Witnesses*, 17 J. OF APPLIED DEVELOPMENTAL PSYCHOL. 439, 448 (1996) [hereinafter Sternberg, *Relation*].

[59] David B. Pillemer & Sheldon H. White, *Childhood Events Recalled by Children and Adults, in* ADVANCES IN CHILD DEVELOPMENT AND BEHAVIOR 297, 332 (Volume 21, Hayne W. Reese ed., 1989).

[60] *See id.*

[61] HEWITT, *supra* note 38, at 55.

[62] *Id.*

[63] Margaret-Ellen Pipe et al., *Recent Research on Children's Testimony about Experienced and Witnessed Events*, 24 DEVELOPMENTAL REV. 440, 457 (2004) [hereinafter Pipe et al., *Research*].

b. Attention span

Attention is a cognitive function and developmental ability and is closely related to memory. Attention impacts the effectiveness of human thought processes, consequently influencing a wide range of skills, functions, and aptitudes. It is the ability to selectively focus and sustain concentration, ignoring irrelevant data, or stimuli. As with other cognitive functions, attention is an acquired ability that, even when fully developed, varies from person to person.

There is not a specific, numerical formula to determine a *normal* versus *abnormal* attention span. However, the generalized standard of three to five minutes per year of age is commonly used as a baseline.[64] Using this guideline, a three-year-old may be able to attend to a particular task for nine to fifteen minutes; a seven-year-old, from twenty-one to thirty-five minutes; and so forth. However, exceptions should be made for three to four-year-olds, as it is developmentally appropriate for children under four to exhibit behaviors commonly characteristic of Attention Deficit Hyperactivity Disorder (ADHD) in older children.[65] It should also be noted that a child's distractibility could sometimes be advantageously utilized during a forensic interview. Just as a child can be distracted away from the interview process, he or she can also be distracted back to it.

This refocusing can extend a child's participation, thereby increasing the length of the interview and potentially providing additional opportunities for a child to report his or her experiences. Based on these factors, and founded in the experience of thousands of forensic interviews, CornerHouse has developed a general reference for the duration of engagement that can be expected from children in forensic interviews (See Figure A). This reference is not intended to dictate the length of any given interview, as an interview's length can only be

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[64] B.D. Schmitt, *Attention Deficit Disorder (Short Attention Span)*, Clinical Reference Systems: Pediatric Advisor 10.0 (1999), http://www.premiermed.com/CRS/hhg/battentn.htm; s*ee also* APA & NAEYC, *supra* note 39, at 13; Alan Greene, M.D., *Attention Deficit Hyperactivity Disorder (ADHD)* (1998), http://www.drgreene.com/21_569.html (providing symptoms for ADHD).

[65] *See generally* Greene, *supra* note 64; Schmitt, *supra* note 64.

determined by the interviewer taking into account the needs and abilities of each individual child. The identified timelines should be viewed as a general guide, reminding interviewers of the length of engagement that may be anticipated from children and to be realistic in their expectations of children.

Figure A[66]

General Reference:
Duration of Engagement

3 year olds	=	15 minutes
4 – 5 year olds	=	20 to 25 minutes
6 – 10 year olds	=	30 to 45 minutes
10 – 12 year olds	=	Up to an hour

Given the time amounts indicated in the above guidelines, it is clear there is a need for the interviewer to stay on task with younger children. While a child may be refocused through the introduction of an interview tool or by the interviewer's use of the child's name, these strategies are only effective for as long as the child maintains some level of interest in the topic at hand. Three to five-year-old children "cannot remain attentive for extended periods of time. They quickly become bored of a single activity, such as waiting for something, listening to someone, or doing one thing for more than a few minutes at a time."[67] There appears to be some indication that the quality of information provided by young children begins to decrease with increased attempts to refocus. In other words, once a three-year-old has lost interest and has been refocused to the interview process several times, she or he may begin to answer questions randomly, without thought or consideration of the questions posed. This phenomenon has been academically acknowledged[68] and is consistent with

[66] This is a technique that CornerHouse interviewers, based on thousands of interviews, have found to be effective in focusing young children.
[67] APA & NAEYC, *supra* note 39, at 12-13.
[68] *See* HEWITT, *supra* note 38, at 72 (adding that "[c]hildren questioned in an intimidating atmosphere were more susceptible to suggestibility in abuse-related questions").

the clinical experience of CornerHouse interviewers. When an interviewer stays on task in the interview, this not only maximizes the likelihood of accurate responses from the child but also is consistent with the perspective of a forensic interview as *purposeful*. In order to maintain this *purposeful* nature, and stay on task, a developmentally appropriate approach must be utilized.

c. *Comprehension*

One of the primary principles of forensic interviewing is to allow for the competency of the child.[69] Compliance with this principle requires interviewers to ask questions the child can answer. Children's competency is maximized when asked questions they understand, about concepts they comprehend, and about information they find meaningful.[70]

There is a significant body of research that demonstrates the importance of asking developmentally appropriate questions with younger children.[71] Imhoff and Baker-Ward found the use of appro-

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[69] *See* CORNERHOUSE MANUAL, *supra* note 35, at 6.

[70] *See* Cathleen A. Carter et al., *Linguistics and Socioemotional Influences on the Accuracy of Children's Reports*, 20 LAW & HUM. BEHAV. 335, 352 (1996); Nancy W. Perry et al., *When Lawyers Question Children: Is Justice Served?* 19 LAW & HUM. BEHAV. 609, 612 (1995) (explaining that there are three areas where lawyers lack proper ability to question children: "(a) age-inappropriate words and expressions, (b) complex syntactic constructions, and (c) general ambiguity); Saywitz, *Court, supra* note 56, at 366-67; Karen J. Saywitz et al., *Credibility of Child Witnesses: The Role of Communicative Competence*, 13 TOPICS IN LANGUAGE DISORDERS 59, 60 (1993) [hereinafter Saywitz, *Credibility*].

[71] *See* Molly Carter Imhoff & Lynne Baker-Ward, *Preschoolers' Suggestibility: Effects of Developmentally Appropriate Language and Interviewer Supportiveness*, 20 J. OF APPLIED DEVELOPMENTAL PSYCHOL. 407, 407 (1999); Saywitz, *Questioning, supra* note 37, at 3; Karen J. Saywitz et al., *Facilitating the Communicative Competence of the Child Witness*, 3 APPLIED DEVELOPMENTAL SCI. 58, 58 (1999) [hereinafter Saywitz, *Facilitating*]; Stephen J. Ceci & Maggie Bruck, *Suggestibility of the Child Witness: A Historical Review and Synthesis,* 113 PSYCHOLOGICAL BULLETIN 403, 404 (1993) [hereinafter Ceci & Bruck, *Historical Review*]; Lane F. Geddie et al., *The Relationship Between Interview Characteristics and Accuracy of Recall in Young Children: Do Individual Differences Matter?,* 6 CHILD MALTREATMENT 59, 67 (2001); Gail S. Goodman et al., *Understanding and Improving Children's Testimony*, 22 CHILDREN TODAY 13, 15 (1993) [hereinafter

priate language increased the accuracy of reports for children between the age of three and four years. In addition, their findings indicated with developmentally appropriate questioning, younger children appeared to be more resistant to suggestibility.[72]

Perry et al. summarized that "developmentally inappropriate questioning significantly reduces the accuracy of witnesses' accounts."[73] In addition, research has indicated some children will attempt to answer questions even if they have not yet developed the skills needed to respond.[74] Some studies have found children are not likely to ask for clarification because they are unaware of their own lack of comprehension or because they assume the validity of an adult's questions.[75] There are mixed findings in regards to children's willingness to acknowledge they do not know something: Dale et al.[76] and Imhoff and Baker-Ward[77] concluded that "don't know" responses are uncommon from children, while Peterson et al.[78] suggested the opposite.

Goodman et al., *Testimony*],; Thomas D. Lyon, *Scientific Support for Expert Testimony on Child Sexual Abuse Accommodation, in* CRITICAL ISSUES IN CHILD SEXUAL ABUSE 107, 121 (J.R. Conte ed., 2002) (explaining further the differences between 3-year-olds and 5-year-olds in test situations); Alison Perona et al., *Research-based Guidelines for Child Forensic Interviews, in* ENDING CHILD ABUSE: NEW EFFORTS IN PREVENTION, INVESTIGATION, AND TRAINING 81, 84-85 (Victor Vieth et al. eds., 2006); Carter et al., *supra* note 70, at 335.

[72] Imhoff & Baker-Ward, *supra* note 71, at 407 (showing that "[t]he results indicate that interviewers can increase young preschoolers' resistance to suggestibility by using language that is easily comprehensible to young children").

[73] Perry et al., *supra* note 70, at 618.

[74] BOURG ET AL., *supra* note 44, at 113. *See generally* Amanda H. Waterman et al., *Interviewing Children and Adults: The Effect of Question Format on the Tendency to Speculate*, 15 APPLIED COGNITIVE PSYCHOL. 521 (2001); Saywitz, *Court, supra* note 56, at 356; Saywitz, *Credibility, supra* note 70, at 67.

[75] Carter et al., *supra* note 70, at 349*; see also* Perry et al., *supra* note 70, at 626 (explaining that merely repeating a question "is not necessarily an indication that the sentence was comprehended"); Saywitz, *Court, supra* note 56, at 353.

[76] Philip S. Dale et al., *The Influence of the Form of the Question on the Eyewitness Testimony of Preschool Children*, 7 J. OF PSYCHOLINGUISTIC RES. 269, 276 (1978).

[77] Imhoff & Baker-Ward, *supra* note 71, at 415.

[78] Carole Peterson et al., *Interviewing Preschoolers: Comparison of Yes/No and Wh- Questions*, 23 LAW & HUM. BEHAV. 539, 548-52 (1999).

d. Simple versus complex

According to Saywitz, "[d]ifficulties arise when interviewers ask questions in language too complex for children to comprehend, regarding concepts that are too abstract for them to understand."[79] Walker defined a complex question as "anything that increases processing time."[80] In order to give an accurate response, children need to both understand and remember the question in its entirety. Compound questions (e.g., "Where were you and what were you doing?"); embedded questions (e.g., "Do you remember what you were doing?"); questions that include prepositions ("Was that before or after your birthday?"); indexical words ("Did you know that?"); or any sophisticated linguistic structures are all examples of inquiries too complex for children under age five.[81]

Also identified by Walker as problematic for preschoolers are "jello" questions: [82] ambiguous questions that have no boundaries to guide or direct a response (e.g., "How were your clothes?"). When attempting to balance open-ended inquiries with developmentally appropriate questions, it is often necessary for an interviewer to attempt to elicit information from a younger child by first asking an ambiguous question and then following with questions that become more specific as needed. For example, if a child does not understand the question "How were your clothes?" a follow-up question might be, "Were your clothes on, or off, or something else?"[83]

e. Concrete versus abstract

Responding to the specific and literal thought processes of preschool children, CornerHouse advocates for the use of questions that are simple and concrete, not abstract or complex.[84] Children think

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[79] Saywitz, *Bullying*, *supra* note 39, at 17.
[80] WALKER, QUESTIONING CHILDREN, *supra* note 37, at 39.
[81] *Id.* at 39-51.
[82] *Id.* at 66.
[83] *See* discussion *infra* Part III.C., entitled *Process of Inquiry* for further information.
[84] *See generally* CORNERHOUSE MANUAL, *supra* note 35.

literally and concretely; therefore, their comprehension will also be literal and concrete.[85] Simply put, they will answer the question they are asked. If asked "Are you in preschool?" during an interview, a child under five is likely to say "No," simply because at that moment, he or she is sitting in the interview room and is not at preschool.

Quantifying and relational concepts are abstract and are difficult for children to grasp.[86] These concepts can include familial connections or relationships; time or sequence; and various forms of measurement, such as speed, distance, dimension, or quantity. Higher order words (e.g., "move" or "touch") are also too abstract, because they encompass a wide range of meanings. Children who think in terms of the more specific lower order words may deny that they were "touched," but acknowledge that they were "tickled" or "licked."[87]

Even when lower order words and simple sentence structures are used in the interviewer's questioning, younger children may become confused by questions without context. Adults tend to assume that until a new context is specified, all of their questions pertain to the same previously identified topic. Interviewers may "float" a single context throughout a series of questions; that is, interviewers may ask multiple questions without repeating the context. Unaware of adult expectations, preschool children may shift their thoughts, and consequently their responses, to another situation without notifying the interviewer. As a result, what appears to be inconsistent information may simply be information about a different experience or event.[88] Thus, it is important that interviewers provide a context for each question asked, using the child's identification of that context ("When you were at the park . . ."). Similarly, it is important for interviewers to inform children any time the interviewer intends to change topics, allowing the child to transition into a new context along with the interviewer.[89]

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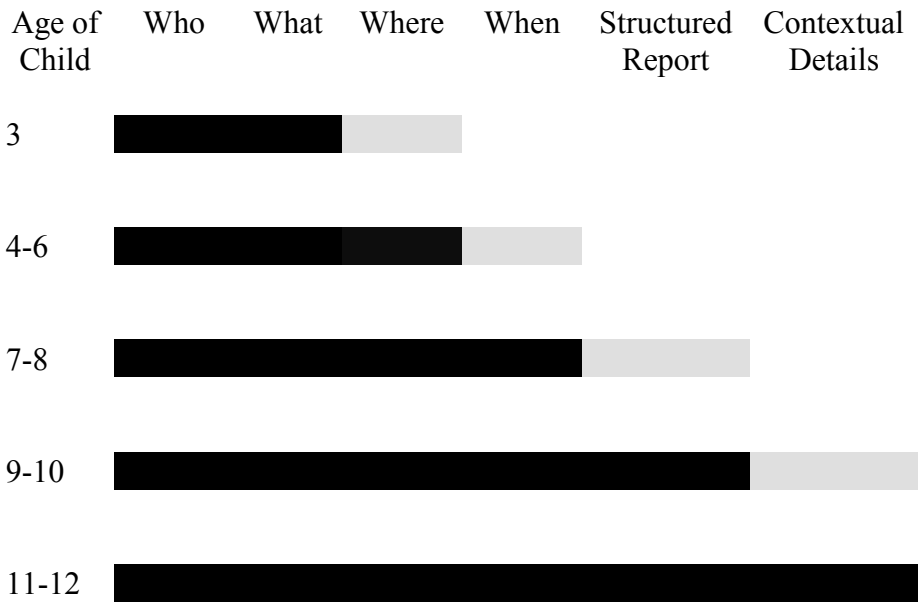
[85] *See* BOURG ET AL., *supra* note 44, at 100, 108.
[86] *Id.; see* WALKER, QUESTIONING CHILDREN, *supra* note 37, at 11.
[87] *See* BOURG ET AL., *supra* note 44, at 108.
[88] *Id.* at 112. *See* WALKER, QUESTIONING CHILDREN, *supra* note 37, at 12-13.
[89] *See* Karen J. Saywitz, *Improving Children's Testimony: The Question, the Answer and the Environment, in* MEMORY AND TESTIMONY IN THE CHILD WITNESS 113, 119-20 (Maria S. Zaragoza et al. eds., 1995).

B. CornerHouse Guidelines for Age-Appropriate Questions

It is the interviewer's responsibility to assess the child's abilities and to ask developmentally appropriate questions. CornerHouse's *Guidelines for Age-Appropriate Questions* (See Figure B), which is based on research and on clinical experience of CornerHouse interviewers in thousands of interviews, provides a framework for generalized expectations. Once again, it should be noted that chronological age is used to represent developmental ranges, although variations among individual children are inevitable and should be expected.[90] As noted in Bourg et al., "age-related guidelines are not absolute;"[91] they are simply guidelines.

Figure B
Guidelines for Age-Appropriate Questions



[90] *See* HEWITT, *supra* note 38, at 15.
[91] *See generally* BOURG ET AL., *supra* note 44.

As indicated in Figure B, the black areas denote the types of information children in the corresponding age group would typically have the ability to provide. The gray areas denote types of information that children in the corresponding age group might or might not be able to provide. Asking questions beyond a child's competence can result in inaccurate responses; however, avoiding questions based upon an untested assumption that a child cannot answer a question minimizes the quantity of information that might be obtained. The process of gently pushing at a child's competency, without consistently surpassing it, allows the child to provide the maximum amount of information she or he is able to provide.

1. Who and what

At three years of age, children are generally expected to have the ability to report *who* and *what*. Preschoolers as a whole tend to provide abbreviated accounts of events or experiences,[92] focusing on central elements.[93] They struggle to focus on more than one aspect at a time and may not attend to anything more than basic, sensory information.[94] Even if they have additional recollections, preschoolers' underdeveloped command of a language restricts their ability to communicate that information. In fact, even information regarding *who* and *what* is often limited, as three-year-olds typically have no grasp of kinship[95] and their egocentric perspective prevents them from noticing the actions of others.[96] For example, during a Corner-House interview, three-year-old J.M. identified her cousin as "a boy who lives with his mom, Auntie [L]." In addition, J.M. was unable to report what her cousin was doing prior to touching her, even though

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[92] *Id.*

[93] HEWITT, *supra* note 38, at 51-53; Leippe et al., *supra* note 56, at 368. *See generally* Perona et al., *supra* note 71; Saywitz, *Court, supra* note 56.

[94] *See* discussion *infra* Section IV.D.1.C. (discussion on asking about sensory information).

[95] Saywitz, *Credibility, supra* note 70, at 65. *See generally* BOURG ET AL., *supra* note 44; Saywitz, *Court, supra* note 56; HEWITT, *supra* note 38; WALKER, QUESTIONING CHILDREN, *supra* note 37.

[96] *See generally* Campbell, *supra* note 37; *see generally* Goodman et al., *Testimony*, *supra* note 71; HEWITT, *supra* note 38; PIAGET & INHELDER, *supra* note 37.

her cousin was present for the entire evening. J.M. was only able to describe the actions that directly impacted her.

2. Where

In the four to six-year-old age range, the ability to answer *where* is added to the ability to provide information regarding *who* and *what*. It should be noted that *where* refers to geographical location, not the more literal translation some children assume, of a location on their body (i.e., "Where on your body did she touch?"). Walker points out that in order to talk about "where," children must have command of prepositions.[97] Children begin to use prepositions between the ages of eighteen and thirty-six months, and by the time children are five to six years old they are familiar with most prepositions. However, prepositions are complex, and it is not unusual for children to use them before fully grasping their meaning. This uninformed use may occur with other types of words as well.[98] In addition, during the process of learning a new skill, a child's ability to apply the skill often fluctuates.[99] Therefore, when asked, "Were you on the covers, or under the covers, or something else?" young children may not fully understand the question and may provide seemingly inconsistent responses. Young children may only be able to tell *where* it occurred, if the location is someplace familiar, and they have a name for it (for example, "At Mommy's house" or "In the TV room").

3. When

At four to six years of age, a child's ability to provide information regarding *when* is still unfixed.[100] It is generally accepted that preschool children are concrete thinkers whose capacity for abstract concepts develops gradually over time. Saywitz noted that *when* questions are more difficult for children who are younger than five years

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[97] WALKER, QUESTIONING CHILDREN, *supra* note 37, at 25.
[98] *Id.* at 25-26.
[99] *Cf. id.* at 11.
[100] *Id*. at 56.

of age.[101] However, children can provide concrete, episodic information that assists in the reconstruction of a timeline.[102] For example, they may be able to provide information regarding *when* by reporting what television show they were watching, who they lived with or how old they were when a particular experience occurred.

The Guidelines indicate that seven to eight-year-old children should be able to give some information about *when*. Typically, children learn to tell time when they are seven or eight, and they can often recite the days of the week before they can read a clock.[103] However, this does not necessarily mean that they understand the significance of time measures. Time is a nonspatial, abstract concept with numerous applications (e.g., duration, passage, measurement). At this age, children are typically just beginning to understand concepts relating to time,[104] so developmental limitations persist. Lyon observed that the ability to tell time does not ensure a child is able to report what time an event occurred, unless there happened to be a clock in plain view.[105] Even children as old as age nine can be confused by ambiguous language such as *before* and *after*. However, children in the seven to eight-year-old age range can likely utilize the names for days and seasons accurately. In addition, they can often associate one event with another, such as reporting an event that occurred when they were in the second grade or during spring break.[106]

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[101] Saywitz, *Questioning, supra* note 37, at 6.

[102] Saywitz, *Credibility, supra* note 70, at 63-64. *See* Thomas D. Lyon, *Speaking with Children: Advice from Investigative Interviewers, in* HANDBOOK FOR THE TREATMENT OF ABUSED AND NEGLECTED CHILDREN 65 (P. Forrest Talley ed., 2005) (*Reprinted in* Thomas D. Lyon, *Child Development, Competence, and Credibility: The Latest Research, in* STATE OF THE ART ADVOCACY FOR CHILDREN, YOUTH, AND FAMILIES 29 (A. G. Donnelly ed., 2005), *available at* http://works.bepress.com/cgi/viewcontent.cgi?article=1015&context=thomaslyon) [hereinafter Lyon, *Speaking*]. *See generally* HEWITT, *supra* note 38.

[103] Jennifer Massengale, *Child Development: A Primer for Child Abuse Professionals*, NAT'L DIST ATT'YS ASS'N NEWSL. (National District Attorneys Association), 2001, *available at* http://www.ndaa.org/publications/newsletters/update_volume_14_number_5_2001.html [hereinafter Massengale, *Child Development*]. *See generally* APA & NAEYC, *supra* note 39.

[104] *See* Massengale, *Child Development*, *supra* note 103, at 3.

[105] Lyon, *Speaking, supra* note 102, at *12.

[106] Saywitz, *Credibility, supra* note 70, at 63-64. *See generally* William J. Fried-

4. Structured Report

In the seven to eight-year-old range, children might be able to report details of their experience in a more structured manner; however, this is more likely to occur at nine to ten years of age. Within this range, they may provide some sequence within a single incident, or they may differentiate multiple incidents.

Interviewers can assist in structuring by asking appropriate questions.[107] Questions regarding frequency can be problematic when the interviewer begins by asking, "How many times did that happen?" This may seem unusual, as most children learn to count at a much younger age. However, reciting numbers or counting fingers in a rote fashion is vastly different from understanding number-related concepts. Even when a child has the ability to count events across time, there may be confusion about what is being counted.[108] Separating one event from another can be problematic, and is often subject to individual interpretation. When interviewers attempt to elicit information related to frequency, it may be more useful to formulate inquiry and ask questions based on differentiation of days, places or specific acts. This is likely to provide more accurate information than attempting to ask the child to provide an actual number. In other words, it may be more beneficial to ask if oral-genital contact occurred in a certain room, or if other kinds of touching occurred in the bedroom, than to ask a child how many times it occurred. From experience, CornerHouse interviewers have also found some children within these age ranges may be able to identify by significant sequence, such as "the first time" or "the last time" something happened.

While questions related to frequency can be difficult and confusing for children to answer, the interviewer's consideration of posing such questions should not be automatically eliminated. RATAC-trained interviewers are likely to ask, "Did that happen one time or

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man, *Conventional Time Concepts and Children's Structuring of Time, in* THE DEVELOPMENTAL PSYCHOLOGY OF TIME 171 (William J. Friedman ed., 1982).

[107] *See* discussion *infra* Section IV.D.1.a.

[108] Lyon, *Speaking, supra* note 102, at *10-11. *See generally* SAYWITZ, *Credibility, supra* note 70, at 64. *See generally*; WALKER, QUESTIONING CHILDREN, *supra* note 37.

more than one time?"[109] Children of all ages might be able to provide this information. Such information can be particularly helpful in clarifying reports from younger children who may appear to provide seemingly inconsistent data as a result of compacting information from multiple incidents into a single report.

5. Contextual details

The ability to stay focused and to organize one's thoughts begins to increase somewhere around seven or eight years of age.[110] At nine or ten years of age, these abilities may begin to emerge more consistently. When children reach the eleven to twelve years of age, the possibility that they will be able to provide contextual information is fairly sound. Some professionals have identified that some quantifying and relational concepts (such as kinship, time and dimension or measurement) are not fully understood until adolescence.[111] However, it is also recognized that, overall, older children recall more information than younger children.[112] This research, along with the consistent clinical perspective of CornerHouse interviewers, results in an expectation that children in this age range are developmentally able to provide, in narrative form, at least some details regarding circumstance. This could include, but is not limited to: idiosyncratic details (e.g., tattoos or "white stuff"); sensory descriptions (what was said);

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[109] Lyon, *Speaking, supra* note 102, at *11 (According to Lyon, the NICHD model also recommends the use of this question.).
[110] APA & NAEYC, *supra* note 39, at 16.
[111] SAYWITZ, *Credibility, supra* note 70, at 63-66. *See generally* BERK, *supra* note 40; WALKER, QUESTIONING CHILDREN, *supra* note 37.
[112] Karen J. Saywitz & Lynn Snyder, *Improving Children's Testimony with Preparation, in* CHILD VICTIMS, CHILD WITNESSES: UNDERSTANDING AND IMPROVING TESTIMONY 117 (Gail S. Goodman & Bette L. Bottoms eds., 1993); Margaret-Ellen Pipe et al., *The Development of Event Memory: Implications for Child Witness Testimony, in* HANDBOOK OF EYEWITNESS PSYCHOLOGY VOLUME 1: MEMORY FOR EVENTS 447 (Michael P. Toglia et al. eds., 2006). *See generally* BOURG ET AL., *supra* note 44; Ceci & Bruck, *Historical Review, supra* note 71; FIVUSH, *supra* note 38; Fivush & Shukat, *supra* note 57; HEWITT, *supra* note 38; Lyon, *Speaking, supra* note 102; Perona et al., *supra* note 56; SAYWITZ, *Court, supra* note 56; SAYWITZ, *Questioning, supra* note 37.

peripheral information (room arrangement); or possible physical evidence (pornographic materials, sexual devices).

The developmental shift from logical to abstract thinking generally develops during the preadolescent years. Children at this age begin to emulate adult speech patterns and their reasoning abilities begin to mature. However, these skills continue to develop throughout adolescence, and full mastery should not be expected at eleven or twelve years of age. [113]

6. Exclusion of "why" questions

It should be noted that the Guidelines for Age-Appropriate Questions do not include any *why* questions. Across all age groups, it is generally recommended that interviewers avoid asking *why* questions. Responding to these questions require advanced cognitive skills developmentally unavailable until a child is well into school age. Walker noted children must be at least seven to ten years old before they have the cognitive capacity to explain why; further, applying that process to someone else's behavior is developmentally improbable before ten to thirteen years of age. Even when children are developmentally capable of responding to *why* questions, such inquiries are often perceived as judgmental or accusatory, particularly in the context of alleged sexual abuse.[114]

7. Conclusion

In a general discussion regarding guidelines based on age, Lyon expressed concern about placing focus on children's abilities rather than on adults' skills, as the latter is often the greater issue.[115] While CornerHouse's age-related guides do identify children's developmental capacities, their intended purpose is to raise interviewer's awareness of children's developmental abilities, regarding both limitations

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[113] *See generally* Massengale, *Child Development*, *supra* note 103; WALKER, QUESTIONING CHILDREN, *supra* note 37.

[114] *See* WALKER, QUESTIONING CHILDREN, *supra* note 37, at 61; *see also* discussion *infra* Parts III.C., IV.A.

[115] *See* Lyon, *Speaking, supra* note 102, at *13.

as well as potential abilities, enabling forensic interviewers to customize their practice in a manner that will maximize the competency of each child. The concept of maximizing each child's competence is significant enough to be considered, along with the Child First Doctrine, as a fundamental principle of the RATAC protocol.

Research has consistently supported what has been found in the clinical experience of CornerHouse interviewers: a developmentally appropriate approach capitalizes on the competency of each child and is more likely to yield a reliable, credible report. It is the interviewer's responsibility to ask questions the child can answer and to structure the interview in such a way that it is consistent with the needs and abilities of each individual child. This developmentally appropriate approach can be accomplished through the utilization of the semi-structured RATAC interview protocol.

C. Process of Inquiry

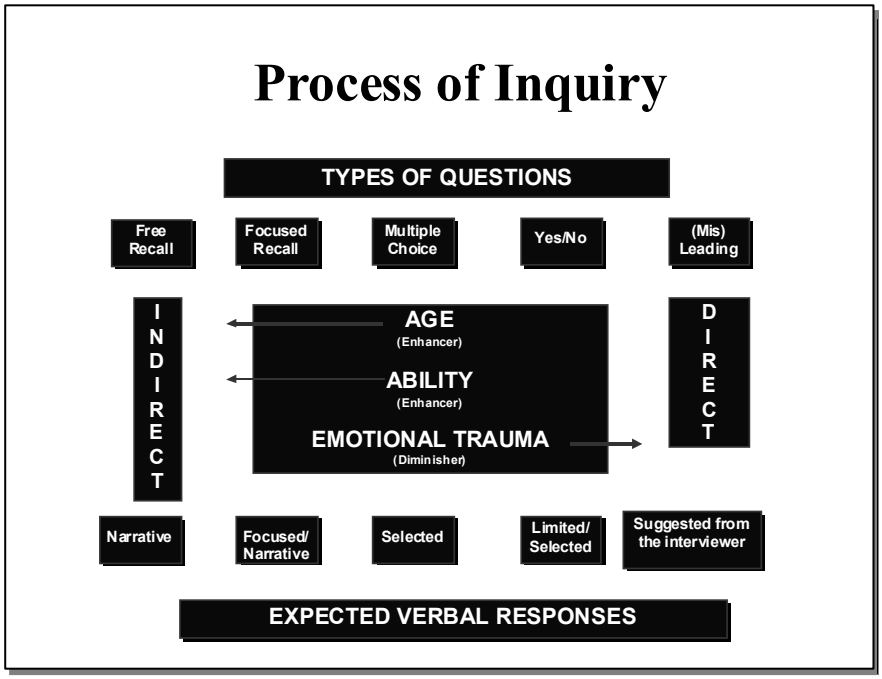
There are countless ways in which to name, define, and categorize the types of questions that might be asked during forensic interviews. While it is not imperative that every forensic interviewer utilize the same names, definitions, and categories, it is important that interviewers possess a solid understanding of question types and their appropriate applications.

Research demonstrates open-ended questions elicit the most accurate information and the largest amount of information from children. However, research and clinical experience also demonstrate the need for the use of other, more direct, question types to gather the full details of children's experiences. In order to adequately use the various necessary question types, interviewers must know how to utilize the most appropriate questions based on children's developmental abilities. Interviewers must understand how the use of various question types might be helpful for overcoming interview blocks in interviews with emotionally traumatized children to enable these children to describe their experiences. Interviewers must be able to explain their question-type usage to their team members, and they must be able to inform the courts about the various types of questions and their appropriate application. Understanding question types is also important

for conducting self- or peer-review of interviews in order to improve interviewing skills.

Possessing a solid understanding of the application of question types includes understanding when to apply them, how to apply them, what verbal responses to expect from each question type, and how to avoid using question types in a suggestive manner. CornerHouse utilizes and teaches the "Process of Inquiry" (see Figure C) as one such method for understanding and utilizing the types of questions that may be asked in a forensic or investigative context with children.

Figure C



1. Question types

As noted in Figure C, the Process of Inquiry outlines the question types that might be used during interviews along with the corresponding expected verbal responses children provided. The question types outlined on the Process of Inquiry including the following: (1) free-

recall; (2) focused-recall; (3) multiple-choice; (4) yes/no; and (5) (mis)leading. These question types range from indirect questions to more specific or direct questions, respectively. The expected verbal responses for free-recall questions are narrative; for focused-recall questions are focused narrative; for multiple-choice questions are selected; for yes/no questions are limited/selected; and (mis)leading questions are an answer suggested from the interviewer.

It should be noted while (mis)leading questions are listed in the Process of Inquiry, they are not recommended for use in forensic interviews. If they are an inappropriate question type, it is important to discuss them so interviewers understand how to avoid their use.

2. Enhancers and Diminishers

Decisions regarding application of question types should be based on a child's age, the developmental abilities of the child, and the presence or absence of emotional trauma. In the Process of Inquiry, the elements of age and ability are considered to be "enhancers" because an increase in either age or ability enhances the probability that a child could respond to more indirect question types. For instance, an older child with more abilities typically can answer indirect, open-ended questions. A younger child or a child with limited abilities may require the interviewer to use more direct questions to enable the child to communicate competently with the interviewer. Lamb et al. found that younger children gave fewer details than older children in response to all question types and the amount of information yielded from "cued invitations,"[116] or what the Process of Inquiry would identify as free-recall or focused-recall questions, increased with age. In a review of the literature, Lamb et al. found that "several researchers have cautioned that preschoolers' responses to free-recall prompts are typically brief and incomplete."[117] Hershkowitz et al. conducted research where it was found that the youngest children interviewed pro-

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[116] Michael E. Lamb et al., *Age Differences in Young Children's Responses to Open-ended Invitations in the Course of Forensic Interviews*, 71 J. OF CONSULTING AND CLINICAL PSYCHOL. 926, 930 (2003) [hereinafter Lamb et al., *Age Differences*].

[117] *Id.* at 926.

vided fewer details than did the two groups of older children in response to open-ended question types, which supports the need for the use of direct question types with younger children.[118]

In the Process of Inquiry, the element of emotional trauma is identified as a "diminisher," which simply means that the presence of emotional trauma, or the presence of interview blocks caused by this trauma, could diminish a child's ability, willingness or comfort level with regards to answering open-ended questions. Direct questions will probably be necessary to gather information from a child who is exhibiting trauma. Goodman states "some children are surprisingly verbal and detailed in their reports, even about traumatic events. However, when asked an open-ended question such as 'What happened?' a fairly common response from a hesitant or frightened young child is 'Nothing,' even when much has occurred that the child remembers."[119] Saywitz et al. suggest socioemotional factors such as embarrassment, anxiety, or self-consciousness may suppress reports by older children regarding vaginal and anal contact.[120] As Summit explained, children who have experienced sexual abuse often feel helpless, betrayed, and ultimately trapped by their abuse.[121] Myers et al. cite the impact of such dynamics as justification for the cautious use of specific (i.e., direct) questions during forensic interviews.[122]

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[118] Hershkowitz et al., *Comparison of Mental and Physical Context Reinstatement in Forensic Interviews with Alleged Victims of Sexual Abuse*, 16 APPLIED DEVELOPMENTAL PSYCHOL. 429 (2002); *see also* discussion *infra* Part Section III.A.1.

[119] Goodman et al., *Testimony*, *supra* note 71, at 13.

[120] Karen J. Saywitz et al., *Children's Memories of a Physical Examination Involving Genital Touch: Implications for Reports of Child Sexual Abuse*, 59 J. OF CONSULTING AND CLINICAL PSYCHOL. 682, 682-89 (1991) [hereinafter Saywitz et al., *Memories*].

[121] Roland C. Summit, *The Child Sexual Abuse Accommodation Syndrome*, 7 CHILD ABUSE & NEGLECT 177, 181-82 (1983).

[122] John E.B. Myers et al., *Psychological Research on Children as Witnesses: Practical Implications for Forensic Interviews and Courtroom Testimony*, 28 PAC. L. J. 3, 11-16 (1996).

3. Movement within the Process of Inquiry: A nonlinear approach

An interviewer's goal is to invite the maximum amount of accurate information from a child during a forensic interview. In order to elicit the optimal amount and quality of information from a child, the interviewer's questioning will need to include a variety of question types. The Process of Inquiry is not a sequential, linear process in which interviewers ask a free-recall question, followed by a focused-recall, then by a multiple-choice, and then finally by a yes/no question. The most appropriate application of the Process of Inquiry requires interviewers to be guided by both a child's abilities and the interviewer's pursuit of information and clarification, while maintaining the understanding that indirect question types elicit the largest amount of information and the most accurate information from children. Considering this, the appropriate use of direct question types includes understanding how to appropriately follow these questions with open-ended question types in order to elicit narrative responses. As Faller stated, "when an interviewer needs to ask a close-ended question, he [or] she can follow this question with a more open-ended question, and thereby attempt to elicit a narrative account from the child."[123] For example, if a child answers, "The living room" in response to the question, "Where did this happen?" the interviewer could then follow by asking the child to "Tell me all about what happened in the living room."

4. Proper balance: The need for focused questions

In all forensic interviews, it is likely that a combination of free-recall, focused-recall, multiple-choice, and yes/no question types will need to be used to elicit information from children. Many professionals agree, and expert guidelines recommend, that interviewers should use open-ended questions as much as possible during forensic interviews.[124] While the importance of using open-ended questions can-

[123] Kathleen Coulborn Faller, *Questioning Children Who May Have Been Sexually Abused: An Integration of Research into Practice*, 2 J. OF AGGRESSION, MALTREATMENT, AND TRAUMA 37, 39 (1999).

[124] *See generally* AMERICAN PROFESSIONAL SOCIETY ON THE ABUSE OF CHILDREN

not be stressed enough, interviewers must understand that in order to gather information from children, other question types will also be needed. Saywitz et al. note the importance of interviewers' being able to judge when to apply various question types:

> The proper balance between open-ended and specific questions is in part a question for researchers but also entails value judgments regarding the trade-offs between false affirmations and false denials. Even with more research, the judgment of

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(APSAC), PSYCHOSOCIAL EVALUATION OF SUSPECTED SEXUAL ABUSE IN CHILDREN (2d ed. 1997); APSAC, *supra* note 8; UNITED KINGDOM HOME OFFICE, ACHIEVING BEST EVIDENCE IN CRIMINAL PROCEEDINGS: GUIDANCE FOR VULNERABLE OR INTIMIDATED WITNESSES, INCLUDING CHILDREN: IMPLEMENTING THE SPEAKING UP FOR JUSTICE REPORT (2000), *available at* http://www.homeoffice.gov.uk/documents/ach-best-evidence/guidance-for-witnesses?view=Binary; Lamb et al, *Age Differences, supra* note 116 (*citing* Bull, 1992 & 1996; Fisher & Geiselman, 1992; Jones, 1992; Lamb, Sternberg & Esplin, 1998; Lamb, Sternberg, Esplin, Orbach & Hershkowitz, 1999; MEMORANDUM OF GOOD PRACTICE, 1992; Raskin & Esplin, 1991); Ray Bull, *Innovative Techniques for the Questioning of Child Witnesses, Especially Those Who are Young and Those With Learning Disability*, *in* MEMORY AND TESTIMONY IN THE CHILD WITNESS 179 (Maria S. Zaragoza et al. eds., 1995); Ron A. Craig et al., *Interviewer Questions and Content Analysis of Children's Statements of Sexual Abuse*, 3 APPLIED DEVELOPMENTAL SCIENCE 77 (1999); Michael E. Lamb et al., *Factors Influencing the Reliability and Validity of Statements Made by Young Victims of Sexual Maltreatment*, 15 J. OF APPLIED DEVELOPMENTAL PSYCHOL. 255 (1994) [hereinafter Lamb et al., *Factors*]; Irit Hershkowitz et al., *The Effects of Mental Context Reinstatement on Children's Accounts of Sexual Abuse*, 15 APPLIED DEVELOPMENTAL PSYCHOL. 235 (2001) (*citing* Lamb et al., 1995); MELISSA MCDERMOTT STEINMETZ, INTERVIEWING FOR CHILD SEXUAL ABUSE: STRATEGIES FOR BALANCING FORENSIC AND THERAPEUTIC FACTORS (Jalice Publishers 1997); Myers et al., *supra* note 122; Perona et al., *supra* note 56; DEBRA A. POOLE & MICHAEL E. LAMB, INVESTIGATIVE INTERVIEWS OF CHILDREN: A GUIDE FOR HELPING PROFESSIONALS (American Psychological Association 1998); David C. Raskin & John C. Yuille, *Problems in Evaluating Interviews of Children in Sexual Abuse Cases*, *in* PERSPECTIVES ON CHILDREN'S TESTIMONY 184 (Stephen J. Ceci et al. eds., 1989); Michael E. Lamb & Angèle Fauchier, *The Effects of Question Type on Self-Contradictions by Children in the Course of Forensic Interviews*, 15 APPLIED COGNITIVE PSYCHOL. 483 (2001) (*citing* Sattler, 1998); John C. Yuille et al., *Interviewing Children in Sexual Abuse Cases, in* CHILD VICTIMS, CHILD WITNESSES: UNDERSTANDING AND IMPROVING CHILDREN'S TESTIMONY 95 (Gail S. Goodman & Bette L. Bottoms eds., Guildford Books 1993).

> experienced professionals is needed to apply one or more of a variety of interviewing strategies.[125]

Myers et al. note, "on the whole, the research suggests that there is much to be gained by the judicious use of focused and specific questions with young children."[126] "Judicious use" is precisely what the Process of Inquiry prescribes.

5. Free-recall questions

The most indirect, open-ended questions in the Process of Inquiry are free-recall questions. Free-recall questions invite the maximum amount of information that originates from each child. When interviewers ask free-recall questions, they should expect narrative responses. Free-recall questions are open, broad, and invitational; moreover, they do not introduce new information. Free-recall questions may be used to follow up on a child's statement or on a topic the child has introduced. For instance, if a child mentions school, an interviewer could use a free-recall question to follow up: "Tell me about school." Similarly, if a child mentions a topic such as playing football, an interviewer could use a free-recall question to follow up: "Tell me all about playing football." Although free-recall questions may theoretically seem like the "best" question type to ask, such questions are difficult for children under five or six years of age because young children have not yet developed the retrieval processes necessary to fully answer free-recall questions.[127] Further, narrative responses from children under five or six years may be short, possibly just a few words; however, the information is coming entirely from the child and, as stated previously, information received from open-ended questions is more likely to be accurate. While free-recall questions are certainly recommended for all children who are developmentally able to respond to them, it is important to note that the ability to rely on these questions is diminished when one is interviewing a young child.

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[125] Saywitz, *Court, supra* note 56, at 369.
[126] Myers et al., *supra* note 122, at 48.
[127] FIVUSH, *supra* note 38, at 14-16.

a. More likely to be accurate

Through a comprehensive literature review, Lamb et al. found extensive support for the use of open-ended questions, such as those included in the Process of Inquiry.[128] Researchers have discussed the likelihood that freely-recalled information is more accurate when compared to information obtained from other question types.[129]

It should be noted that findings by Geddie et al. appear to contradict the findings cited above. With a sample of 56 children, these researchers found young children provided more correct information to

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[128] *See generally* Lamb et al, *Age Differences, supra* note 116.

[129] William S. Cassel et al., *Developmental Patterns of Eyewitness Responses to Repeated and Increasingly Suggestive Questions,* 61 J. OF EXPERIMENTAL CHILD PSYCHOL. 116 (1996). *See generally* Craig et al., *supra* note 124 (*citing* Clifford & Davies, 1989; White & Edelstein, 1991); Dale et al., *supra* note 76; Helen R. Dent, *The Effects of Interviewing Strategies on the Results of Interviews with Child Witnesses, in* RECONSTRUCTING THE PAST: THE ROLE OF PSYCHOLOGISTS IN CRIMINAL TRIALS 278 (Arne Trankell ed., 1982); Lamb et al, *Age Differences, supra* note 116 (*citing* Dent, 1986; Dent & Stephenson, 1979; Oates & Shrimpton, 1991); JAMES GARBARINO ET AL., WHAT CHILDREN CAN TELL US: ELICITING, INTERPRETING, AND EVALUATING CRITICAL INFORMATION FROM CHILDREN (Jossey-Bass, 1992); Michael E. Lamb et al., *Effects of Investigative Utterance Types on Israeli Children's Responses*, 19 INT'L J. OF BEHAV. DEV. 627 (1996) [hereinafter Lamb et al., *Effects*] (*citing* Pear & Wyatt, 1914; Trankell, 1972; Undeutsch, 1982); R. Edward Geiselman et al., *Effects of Cognitive Questioning Techniques on Children's Recall Performance*, *in* CHILD VICTIMS, CHILD WITNESSES: UNDERSTANDING AND IMPROVING TESTIMONY 71 (Gail S. Goodman & Bette L. Bottoms eds., 1993); Gail S. Goodman & Christine Aman, *Children's Use of Anatomically Detailed Dolls to Recount an Event*, 61 CHILD DEV. 1859 (1990); Gail S. Goodman et al., *Children's Testimony About a Stressful Event: Improving Children's Reports*, 1 J. OF NARRATIVE AND LIFE HISTORY 69 (1991); Graeme D. Hutcheson et al., *Child Witness Statement Quality: Question Type and Errors of Omission,* 19 LAW & HUM. BEHAV. 631 (1995); Lamb & Fauchier, *supra* note 124; Lamb et al., *Factors, supra* note 124; Yael Orbach & Michael E. Lamb, *Assessing the Accuracy of a Child's Account of Sexual Abuse: A Case Study*, 23 CHILD ABUSE & NEGLECT 91 (1999); Yael Orbach & Michael E. Lamb, *The Relationship Between Within-Interview Contradictions and Eliciting Interviewer Utterances*, 25 CHILD ABUSE & NEGLECT 323 (2001); Peter A. Ornstein et al., *Children's Memory for a Personally Experienced Event: Implications for Testimony*, 6 APPLIED COGNITIVE PSYCHOL. 49 (1992); Peterson et al., *supra* note 78; Raskin & Yuille, *supra* note 124.

"more structured questions."[130] These "more structured questions" were defined as either/or or yes/no questions. Geddie, et al. found that children under seven years of age gave more correct answers in response to these types of "recognition questions."[131]

As with any research, the applicability of the above studies and opinions should be considered as it relates to the practice of forensic interviews with children. As Lamb and Fauchier comment, "[a]ll such studies have confirmed that the information elicited using open-ended prompts is more likely to be accurate . . . but the relevance of these studies has often been questioned, especially by professionals in the field, because the alleged events differ so greatly from incidents of abuse."[132] In other words, the applicability of any study can be suspect when the subjects utilized are likely not actual victims of child sexual abuse. For this reason, it is important that interviewers rely on and speak from their professional experiences as much as they rely on or speak from research.

b. Likely to be more informative

Orbach and Lamb found that a series of open-ended questions can "stimulate the production of narrative accounts that paint an increasingly clear and complete picture of the events described by alleged victims."[133] Lamb et al. found three studies that demonstrate that the responses to free-recall questions were three to five times "more informative"[134] than responses to other question types. Lamb et al. found responses to open-ended or invitational questions were "approximately three times longer and up to three times richer" than responses to other question types.[135] Sternberg et al. found responses to open-ended or invitational questions were approximately four times longer and up to three times richer in pertinent detail than responses

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[130] Geddie et al., *supra* note 71, at 67.
[131] *Id.* at 65.
[132] Lamb & Fauchier, *supra* note 124, at 488.
[133] Yael Orbach & Michael E. Lamb, *Enhancing Children's Narratives in Investigative Interviews*, 24 CHILD ABUSE & NEGLECT 1631, 1638 (2000).
[134] Lamb et al, *Age Differences, supra* note 116, at 926.
[135] Lamb et al., *Effects, supra* note 129, at 634.

to other question types.[136] Sternberg et al. found children provided two and one-half times more details in response to "individual invitations as in response to other utterance types."[137]

Craig et al. found open-ended questions not only yielded more free-narrative responses than other question types, but open-ended questions also generated responses that contained more details used to validate children's allegations of abuse.[138] Hershkowitz et al. had similar findings. These researchers found that open invitations elicited more details that are believed to "reflect greater reliance on the recall memory of events that actually occurred."[139]

6. Focused-recall questions

Focused-recall questions allow interviewers to focus the scope of their questioning or to put a framework in place around their questioning. Focused-recall questions usually elicit either focused one or two-word responses or narrative responses from children. Focused-recall questions can be utilized to focus a child on a certain topic. For example: "When you lived in the blue house, what happened?" Focused-recall questions can also be utilized to seek details. "Wh" questions, such as "Who touched you there?", "Where did that happen?" and "When did that happen?", are all examples of detail-seeking questions. "Wh" focused-recall questions are more likely to elicit focused, or short-answer, responses such as "Tommy," "In the bedroom" or "Yesterday." Since they are still open-ended, focused-recall questions may invite children to provide longer narratives, such as "It happened every time my mom went to work." Focused-recall questions can be utilized for clarification. For example, if a child uses many pronouns (e.g., "she," "he" or "his") or uses confusing labels, adjectives or terms (e.g., "private part," "nasty," or "do it"), inter-

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[136] Sternberg, *Relation, supra* note 58, at 447-48.
[137] Kathleen J. Sternberg et al., *The Memorandum of Good Practice: Theory Versus Application*, 25 CHILD ABUSE & NEGLECT 669, 677 (2001).
[138] Craig et al., *supra* note 124, at 83.
[139] Irit Hershkowitz et al., *The Relationships Among Interviewer Utterance Type, CBCA Scores and the Richness of Children's Responses*, 2 LEGAL AND CRIMINOLOGICAL PSYCHOL. 169, 174 (1997).

viewers could follow up with focused-recall questions, such as: "You said 'he' put his private in you. Who put his private in you?" or "You said she made you 'do it.' What does 'do it' mean?"

It is important to note that while focused-recall questions usually elicit focused or narrative responses, the above questions are still open-ended, in that, they still invite a child to give any answer the child chooses. Through a review of the literature, Saywitz et al. found that focused questions that are still open ended, "can increase the completeness of young children's reports without decreasing accuracy."[140] Faller indicates, "a good working principle when employing focused questions is to begin with the most open-ended focused question and only proceed to more close-ended ones when more open-ended ones do not yield information that resolves the issue of possible sexual abuse."[141]

7. Multiple-choice questions

Multiple-choice questions provide two or three options from which a child can choose a response. Interviewers can generally expect a child will select one of the options provided. The most appropriate multiple-choice questions include an alternative response, or an "out" option. That is, children should be given the opportunity to select a response that was not offered: "Do you live in an apartment, in a house, or *some other place*?" or "Were you sitting, lying down, or doing *something else*?" It is important to ensure the alternative option is within the same context as the rest of the question: "Were you in the bedroom, bathroom, or *some other room*?" Bourg et al. and Faller agree that children should be offered an alternative option.[142] There are, however, some questions that will not necessarily follow this rule because they already include an appropriate, exhaustive, alternative response: "Did that happen one time or more than one time?" Also, with a few questions, an alternative could be awkward

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[140] Saywitz, *Court, supra* note 56, at 91.
[141] Faller, *supra* note 123, at 45.
[142] BOURG ET AL., *supra* note 44, at 81. *See generally* KATHLEEN COULBORN FALLER, CHILD SEXUAL ABUSE: INTERVENTION AND TREATMENT ISSUES (Diane Publishing, 1993); Faller, *supra* note 123.

and/or confusing, and it is generally assumed that the only alternative response is "I don't know," such as with the question, "Are you a boy or a girl?"

It is important to differentiate multiple-choice questions, as included in the Process of Inquiry, from "forced-choice" questions. Forced-choice questions do not allow children an alternative response: they "force" children to choose from a list of answers, none of which may be correct, such as "Were you in the bathroom or the bedroom?" Forced-choice questions may lead children by suggesting there is a particular expected answer to a question, limited to one of the options offered. These questions are especially dangerous with younger children because of young children's increased susceptibility to suggestion. Through a review of literature, Lamb et al. found, "young children, especially preschoolers, are more likely than older children . . . to select erroneous options when responding to forced-choice questions."[143]

When using multiple-choice questions, interviewers must be aware of a possible response bias. A child may demonstrate a response bias by always choosing the first, the middle, or the last option given in multiple-choice questions. In other words, a child is not choosing an answer based on his or her own memory and experiences, but rather, is choosing his or her answer based on the position of the answer in the question. If interviewers become concerned that children may be demonstrating a response bias, interviewers will need to avoid asking multiple-choice questions and consider the possible bias in answers already given. The best way to use multiple-choice questions is to follow up on the child's answers with more open-ended, free-recall, or focused-recall questions. For example, if a child selects "lying down" from a few choices, an interviewer could follow up with, "So you were lying down. Tell me all about that."

8. Yes/No questions

Yes/No questions provide children with two choices: yes or no. Within the appropriate question types, yes/no questions are the most

[143] Lamb et al., *Age Differences, supra* note 116, at 927.

direct. Since children usually pick from these two choices, this expected response is labeled limited selected. Although yes/no questions are more limiting than other question types, yes/no questions are often necessary in interviews to help interviewers avoid asking assumptive or misleading questions.

a. Possible response bias

When asking yes/no questions, interviewers should consider a possible response bias. Research is varied as to whether children have a bias towards answering "yes" in response to yes/no questions. Generally, yes biases seem to be greater in very young children. Peterson and Grant[144] and Peterson et al.[145] found preschoolers had a bias toward answering yes in response to yes/no questions. While conducting interviews with young children, interviewers should note whether children answer "no." If interviewers become concerned that children may be demonstrating a yes bias, they will need to avoid yes/no questions and consider the possible bias in answers already given. The best way to use yes/no questions is to follow up a child's answers with more open-ended questions. For example, if a child responds, "Yes," to "Did someone see that happen?" an appropriate follow-up question would be, "Tell me about that."

b. Declining accuracy

Saywitz et al. determined, "[u]nfortunately, children's accuracy declines when asked yes-no questions."[146] For preschool children, yes/no questions can be problematic.[147] Through a study involving

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[144] Carole Peterson & Melody Grant, *Forced-Choice: Are Forensic Interviewers Asking the Right Questions?* 33 CANADIAN J. OF BEHAV. SCI. 118, 119 (2001).
[145] Peterson et al., *supra* note 78, at 551-52.
[146] Saywitz, *Court, supra* note 56, at 352.
[147] Michael S. Brady et al., *Young Children's Responses to Yes–No Questions: Patterns and Problems,* 3 APPLIED DEVELOPMENTAL SCI. 47 (1999). *See generally* Lamb et al, *Age Differences, supra* note 116 (*citing* Dent & Stephenson, 1979; Poole & Lindsay, 1998); Carole Peterson & Marleen Biggs*, Interviewing Children About Trauma: Problems with "Specific" Questions*, 10 J. OF TRAUMATIC STRESS 279 (1997); Peterson et al., *supra* note 78; Peterson & Grant, *supra* note 144;

five to nine-year-olds, Waterman et al. established that most of the children answered unanswerable yes/no questions. The questions were deemed unanswerable because the children were not given enough information to answer them. They speculated that young children answer yes/no questions when they do not know the answer because young children feel pressure to provide answers for all adults' questions.[148] However, Saywitz et al. noted that children's accuracy at answering yes/no questions "increases dramatically with age."[149] When applying the Process of Inquiry, yes/no questions are the most direct question type that is recommended for use by forensic interviewers. Despite declining accuracy, yes/no questions remain preferable to assumptive questions (discussed *infra*) since they do not suggest one particular answer or lead children towards a set of facts not provided by that child.

9. Leading and misleading questions

Leading and misleading questions should not be used in forensic interviews. In the field of forensic interviewing, leading and misleading questions have been defined in many different ways. Both are defined and described below pursuant to the Process of Inquiry.

a. Leading questions

Leading questions ask children to give a response suggested by the interviewer. The Process of Inquiry defines leading questions in a way that is consistent with Myers et al.: a leading question "to one degree or another, suggests that the questioner is looking for a particular answer."[150]

Robyn Fivush et al., *Questions and Answers: The Credibility of Child Witnesses in the Context of Specific Questioning Techniques, in* MEMORY AND SUGGESTIBILITY IN THE FORENSIC INTERVIEW 331 (Mitchell L. Eisen et al. eds., 2002).

[148] *See generally* Waterman et al., *supra* note 74.

[149] Saywitz, *Court, supra* note 56, at 352.

[150] Myers et al., *supra* note 122, at 16.

b. Tag questions

A tag question is a form of leading questions. Tag questions are statements with a question added at the end serving to indicate the preferred answer of agreement. While they are made to sound like questions, they are not likely to elicit further information from a child, for instance: "This stuff is hard to talk about, isn't it?" Sometimes, tag questions may be stated in reverse order: "Isn't it true that your brother put his penis in your mouth?" Tag questions suggest to a child the answer the interviewer is looking for; they simply ask for confirmation of the interviewer's statement.

Tag questions should be avoided in forensic interviews at *all* stages of the RATAC protocol, even during rapport. While drawing the "Face Picture," there can be a natural tendency for the interviewer to make statements, such as: "You have a bow in your hair today, don't you?" To avoid asking a tag question, the interviewer could instead just state, "I see that you have a bow in your hair today." It is important to remember that the way in which questions are asked early in the interview affects how children will answer questions during the rest of the interview.[151] While tag questions during Rapport may seem harmless, their use can set a damaging precedent, leading a child to believe that the interviewer will be giving the child the answers throughout the interview and that the child is expected to agree with/confirm the interviewer's statements versus speaking from his or her own experience. Refraining from asking tag questions, even in Rapport, allows interviewers to honestly report they avoided use of all suggestive questions in their interviews.

c. Assumptive questions

Assumptive questions are a complicated kind of leading question because when taken out of context, these questions might appear appropriate: "Where in your house did that happen?" or "Tell me about

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[151] Kathleen J. Sternberg et al., *Effects of Introductory Style on Children's Abilities to Describe Experiences of Sexual Abuse*, 21 CHILD ABUSE & NEGLECT 1133, 1133-34 (1997) [hereinafter Sternberg et al., *Effects*]. *See generally* Yuille et al., *supra* note 124.

the time Aunt Joan touched you." However, these questions become leading questions when the presumed facts in the statement are ones introduced by the interviewer and have not been offered by the child previously within the interview. For example, "Where in your house did that happen?" is an appropriate question if a child has stated that something happened in the child's house; however, this is a leading question if the child did not make a statement about something happening in his or her house. Likewise, "Tell me about the time Aunt Joan touched you" is an appropriate interview question if the child made a statement about being touched by Aunt Joan; if the child *did not* make such a disclosure, this is a leading question. As Faller states, "a question cannot be judged in isolation. Its appropriateness depends, to a degree, on its context, for example, what questions or disclosures have preceded the question in point."[152] This concept is consistent with the position taken by the American Professional Society on the Abuse of Children in its national forensic interviewing guidelines.[153]

d. Misleading questions

Misleading questions are questions containing facts the interviewer knows or believes to be false. Leichtman and Ceci conducted what became known as the "Sam Stone" study, in which children were asked misleading questions about a visitor who came to their classroom named Sam Stone. When Sam Stone visited their classroom, he did not get a teddy bear dirty; however, the children were asked, "When Sam Stone got that bear dirty, did he do it on purpose or was it an accident? Was Sam Stone happy or sad that he got that bear dirty?"[154] These questions misled children into believing the incident (getting the teddy bear dirty) actually occurred. These types of questions also mislead children because they are forced-choice questions, in which children do not have an "out" or an alternative choice, such as "or something else."

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[152] Faller, *supra* note 123, at 39.
[153] *See generally* APSAC, *supra* note 8.
[154] Michelle D. Leichtman & Stephen J. Ceci, *The Effects of Stereotypes and Suggestions on Preschoolers' Reports*, 31 DEVELOPMENTAL PSYCHOL. 568, 571 (1995).

While many experts agree that misleading questions should be avoided, some professionals suggest that interviewers incorporate misinformation into interviews to "test" whether children will correct them.[155] Some interviewers will purposefully call the child by the wrong name to see if the child corrects the interviewer. Some use misleading techniques while completing a truth/ lie assessment, by asking questions such as, "If I said my shirt was red (when the shirt is blue), would that be the truth or a lie?" or "If I said there was an elephant in this room, would that be a truth or a lie?"[156] Another example might include an interviewer asking a child, "Where in your school did that happen?" if the child did not say the incident occurred at school. Researchers, including Ceci and Huffman, recommend asking about at least one alternative hypothesis during a forensic interview.[157]

Some interviewers have chosen to implement alternative-hypothesis testing in a misleading manner by asking questions such as, "You told me what your father did, now tell me what your Uncle Joe did" when the child had not reported that Uncle Joe had done anything. In the utilization of the Process of Inquiry within RATAC, these methods are not recommended since they are, in fact, misleading techniques. Misleading questions are the question type most often asked in research that asserts children are suggestible. By avoiding all misleading questions, interviewers can accurately state they do not utilize the same questioning techniques used in the research that demonstrates a high level of suggestibility in children.

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[155] *See*, *e.g.,* L. Dennison Reed, *Findings from Research on Children's Suggestibility and Implications for Conducting Child Interviews*, 1 CHILD MALTREATMENT 105 (1996).

[156] *See* discussion *infra* Part III.D., entitled *Interview Instructions and Truth-Lie Discussions* for more information.

[157] Stephen J. Ceci & Mary Lyn Crotteau Huffman, *How Suggestible are Preschool Children? Cognitive and Social Factors,* 36 J. OF THE AM. ACAD. OF CHILD & ADOLESCENT PSYCHIATRY 948, 957 (1997).

10. Coercive Statements

The Process of Inquiry does not include coercive statements because they are neither questions nor are they information-seeking. While not included in the Process of Inquiry, these statements merit mention here, as they are utterances sometimes made by interviewers, which can influence the statements of children. The definition of coercive statements includes bribes: "If you tell me what your dad did, we can go get some ice cream." It also includes threats: "This interview isn't over until you tell me what happened." Use of such statements is not recommended in the forensic interview setting. Unfortunately, these statements were used in some of the problematic high-profile cases, such as the Wee Care daycare case. In this case, an aid was convicted of molesting numerous children. Her conviction was overturned, partly due to mistakes made in the interviews of alleged victims. Bruck and Ceci comment about threats and bribes in this case:

> The *Wee Care* interviews provide numerous examples of bribes. Some children were offered police badges in exchange for their incriminating statements. Sometimes the bribe took the form of promises to terminate the interviews ("Well, we can get out of here real quick if you just tell me what you told me last time we met" or "Tell me what Kelly did to your hiney and then you can go.") Sometimes uncooperative children were explicitly threatened ("Now listen you have to behave" or "You are acting like a baby.")[158]

It should be noted that while this type of questioning appears egregiously inappropriate, most interviews were conducted by well-meaning interviewers with little understanding of the effects of these question types. While in some examples the questions are clearly coercive, others appear more subtle: "Tell me what happened and we can keep you safe." Here, it appears a promise of safety is offered in

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[158] Maggie Bruck & Stephen J. Ceci, *Amicus Brief for the Case of* State of New Jersey v. Michaels *Presented by Committee of Concerned Social Scientists*, 1 PSYCHOL. PUB. POL'Y & L. 272, 282 (1995).

return for a disclosure of abuse. While safety concerns for children may be implicit or explicit to job-role explanations offered by those performing forensic interviews, CornerHouse cautions professionals to be aware of the possible consequences of stated or implied coercion in this context. It is clear that all forms of coercive statements should be avoided in forensic interviews.[159]

11. Conclusion

Research supports the use and application of the Process of Inquiry as taught and utilized by CornerHouse. Understanding the Process of Inquiry is essential to the appropriate application of RATAC. As Faller notes, "interviewers should be able to describe and defend their questioning methods. Defending a strategy may involve citing relevant research, describing common practice, referencing knowledge about child development, and/or explaining the specifics of the case under consideration."[160] Appropriate utilization of the Process of Inquiry helps interviewers to (1) apply question types in a developmentally appropriate manner; (2) know how to apply question types when questioning emotionally traumatized children; (3) explain question-type usage to team members; (4) inform courts; and (5) improve interviewing skills.[161] When reviewing and analyzing interviews using the Process of Inquiry, interviewers should remember that asking one poor question does not invalidate the credibility of an entire interview. Interviewers should be honest in acknowledging the use of poor questions, and they should be able to speak about the im-

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[159] BOURG ET AL., *supra* note 44, at 86.

[160] Faller, *supra* note 123, at 39.

[161] *See generally* Saywitz et al., *Memories, supra* note 120, at 682; BOURG ET AL., *supra* note 44; HEWITT, *supra* note 38; Leichtman & Ceci, *supra* note 154; Derek W.W. Price & Gail S. Goodman, *Visiting the Wizard: Children's Memory for a Recurring Event*, 61 CHILD DEV. 664 (1990); Leslie Rudy & Gail S. Goodman, *Effects of Participation on Children's Reports: Implications for Children's Testimony*, 27 DEV. PSYCHOL. 527, 527 (1991); Matthew H. Scullin et al., *Measurement of Individual Differences in Children's Suggestibility Across Situations*, 8 J. OF EXPERIMENTAL PSYCHOL.: APPLIED 233, 233 (2002); Ann E. Tobey & Gail S. Goodman, *Children's Eyewitness Memory: Effects of Participation and Forensic Context*, 16 CHILD ABUSE & NEGLECT 779 (1992).

pact, if any, of asking such a question. Professionals in this field have long acknowledged that there is no such thing as a perfect interview. However, a competent interview occurs when an adequately trained person interviews a child in a developmentally and linguistically appropriate manner, in a child-friendly environment, and with the appropriate use of questioning techniques.

D. Interview Instructions and Truth-Lie Discussions

Professionals in the field of forensic interviewing attempt to increase the reliability and credibility of children's statements within forensic interviews in many ways. These attempts are not limited to the employment of sound, defensible forensic interview practices, such as the utilization of the RATAC protocol. They also include utilization of interview instructions and truth-lie discussions with children during the forensic interview process.

Interview instructions, sometimes referred to as *ground rules* in other interview protocols, may include the following types of interview preparation for the child provided by the interviewer: (1) "I may ask you a question that you don't know the answer to. If you don't know the answer, it's okay to tell me that you don't know;" or (2) "If I make a mistake, or get something wrong, it's okay to tell me that."[162]

While truth-lie discussions, also known as *competency evaluations* in other interview protocols, often include instruction to a child that it is important to "tell the truth" during an interview and to "tell things that really happened."[163] Other types of truth-lie discussions employed by interviewers involve asking the child to define the concepts of truth and lie or asking the child to differentiate between true statements and lies.[164]

Various forensic interview protocols employ a range of formats and methods regarding the manner in which interview instructions and truth-lie discussions are incorporated into the forensic interview

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[162] *See* APSAC, *supra* note 8, at 10.
[163] *Id.* at 9.
[164] *Id.*; *see also* KATHRYN KUEHNLE, ASSESSING ALLEGATIONS OF CHILD SEXUAL ABUSE 149 (Professional Resource Exchange, 1996).

process. In the RATAC protocol, such tasks are incorporated throughout the interview as the situation presents. Forensic interviewers using other protocols or following particular agency policies often intertwine the two tasks, administering a truth-lie discussion within a given set of interview instructions, and conducting this process at the beginning of an interview.[165] This section will examine the purpose and efficacy of interview instructions and truth-lie discussions in the forensic interview process and will provide recommendations for their use based upon available research and Corner-House's clinical practice.

1. Interview instructions

a. Reasons for presenting interview instructions

Professionals in the field have offered several rationales to support incorporation of interview instructions into an investigative interview,[166] and interview instructions are incorporated into the forensic interview for various purposes. Interviewers using this method seek to, (1) increase "I don't know" responses from a child who does not have the information requested; (2) enhance a child's ability to correct the interviewer's mistakes; (3) encourage a child to tell only what is actually remembered; and (4) increase the likelihood that a child will tell the interviewer when she does not understand.[167]

Another proffered rationale for presenting interview instructions with a child at the beginning of a forensic interview is to increase the

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[165] *See generally* APSAC, *supra* note 8.

[166] *See generally* Geddie et al., *supra* note 71; Amina Memon & Rita Vartoukian, *The Effects of Repeated Questioning on Young Children's Eyewitness Testimony,* 87 BRIT. J. OF PSYCHOL. 403 (1996); Stephen Moston, *The Suggestibility of Children in Interview Studies*, 7 FIRST LANGUAGE, 67(1987); Karen J. Saywitz & Susan Moan-Hardie, *Reducing the Potential for Distortion of Childhood Memories.* 3 CONSCIOUS & COGNITION 408, 410-21 (1994); Saywitz, *Facilitating, supra* note 71, at 58; Amye R. Warren & Dorothy F. Marsil, *Why Children's Suggestibility Remains a Serious Concern,* 65 LAW & CONTEMP. PROBS. 130, 129 (2002).

[167] Saywitz et al., *Court, supra* note 56, at 361-62; Saywitz et al., *Credibility, supra* note 70, at 59, 62.

quality and quantity of information provided.[168] Children, particularly younger children who are developmentally prone to egocentric thinking, often believe that adult interviewers already know everything they know, including the details of the alleged violence or abuse.[169] To avoid the misconception, an instruction for the purpose of counteracting such a concern may include explaining to the child that the interviewer was not there and does not know what, if anything, happened. Through this instruction, the child is afforded the opportunity to tell about his or her experiences in his or her own words. Also, this technique allows the child to screen out erroneous information that the interviewer may have inadvertently introduced.[170]

Interviewers may use interview instructions to address assumptions children may have about the interviewers' objectives.[171] In general, adults drive conversations with children. Children are frequently "tested" in a variety of situations in their interactions with adults and often perceive that there is a right and wrong way to answer adults' questions. As a result, children may formulate their answers based upon what they believe the expected answer to be, as opposed to what they personally think or know.[172] Thus, interviewers should offer instructions to differentiate the interview process from routine interactions and to indicate to children that they are the best source of information about themselves.[173]

In a forensic interview setting, a common interview instruction provided by forensic interviewers is one which invites children to tell the interviewer when they do not know the answer.[174] The intent behind it is to help children to report only the experiences they remember or know about and to avoid having children blindly answer the interviewer without a full understanding of the question or knowledge of its answer.

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[168] *See* Saywitz & Moan-Hardie, *supra* note 166, at 410-11.
[169] *Id.* at 413.
[170] *Id.* at 413, 415.
[171] *Id.* at 412-13.
[172] *E.g.,* Saywitz, *Credibility*, *supra* note 70, at 67.
[173] KUEHNLE, *supra* note 162, at 149.
[174] *See generally* APSAC, *supra* note 8.

A number of studies have examined how social expectations children maintain may impact their performance in forensic interviews. For example, a child may attempt to provide an answer when he or she does not fully understand the question[175] or a child may feel pressured to provide an answer even when hesitant or uncertain of how to respond.[176] If a child is asked the same question more than one time, the child may assume his or her first answer was incorrect and change the answer to conform to the answer the child believes the interviewer is seeking.[177]

b. Research regarding the incorporation of interview instructions

Research has been conducted in a variety of the interview instructions that are employed in a forensic interview, including study regarding the presentation of instructions at an interview's outset. These studies have included examination of the use of extensive pre-interview instructions in general,[178] as well as research regarding the utilization of specific instructions, such as the instruction to tell the interviewer if an answer is not known or is not remembered[179] or instruction, combined with reassurance, to tell only what is remembered.[180] Additional areas of research have included the impact of providing children with instructions that inform, the child that the interviewer was not present, so he or she does not know what happened,[181] or alerting the child that questions might be repeated.[182]

In the research reviewed, interview instructions provided at the outset of the interview appeared to have some impact upon children's responses. Research findings indicate that demonstrated instructions might result in a slight impact upon children's ability to indicate

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[175] Warren & Marsil, *supra* note 166, at 130-32.
[176] Memon & Vartoukian, *supra* note 166, at 404.
[177] *Id*.
[178] *See generally* Geddie et al., *supra* note 71, at 59.
[179] *See generally* Moston, *supra* note 166, at 67; Saywitz & Moan-Hardie, *supra* note 166, at 413.
[180] Memon & Vartoukian, *supra* note 166, at 407.
[181] Saywitz, *Facilitating, supra* note 71, at 66.
[182] Memon & Vartoukian, *supra* note 166, at 403.

when an answer was not known[183] or to resist suggestive questioning techniques[184] and may enhance a child's ability to indicate that a question is not understood.[185]

Some findings, however, also indicated the presentation of interview instructions at the outset of an interview could be ineffective or even detrimental to a child's performance. Children who receive a preliminary "I don't know" instruction might interpret the instruction to mean that they can respond with "I don't know" when they do not immediately have an answer or to say "I don't know" when it is "easier" to respond in that manner instead of directly answering an interviewer's question.[186] Further, Moston reasoned that "I don't know" instructions are only beneficial when the environment is one which may be hostile or intimidating, and when such an environment suggests to a child that "I don't know" is not an acceptable response.[187] Warren and Marsil concluded that children may demonstrate the ability to resist suggestion or indicate when they do not know an answer during pre-interview instructions; however, these skills cannot be generalized to a child's performance during the interview itself.[188] Consequently, it would be inappropriate to make assumptions regarding a child's competency, or the reliability of a child's statement throughout the interview based simply upon the presentation of interview instructions at an interview's outset.

Geddie et al. found extensive pre-interview instructions neither increased correct responses from children during an interview nor did they appear to impact a child's suggestibility to misleading questions.[189] Furthermore, Saywitz and Moan-Hardie's study indicated instructions resulted in a reduction of correct responses.[190] Saywitz et al. found that some children displayed difficulty in identifying their

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[183] Moston, *supra* note 166, at 67.
[184] Saywitz & Moan-Hardie, *supra* note 166, at 410.
[185] Saywitz, *Facilitating, supra* note 71, at 58.
[186] Moston, *supra* note 166, at 76; *see also* Saywitz, *Facilitating*, *supra* note 71, at 66.
[187] Moston, *supra* note 166, at 76.
[188] Warren & Marsil, *supra* note 166, at 140-42.
[189] Geddie et al., *supra* note 71, at 66.
[190] Saywitz & Moan-Hardie, *supra* note 166, at 420-21.

own comprehension of complicated questions and, subsequently, had trouble reporting this to the interviewers,[191] decreasing the usefulness of related interview instructions.

Interview instructions at an interview's outset may be particularly inappropriate for specific groups of children. As Geddie et al. remarked, pre-interview instructions, due to their extensive nature, may not be appropriate for young children with less-developed cognitive skills and limited attention spans.[192] As previously discussed in this article,[193] there is limited time in which a child is able to participate in a forensic interview; spending a portion of this time on interview instructions may reduce the time available for the child to report the details of his or her experiences. Geddie et al. also identified additional limitations to the usefulness of pre-interview instructions for the young children in their study, including children's inability to generalize the instructions from the practice session to the interview and inability to internalize the skill due to insufficient practice.[194]

Prudent incorporation of interview instructions within the context of a forensic interview appears to be endorsed, based upon both research and clinical practice. However, the practice of presenting interview instructions as a distinct task at the outset of a forensic interview does not appear to be supported by research.

e. Recommendations for the utilization of interview instructions in RATAC

While instructions, reassurance, and cues have been demonstrated to reduce suggestibility, there is minimal empirical evidence to support that providing interview instructions *at the beginning* of a forensic interview is the most effective way to enable children to obviate social expectations that may negatively impact an interview.[195] As mentioned earlier, although children may demonstrate the ability to

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[191] Saywitz, *Facilitating, supra* note 71, at 66.
[192] Geddie et al., *supra* note 71, at 66.
[193] *See* discussion *supra* Part III.A., entitled *A Developmentally Appropriate Approach* for a more detailed discussion.
[194] Geddie et al., *supra* note 71, at 66-67.
[195] CORNERHOUSE MANUAL, *supra* note 35, at 7(2).

resist suggestion or indicate when they do not know an answer during pre-interview instructions, these skills cannot necessarily be generalized as to their performance during the interview itself.[196] A perhaps more appropriate use of interview instructions is to employ them as the situation presents.

To increase a child's comfort and ability to provide accurate information, including the ability to avoid answering a question when the child does not know, interviewers should seek to create a comfortable, child friendly environment[197] within the forensic interview setting. This includes reducing the potential for perception of the interviewer as an authority figure and allowing the child to be the expert on him- or herself when reporting experiences.[198] As previously discussed, several studies have demonstrated that children are able to respond, "I don't know" or "I don't remember" without being instructed to do so.[199] Interviewers more effectively reinforce this skill immediately after a child offers his initial "I don't know" or "I don't remember" response. This type of immediate and positive reinforcement of a child's own response may be more salient, which allows the child to practice this type of response and could increase the likelihood that the child will utilize this technique again. Moreover, it demonstrates the child's ability to not simply acquiesce within the interview itself. Moston recommended a child's response of "I don't know" should be accepted and repeated questioning or pushing for an answer may lead to a child offering fewer correct responses as the interview progresses.[200]

Professionals involved in investigating and prosecuting cases where children may be victims or witnesses to violence are reminded of the importance of posing questions that are developmentally ap-

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[196] Warren & Marsil, *supra* note 166, at 134-35.
[197] *See* discussion *infra* Part IV.A.,, entitled *Rapport*.
[198] Reed, *supra* note 155, at 112-13; Saywitz, *Credibility, supra* note 70, at 59, 67.
[199] *See generally* Geddie, et al., *supra* note 71; Moston, *supra* note 166; Saywitz & Moan-Hardie, *supra* note 166; *see also* Victoria Talwar et al., *Children's Conceptual Knowledge of Lying and its Relation to Their Actual Behaviors: Implications for Court Competence Examinations,* 26 LAW & HUM. BEHAV. 395 (2002) [hereinafter Talwar 2002]
[200] Moston, *supra* note 166, at 77.

propriate for children.[201] Asking children questions beyond their cognitive abilities may lead them to guess at answers, make up responses, or provide unclear information that reduces their credibility as reporters.[202] While interviewers can provide children with ways to inform the interviewer when they do not comprehend a specific question posed, it would be more efficient for the interviewer to concentrate on formulating questions appropriate to the developmental level of the children.

An additional factor that interviewers should consider when attempting to increase a child's ability to report accurate information is reducing any perception of the interviewer as an authority figure.[203] As discussed in the Rapport section of this article, this serves to reduce social pressures and expectations on the child, in turn, allowing the child to be the expert on himself.[204] Finally, engaging in a practice at the beginning of an interview that lays out a set of expectations of how the child should answer during the interview process may imply that there is a *right* way and a *wrong* way to answer questions, and thereby negatively impacting the child's ability to report information. Interviewers may more effectively elicit valuable information from a child by using open-ended questions.

In the CornerHouse RATAC Forensic Interview Protocol, interview instructions may be presented at any point throughout the interview. While some protocols or agency policies dictate interview instructions, these should be presented as a distinct activity at the beginning of an interview, in RATAC, interview instructions are presented as the opportunities arise based upon the child's responses within the interview. As an example, a child may indicate to the interviewer that the child does not know the answer to a particular question. It is recommended that the interviewer would acknowledge the child's response and encourage the child to respond this way if the situation reoccurs (e.g., "Thanks for telling me that you don't know the answer. If I ask something else that you don't know, please tell me like you just did."). In addition, when interview instructions are

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[201] Saywitz, *Facilitating*, *supra* note 71, at 67.
[202] Saywitz, *Credibility*, *supra* note 70, at 64.
[203] Saywitz, *Credibility, supra* note 70, at 59, 67; Reed, *supra* note 155, at 112-13.
[204] Reed, *supra* note 155, at 112-13.

given, child-friendly and developmentally appropriate explanations should be included. For example, Memon and Vartoukian recommended that an interview instruction notifying the child that questions might be repeated should be paired with a clear explanation as to why a question might be repeated.[205]

Common instructions an interviewer utilizing the RATAC protocol may incorporate, as the situation arises, could include the following: inviting correction from the child if the interviewer misunderstands or something is incorrect; instructing a child to notify the interviewer when the child does not know or does not understand; indicating to the child that the interviewer was not there and does not know what, if anything, happened; or providing instruction that any words used or topics the child speaks about are acceptable in the context of the interview. Additional instructions may be utilized in specific types of situations; for example, if a child is making statements that appear bizarre or fantastical or uses words such as "pretend," the interviewer may provide an instruction that the interview setting is for talking only about things that really happened. Similarly, interviewers are advised never to ask a child to tell his or her "story" about the alleged abuse incident.

Incorporating interview instructions into the body of the interview as the situation arises, rather than reviewing instructions at the beginning of an interview, necessitates that interviewers use their judgment in assessing when to appropriately offer an instruction. To do so, an interviewer is forced to attend to more than the words a child is using. Children communicate in multiple ways; therefore, it is important that interviewers also pay attention to the behavior a child displays and to the emotions a child may exhibit in order to appropriately apply interview instructions. For example, while a child may not verbalize ignorance of an answer to a question, behaviors such as an extended pause or shrugging as they respond may indicate uncertainty. In such a situation, an interviewer could acknowledge this and provide an instruction as appropriate (e.g., "It sounds like maybe you're not sure; just so you know, if you don't know the answer to a question, it's okay to tell me you don't know.").

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[205] Memon & Vartoukian, *supra* note 166, at 411-12.

Based upon the research reviewed, it appears practices such as conducting a developmentally appropriate interview in a child-friendly environment, including the careful incorporation of appropriate interview instructions as the situation presents, may generally be most significant in impacting a child's statement. The RATAC protocol is intentionally designed as a semi-structured process that can, and should, be adapted to each child's development and spontaneity, as well to an individual community's standards of practice. Therefore, that every forensic interviewer must make decisions about how to adapt regular practice to meet the specific needs of each child.

2. Truth-lie discussions

a. Reasons given for presenting truth-lie discussions within the forensic interview

The incorporation of a truth-lie discussion as a distinct, standardized task in the forensic interview is not generally included in the RATAC protocol. As with interview instructions, some forensic interview protocols or jurisdictional policies may dictate the practice of conducting a truth-lie discussion. Other competency assessment of the child's understanding of the concepts of truth and lies[206] can also be used.

Interviewers utilizing such a practice often proceed with the assumption that if children understand the concepts of truth and lie-telling, they are more likely to tell the truth. Therefore, a truth-lie discussion is presented to predict the truthfulness and to establish the reliability of a child's statements.[207] Similarly, a truth-lie discussion may be initiated at the beginning of an interview with the belief that

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[206] Kamala London & Narina Nunez, *Examining the Efficacy of Truth/lie Discussions in Predicting and Increasing the Veracity of Children's Reports*, 83 J. OF EXPERIMENTAL CHILD PSYCHOL. 131, 131-32 (2002). *See generally* Saywitz & Moan-Hardie, *supra* note 166; Talwar 2002, *supra* note 199; Victoria Talwar et al., *Children's Lie-telling to Conceal a Parent's Transgression: Legal Implications*, 28 LAW & HUM. BEHAV. 411 (2004) [hereinafter Talwar, *Lie Telling*].

[207] London & Nunez, *supra* note 206, at 142; Talwar, *Lie Telling*, *supra* note 206, at 409-10.

the practice will promote truth telling if a child demonstrates an understanding of the concepts of truth and lie-telling.[208]

b. Research regarding the incorporation of truth-lie discussions

The relevant research to conducting truth-lie discussions includes studies regarding children's understanding of the difference between truth and lie, children's understanding of the morality of truth- and lie-telling and the impact of conducting truth-lie discussions upon a child's behavior.

Research findings indicate limitations in young children's conceptual abilities related to truth and lies. Lyon and Saywitz found that children under five-years-old were not able to perform even the most basic task of identifying true and false statements; however, around the age of five, most children in this study were started to develop a basic understanding of both truth-telling and the moral consequences of lying.[209] Lyon et al. concluded that children are able to accept true statements and reject false statements well before they are able to label statements as right and wrong.[210] Results of a study by Talwar et al. indicated that three-year-olds had the most difficulty with concept questions regarding truth and lie and were least likely to lie during the interview.[211] This appears to demonstrate that the limited ability to understand the concepts of truth and falsehood does not preclude truth-telling behavior in the interview.

Some research has explored the relationship between performance on truth-lie discussions and interview behavior. The findings of London and Nunez failed to support the assumption that performance on truth-lie discussions *predicts* truth-telling behavior.[212] Studies by Talwar et al. failed to support the assumption that children who grasp

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[208] London & Nunez, *supra* note 206, at 133, 141-42; Talwar 2002, *supra* note 199, at 395.
[209] Thomas D. Lyon & Karen J. Saywitz, *Young Maltreated Children's Competence to Take the Oath*, 3 APPLIED DEVELOPMENTAL SCI. 16, 20 (1999).
[210] Thomas D. Lyon et al., *Young Children's Competency to Take the Oath: Effects of Task, Maltreatment, and Age*, 34 LAW & HUM. BEHAV. 141, 146 (2010).
[211] Talwar 2002, *supra* note 199, at 408.
[212] London & Nunez, *supra* note 206, at 141.

the concepts or have a moral understanding of truth and lie-telling will tell the truth in an interview setting.[213] The findings of Talwar et al. also refuted the assumption that truth-lie discussions will promote truth telling.[214]

The results of some studies suggest that truth-lie discussions may promote truth-telling behavior,[215] although it should be noted that Talwar et al.[216] were unable to establish a strong relationship between understanding the concepts of truth and lie and the behavior of truth telling. Research conducted by Talwar et al. appeared to indicate that eliciting a promise to tell the truth might promote truth-telling behavior.[217] It further concluded that eliciting a promise to tell the truth is more likely to promote truth-telling in an interview than questioning children about their conceptual knowledge of truth- and lie-telling.[218]

Despite some preliminary findings indicating support for truth-lie discussions or eliciting a promise to tell the truth, it is premature to definitively recommend such a practice. Limitations to these studies included a lack of a control condition in Talwar et al.'s experiments, which hinders any determination regarding the effects of a truth-lie discussion on truth-telling.[219] In addition, studies were conducted under conditions not necessarily reproducible to practice in a forensic interview setting: for example, the study by London and Nunez was carried out with one researcher conducting the truth-lie discussion and another conducting the interview.[220] This is inconsistent with the practice in a forensic interview setting where a single interviewer is preferable.[221]

In efforts to assess the relationship between the cited research and the practice of forensic interviewing, it is important to consider that

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[213] Talwar 2002, *supra* note 199, at 409-10.
[214] *Id*. at 409.
[215] London & Nunez, *supra* note 206, at 131; Talwar, *Lie Telling*, *supra* note 206, at 428.
[216] Talwar, *Lie Telling*, *supra* note 206, at 431.
[217] Talwar 2002, *supra* note 199, at 409; Talwar, *Lie Telling*, *supra* note 206, at 432.
[218] Talwar 2002, *supra* note 199, at 409; *see also* Lyon, et al., *supra* note 210.
[219] Talwar 2002, *supra* note 199, at 412-13. *But see* Lyon, et al, *supra* note 210.
[220] London & Nunez, *supra* note 206, at 141.
[221] APSAC, *supra* note 8, at 3.

these findings were based upon analog studies. They were conducted with children who, presumably, were not sexually abused and the experiences about which the children were questioned were arguably dissimilar to the experiences that may bring children to forensic interviews. Variables often present in cases of alleged sexual abuse such as delays between an event and its report or investigation and relationships and other dynamics or adjunct events such as the arrest of a caregiver or placement of a child in foster care. These were likely not present in such studies. In addition, the interviews in the above studies are not known to have followed a protocol similar to RATAC or any other forensic interview protocol. Also they are not known to have employed questions in the manner or types utilized in the *Process of Inquiry*. Therefore, research findings from these analog studies cannot be comparably applied to forensic interview practice, either in how one conducts a forensic interview or how a child can be expected to perform. Overall, further research is needed in this area in order to assess the applicability of utilizing a promise to tell the truth or other elements of a truth-lie discussion as it relates to practice of forensic interviews with children.

Based upon research and clinical practice, concerns exist regarding the appropriateness and the efficacy of conducting truth-lie discussion at the beginning of forensic interviews. The findings of the previously discussed research do not provide clear evidence to demonstrate that conducting truth-lie discussions either promote or predict a child's performance within a forensic interview setting.[222] In addition, such discussions are inappropriate for young children's cognitive abilities as they may provide an inaccurate assessment of a child's behavior regarding truth and lie-telling based upon assumptions resulting from a child's performance during truth-lie discussions[223] and may underestimate a child's understanding of the concepts.[224] It should also be noted that successful implementation of a truth-lie discussion relies on a mutual understanding of the words *truth* and *lie*. As Walker wrote, "truth and lie are vocabulary words. Vocabulary words are subject to interpretation by their users, and if

[222] London & Nunez, *supra* note 206, at 409; Talwar 2002, *supra* note 199, at 408.
[223] Lyon & Saywitz, *supra* note 209, at 20.
[224] London & Nunez, *supra* note 206, at 141.

children do not hear them used in the sense of 'telling what really happened,' or 'intending to deceive,' it is unlikely that you and they will be talking about the same thing."[225]

c. Recommendations for the utilization of truth-lie discussions in RATAC

A truth-lie discussion, while implemented with the intent of predicting and promoting children's ability to accurately report their experiences, may have the result of negatively impacting a child's report or credibility. Similar to concerns previously discussed regarding the presentation of other interview instructions, a truth-lie discussion conducted at an interview's outset, prior to establishing rapport, creates a situation where the child may perceive the interviewer as an authority figure. Consequently, the child may perceive there are *right* and *wrong* answers and the interviewer already knows these answers. This practice is in conflict with a principle of accepting the child's answers for what they are, and such an interaction may have the potential to increase a child's vulnerability to suggestive statements.[226] In addition, some common approaches to a truth-lie discussion may require a child to indicate the interviewer is "lying," something that may be difficult for the child to do,[227] particularly prior to building rapport.

Related to a truth-lie discussion is a practice of presenting a nonsensical statement, such as, "If I told you my dog could fly, would that be the truth or a lie?" While this is a strategy that CornerHouse neither utilizes nor recommends in the RATAC protocol, forensic interviewers who employ this practice might do so attempting to determine children's ability to resist suggestion and to tell the truth.[228] Among the concerns regarding this practice is the fact that such a practice places children in the position of needing to disagree with the

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[225] WALKER, QUESTIONING CHILDREN, *supra* note 37, at 59-60.
[226] Stephen J. Ceci & Maggie Bruck, *The Suggestibility of Children's Memory*, 50 ANN. REV. OF PSYCHOL. 419, 433 (1999) [hereinafter Ceci & Bruck, *Suggestibility*]; Reed, *supra* note 155, at 112; Saywitz, *Credibility, supra* note 70, at 67.
[227] Lyon & Saywitz, *supra* note 209, at 18.
[228] Reed, *supra* note 155, at 115.

interviewer,[229] which may be difficult for a child to do prior to establishing rapport. Further, if the child instead concurs with the fantastical statement, it may have an impact on the credibility and reliability of the remainder of the child's statement.[230]

In a forensic interview, practitioners attempt to determine what, if anything, the child has experienced.[231] If interviewers actively invite fantasy or encourage the child to make believe or pretend at the outset of the interview, they risk encouraging fantastical statements from the child later in the interview. Along with concerns regarding the impact upon the child and the child's statement, such a practice may present ethical concerns as well, based upon the introduction of misleading information into the interview by the interviewer. Similarly, some practitioners inquire as to whether the child has told the truth in an interview at its conclusion. This unsupported practice neither serves the purpose to predict or promote honesty in an interview, nor does it serve to evaluate the veracity of a child's prior statements in an interview.

While a formal truth-lie discussion is not incorporated into the CornerHouse RATAC protocol, such concepts may be explored if applicable within the context of the interview. This is similar to the method in which interview instructions are incorporated into RATAC. When necessary, themes related to truth and lie would typically be presented in the form of an interview instruction. For example, a child may comment that he or she was told to "tell the truth" to the interviewer, or a child might state that someone accused them of "lying." In such situations, the interviewer could explore what the child means by "the truth" or "lying," and offer related instructions as appropriate.

Although rarely stated explicitly, logic dictates that the inclusion of a truth-lie discussion in a forensic interview is based upon the presumption there is a tangible risk that a child will be untruthful. Forensic interviews with children are typically conducted as part of an investigation regarding alleged abuse of children or where children witness violent crime. Absent issues of coaching or contamination,

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[229] Reed, *supra* note 155, at 116.
[230] *See* Ohio v. Roberts, 448 U.S. 56, 66 (1990).
[231] Reed, *supra* note 155, at 105.

these are experiences about which children are unlikely to have motivation to lie. In fact, "few researchers or practitioners believe that the majority of children's false statements during interviews are deliberate lies."[232] Inconsistencies or incongruent information may be due to misinterpretation or miscommunication rather than issues of fabrication. Interviewers are wise to consider that children may omit or filter information regarding their experiences due to sexual abuse dynamics such as fear, shame and secrecy, and not due to any degree of dishonesty.[233] Interviewers can increase children's opportunities to provide accurate statements by providing children with the permission not to discuss their experiences if they do not feel able to do so during the forensic interview.

CornerHouse's purposeful exclusion of a standard truth-lie discussion within the RATAC protocol is based upon clinical and expert opinion, as well as upon applicable research available to date; a discussion of this follows. Significant to the inclusion of any practice or technique is the thoughtful consideration of how the practice enhances or impedes the forensic integrity of the interview. It is imperative that the purpose of the forensic interview be considered and that the scope and role be appropriately maintained. A concern regarding incorporation of a routine truth-lie discussion is that the issue of legal competency, which is the core of what a truth-lie discussion is assessing, is an issue for trial, not an issue at the time of the child's disclosure or statement. Forensic interviewers seek to elicit accurate statements from children; however, ultimately the trier of fact, in conjunction with other elements of the investigation, will evaluate the veracity of the child's statements.[234]

Rather than conducting a truth-lie discussion, interviewers can attempt to impact the accuracy of a child's statement through their actions within the interview setting. Similar to what has been previously discussed regarding interview instructions, interviewers can create an environment that encourages the accuracy of the child's statement

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[232] Mary Lyn Huffman et al., *Discussing Truth and Lies in Interviews with Children: Whether, Why, and How?*, 3 APPLIED DEVELOPMENTAL SCI. 6, 7 (1999).
[233] Lyon, *supra* note 71, at 117-19.
[234] *See, e.g.,* MINN. STAT. § 595.02(l)(m); Idaho v. Wright, 497 U.S. 805, 812 (1990).

by establishing the child's comfort, asking questions that are developmentally appropriate, accepting children's answers (such as allowing a child to say "I don't know"), reducing the perception of the interviewer as an authority figure, and avoiding suggestive or leading question types. As Ceci and Bruck asserted, "the absence of suggestive techniques allows even very young preschoolers to provide highly accurate reports."[235] Furthermore, a more complete and accurate evaluation of the reliability of a child's interview statement can be conducted by the multidisciplinary team following the interview, using the information provided by the child, as well as any corroborative evidence identified based on the information supplied by the child during the interview.[236]

Instead of routinely implementing a practice of conducting a truth-lie discussion at the outset of a forensic interview, it is recommended that, when utilizing the RATAC protocol, interviewers instead address such concerns if they arise within the interview. If, during an interview, a child appears to be making or does actually make statements that are untrue, it is the interviewer's responsibility to explore these comments with the child or consider redirection.[237]

3. Conclusion

Although research has shown benefit to providing some type of interview instructions or truth-lie discussions, interviewers are strongly encouraged to consider how and when these tasks are incorporated into the forensic interview and are cautioned to pay heed to the potential risks regarding the impact upon the interaction between the inter-

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[235] Ceci & Bruck, *Suggestibility*, *supra* note 226, at 425.

[236] *See, e.g.,* Amy Russell, *Assessing Children's Statements for Investigative and Court Purposes*, 1(6) CENTER PIECE (2009), http://www.ncptc.org/vertical/Sites/%7B8634A6E1-FAD2-4381-9C0D-5DC7E93C9410%7D/uploads/%7B6FED3285-FDD9-468B-B910-3174614DAA24%7D.PDF; Victor I. Vieth, *When a Child Stands Alone: The Search for Corroborating Evidence* 12(6) UPDATE (1999), http://www.ndaa.org/publications/newsletters/apri_update_vol_12_no_6_1999.html.

[237] Constance J. Dalenberg, *Fantastic Elements in Child Disclosure of Abuse*, 9 APSAC ADVISOR 1 (1996); Mark D. Everson, *Understanding Bizarre, Improbable and Fantastic Elements in Children's Accounts of Abuse*, 2 CHILD MALTREATMENT 134, 147 (1997).

viewer and the child, as well as upon the information that the child may provide. In conducting forensic interviews, professionals seek to provide children the opportunity to share their experiences. Utilizing the RATAC protocol, the task of eliciting the greatest amount of accurate information that a child is able to share occurs within the context of an interview conducted in a child-friendly, developmentally appropriate manner.

IV. STAGES OF THE CORNERHOUSE RATAC® FORENSIC INTERVIEW PROTOCOL

A. Rapport

Within the forensic interview setting, a forensic interviewer strives to allow a child to provide the most accurate, complete, and candid statements of his or her life experience. Naturally, building rapport with a child is required in a forensic interview. An interview that lacks rapport is unlikely to yield a child's optimal participation in an interview. The Rapport stage of the RATAC protocol defines this foundational process with three distinct, while interdependent, objectives. First, an interviewer should establish a child's *comfort* by being aware of and, more importantly, responsive to a child's individual needs within the interview setting. Second, an interviewer should become acquainted with a child's unique mode of *communication*, including language skills, emotions, and individual idiosyncrasies. Finally, an interviewer needs to assess the *competence* of each child being interviewed. Once rapport is established between a child and an interviewer, an interviewer will continue to evaluate and sustain the child's engagement throughout the interview process.

1. Establishing the child's comfort

An interviewer's first objective in Rapport is to establish a child's comfort within the interview setting. In order to provide each child with a supportive interview environment, CornerHouse interviewers

operate under two overarching philosophies: adhering to a *Child First Doctrine*[238] and acknowledging and respecting each child's diversity.

First, the interviewer's adherence to a *Child First Doctrine*, in which a child's needs are prioritized above the needs of an investigative system, is paramount. The interview process must be flexible and should attend to the comfort of each child. For instance, the interviewer's response to a child's desire to finish a drawing or to take a bathroom break may prolong an interview, yet doing so, more importantly, is respectful of a child's request. In other situations, adhering to a *Child First Doctrine* may require an interviewer to end the interview because of a child's display of significant emotion or a child's repeated verbal or behavioral insistence to leave the interview room. Protecting a child from trauma, or from further trauma, needs to be a primary goal during the interview.[239]

Second, it is crucial that interviewers acknowledge and respect the diversity of each child interviewed. With simple eloquence, linguist Anne Graffam Walker offers the practice standard, "We do not question children. We question one child at a time."[240] In order for the interviewer to pose appropriate, child-centered questions; the child's age; language or languages; gender; abilities; emotional state; family culture; and other factors need to be carefully considered. [241] More specifically, as Perona et al. encourage, "The interviewer should recognize the degree to which the child and family have assimilated into the dominant culture, the child's level of English proficiency, and cultural or familial norms that might conflict with the interviewer's ability to gain the child's trust, etc."[242] An interviewer's proactive and inclusive actions, such as having language interpreters available to assist in communication, or simply not making presumptions about a child's family composition, may send positive messages to a child

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[238] *See generally* CORNERHOUSE MANUAL, *supra* note 35.
[239] Yuille et al., *supra* note 124, at 100.
[240] *See generally* WALKER, QUESTIONING CHILDREN, *supra* note 37.
[241] Victor I. Vieth, *Cultural Sensitivity in the Forensic Interview Process*, 15 UPDATE (2002), *available at* http://www.ndaa.org/publications/newsletters/update_volume_15_number_1_2002.html; *see also* discussion *supra* Part III.A., entitled *A Developmentally Appropriate Approach* for more information.
[242] Perona et al., *supra* note 56, at 85.

that a forensic interviewer is welcoming of the child's unique life experiences.

The art of interviewing is customizing one's practice and the environment to fit the needs of each child who engages in a forensic interview. Creating a comfortable interview process for a child includes attending to the following key components: the interviewer's demeanor; the interviewer's awareness of and sensitivity to a child's affect; the interview setting; and the introduction of the interview process to a child.

a. Interviewer Demeanor

Throughout all stages of an interview, and especially during Rapport, a child needs to feel a level of comfort and genuine acceptance from the interviewer in order to share information about the child's life experiences.[243] Thompson and Rudolph wrote, "children are extremely sensitive to adult moods and can recognize insincerity or lack of concern quickly."[244] Therefore, an interviewer should be constantly and highly aware of his or her own verbal and nonverbal communication, particularly when a child's first impression of the interviewer is being developed. An interviewer should attempt to convey warmth by fully introducing herself or himself to the child, smiling frequently, using the child's preferred name, making frequent eye contact, speaking with a gentle tone, and sitting with a relaxed manner and open body position.[245] Additionally, displaying a friendly and calm demeanor, adjusting to the child's pace or limited attention span, and allowing for silence when appropriate are all ways that the interviewer can attend to a child's needs.

In efforts to build a child's comfort level, it is also recommended that an interviewer take every precaution to reduce the appearance that the interviewer has authority over the child. Research has dem-

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[243] GARBARINO ET AL., *supra* note 129, at 188-89.

[244] CHARLES L. THOMPSON & LINDA B. RUDOLPH, COUNSELING CHILDREN 31-32 (5th ed. 2000).

[245] Roger Collins et al., *The Effect of Rapport in Forensic Interviewing*, 9 PSYCHIATRY, PSYCHOL., AND L. 69, 76 (2002); *see generally* Perona et al., *supra* note 56; *see* Carter et al., *supra* note 70.

onstrated that children who were interviewed in a supportive manner were more likely to resist misleading suggestions than were those who were interviewed under intimidating circumstances.[246] Specifically, Collins et al. noted, "the interviewer's attitude can seriously affect the quality and quantity of information provided."[247] Based upon this research, interviewers are encouraged to make empathetic decisions regarding their professional dress and body language while in the presence of a child. A police uniform, a badge, a gun, or a professional business suit may have an intimidating effect on a child.[248] An additional way the interviewer can reduce perceived authority is to become "small" to the child. Simple acts of lowering one's voice, decreasing the pace in questioning, or mirroring the posture of a child to maintain eye contact can help the interviewer to appear less powerful to the child. The goal is for the interviewer and the child to achieve and maintain an equal position with one another in the interview setting.[249]

b. Interviewer awareness of and sensitivity to a child's affect

During Rapport, a child's comfort level can be enhanced if an interviewer is aware of and sensitive to a child's initial affect, as well as to any notable changes in affect thereafter. When observing a child's overall affect, an interviewer should remain objective and avoid drawing conclusions regarding a child's affect based solely on personal observations, beliefs, and values. A more appropriate approach would be for an interviewer to verbally reflect to the child the interviewer's observation of the child's affect and then ask the child for verbal clarification regarding the child's level of comfort or barriers to the child's comfort. Only then can an interviewer effectively re-

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[246] Carter et al., *supra* note 70, at 350; Collins et al., *supra* note 244, at 76; *see generally* Goodman, *Testimony, supra* note 71.
[247] Collins et al., *supra* note 244, at 76.
[248] Amy Russell, *Forensic Interview Room Set-up*, Fall 2004, HALF A NATION: THE NEWSLETTER OF THE STATE AND NATIONAL FINDING WORDS COURSES 1, *available at* http://www.cornerhousemn.org/images/ 7_2newsletter.pdf (last visited July 6, 2010). *See generally* Poole & Lamb, *supra* note 124.
[249] BOURG ET AL., *supra* note 44, at 44; STEINMETZ, *supra* note 124, at 14.

spond: by providing appropriately chosen statements of reassurance; employing empathetic listening, including the use of silence; or utilizing other alterations to the interview process to fit the child's particular needs.

An important reason for an interviewer to remain objective is that there are numerous possible reasons that could account for the affect a child appears to display. Consider the following example: an interviewer makes the observation that a child appears to display a reticent affect. Possible reasons to account for this child's affect include the following: the child may feel culpable because he or she believes that children only talk to adults when they have done something wrong; the child may feel anxious due to recent separation from his or her caregiver; the child may be concerned about missing a test at school; or the child may have recently been placed into foster care. In addition, children may be aware of why they are participating in the interview and may feel ambivalent or tentative about sharing their experiences of sexual abuse due to feelings of culpability, powerlessness, and shame, or because of feelings of love for the alleged offender.[250] It would be inappropriate and ineffective for an interviewer to make an assumption about the reason behind a child's affect and continue with this assumption throughout the interview. It is imperative that interviewers acknowledge the range of possible blocks that may impede a child's ability to engage in the interview process.

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[250] *See* Lucy Berliner & Jon R. Conte, *The Process of Victimization: The Victim's Perspective*, 14 CHILD ABUSE & NEGLECT 29, 37-38 (1990); Diana M. Elliott & John Briere, *Forensic Sexual Abuse Evaluations of Older Children: Disclosures and Symptomatology*, 12 BEHAV. SCI. & LAW 261, 276 (1994); David Finkelhor & Angela Browne, *The Traumatic Impact of Child Sexual Abuse: A Conceptualization*, 55 AM. J. OF ORTHOPSYCHIATRY 530 (1985); Kamala London et al., *Disclosure of Child Sexual Abuse: What Does the Research Tell Us About the Ways That Children Tell?*, 11 PSYCHOL. PUB. POL'Y & L. 194, 202 (2005); Lyon, *Speaking*, *supra* note 102, at 66-67; Teena Sorenson & Barbara Snow, *How Children Tell: The Process of Disclosure in Child Sexual Abuse*, 70 CHILD WELFARE 3, 5, 9-10 (1991); Summit, *supra* note 121, at 181.

c. Establishing a child-friendly interview setting

The characteristics of an interview setting can greatly impact a child's comfort level. An interview room or setting should generally appear child friendly, private, simple, and free of distractions.[251] The furniture chosen and its arrangement, the use of video-audio equipment, and other elements of the setting must be thoughtfully designed.

Comfortable and appropriately-sized furniture should be carefully chosen: chairs, couches, and an easel board with paper are suggested due to their functionality for children of every age as well as for adult interviewers.[252] The use of a table or desk may obstruct the space between the child and the interviewer, potentially causing the interviewer to appear authoritarian.[253] The furniture's placement is also important. An open furniture layout conveys to children that they control their own proximity to the interviewer. Specifically, this type of layout allows a child who is active or avoidant to move around the interview room in a manner most fitting the child's needs.[254] It is also important to keep in mind those children who have special needs and ensure that accommodations to the interview setting are available to meet each individual child's unique needs. For example, if interviewing a child who uses a wheelchair, an interviewer should ensure that the interview room furniture is arranged to appropriately accommodate both the child and the wheelchair before the child enters the interview room.

Technical details of interview rooms also need attention. Properly soundproofing the interview room is essential to ensure privacy and to minimize street and office noise.[255] Audio and video equipment should be as unobtrusive as possible.[256] Closed-circuit television and

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[251] POOLE & LAMB, *supra* note 124, at 36, 108; Saywitz, *Questioning, supra* note 45, at 17.
[252] Russell, *supra* note 247, at 2.
[253] BOURG ET AL., *supra* note 44, at 28.
[254] Perona et al., *supra* note 56, at 107.
[255] BOURG ET AL., *supra* note 44, at 196-97.
[256] *Id.*; John C. Yuille, *The Step-Wise Interview: A Protocol for Interviewing Children*, *in* INVESTIGATIVE INTERVIEWING: INSTRUCTORS' MANUAL (1999).

two-way mirrors can be used to enable other professionals to monitor the interview while staying out of the child's sight.[257]

Items available to children in the interview room also need to be considered. Neutral art supplies, such as black markers and white paper, rather than colorful clay or crayons, will generally foster less distraction. Items such as stuffed animals, toys, or posters with prevention messages should be eliminated from interview rooms in order to minimize distraction and to also display an unbiased, objective appearance. [258]

While CornerHouse recommends that the RATAC protocol be utilized in an interaction between a single interviewer and a child, it is acknowledged that, for various reasons, caregivers, additional investigating professionals, or other adults may also be present during an interview. Interviewers should be aware that in these situations, a child's comfort might be compromised, due to a child's need to attend to multiple adults' needs and perspectives. A situation in which CornerHouse does recommend the presence of multiple adults in the interview is when an interpreter is needed. In this situation, an interpreter acts solely as an extension of the interviewer. When multiple adults are present for an interview, appropriate room arrangement is important. Seating the interpreter next to the interviewer can reduce the child's need to shift eye contact across the room between the professionals.[259]

d. Orienting a child to the RATAC® interview protocol

A respectful introduction of the interview process can build a child's comfort when the child is placed in what is likely to be a new setting with an unfamiliar professional. An interviewer can offer child-friendly explanations about the interviewer's role and the roles of other professionals and can orient the child to the interview room.

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[257] Russell, *supra* note 247, at 3.; *see generally* APSAC, *supra* note 8.

[258] BOURG ET AL., *supra* note 44, at 27; *see also* Faller, *supra* note 123, at 51; POOLE & LAMB, *supra* note 124, at 115; Yuille et al., *supra* note 124, at 109.

[259] Barbara Hiltz & Jennifer Anderson, *Using Interpreters in Forensic Interviews*, 15 UPDATE (2002), *available at* http://www.ndaa.org/publications/newsletters/update_volume_15_number_12_2002.html.

While providing the introductory information, it is important that the interviewer listens to and observes the child's initial impressions of the interview process and attends to the child's needs as necessary.

An interviewer should provide the child with a brief introduction of him or herself and of any other professionals present, such as an interpreter. This child-friendly introduction may include the interviewer writing his or her name on a piece of paper and saying that it is his or her job to talk to children. If an interpreter is present, the interviewer should explain that the interpreter is there to help the child and the interviewer talk to each other because the interviewer speaks a different language than the child. If additional adults are present in the room, the interviewer may want to introduce them and then focus the child back to the interviewer as the primary communicator.

It is important for an interviewer to acclimate a child to the interview setting. An interviewer should provide honest, age-appropriate explanations of two-way mirrors, earpieces, or telephones used for communicating with the team and additional audio-video equipment. An interviewer should routinely provide information to the child about video recording of the interview and additional, unseen, interview observers. Research indicates that it is common for a victim of child sexual abuse to have feelings of betrayal.[260] A child who is not told about video recording may later feel betrayed by the interviewer, social services, or the legal system if he or she later discovers that a recording exists.

Throughout RATAC, interview instructions may be provided.[261] Such interview instructions can provide a child with helpful information regarding how the child and the interviewer will communicate within the forensic interview process. Given the time-limited nature of an interview, an interviewer must prioritize the child's needs, as compared to the value of providing extensive interview instructions. In the RATAC protocol, a distinct listing of interview instructions at the outset of an interview is not recommended; rather, it is recommended that instructions be practically applied. Most often, an inter-

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[260] Finkelhor & Browne, *supra* note 250, at 535.
[261] *See* discussion *supra* Part III.D.

viewer will provide an instruction as a natural situation arises, especially in the Rapport stage of the interview. For instance, when a child corrects an interviewer, the interviewer can follow the child's correction by praising the correction of the interviewer and encouraging the child to correct the interviewer again, if necessary. Other situations, such as a child verbalizing lack of understanding of a question or not knowing an answer are also opportunities for an interviewer to provide interview instructions.

Similar to conducting interview instructions as needed, the RATAC protocol also forgoes a standardized truth-lie discussion during the Rapport stage of the interview; rather, an interviewer may choose to invite a child to share information only about real experiences if the situation presents itself during the interview.

2. Establishing the child's communication

As a foundation for the remainder of the interview, a fundamental component of the Rapport stage of RATAC is a child sharing information with an interviewer. Therefore, it is essential that the forensic interview setting provides the opportunity for a child to communicate in the mode most comfortable for that particular child. Awareness of the multiple ways children communicate and appropriate use of communication techniques are both necessary for effective communication between an interviewer and a child in a forensic interview setting.

a. Three ways children communicate

During the Rapport stage, an interviewer should pay close attention to the child's communication through the child's language, behaviors, and emotions. Ideally, children will provide a thorough verbal account of their experiences in a forensic interview; however, in reality, most communication occurs through nonverbal behaviors or gesturing. Kodakos and Polemikos noted, "scientists in many disciplines know, feel, and appreciate the revealing role that nonverbal commu-

nication plays in the better understanding of an individual."[262] While it is essential that the interviewer listen carefully to a child's words, it is equally important that the interviewer attends to a child's facial expressions, gestures, posture, activity level, and other body language.[263] A child may communicate behaviorally, through quantity of eye contact, shuffling of feet, wringing, tapping, or fidgeting of hands, and other mannerisms. A child may indicate stress by exhibiting repetitive behaviors, such as rocking or hand-flapping.[264] Interviewers should note any emotional or behavioral responses, such as grief, anger, shame, anxiety, or laughter. It is particularly important to note if and when a child's verbal statements appear incongruent with what a child displays through his or her emotions or behaviors.

b. Children's unique communication styles

Children communicate in multiple ways. It is important to create an environment that encourages a child to communicate in a way in which he or she is most comfortable. This allows the child the opportunity to provide a more complete account than if the child were limited to merely verbal communication. Children's individual personalities and strengths should be utilized as resources during the interview. Some children are naturally more demonstrative and dramatic. Some children are more artistic and will prefer to draw and create. Some children will use highly descriptive vocabulary and present with the comportment of a storyteller. Other children may communicate while engaged in a tactile activity, such as when holding a marker or comfort item. Some children may share information spontaneously and in a chaining fashion. Interviewers need to attend to the unique manner in which each particular child is communicating during the Rapport stage, so that the child's most natural mode of communication becomes more visible to the interviewer. Then, when the child is asked later to expand on a topic that is more difficult to dis-

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[262] Anastassios Kodakos & Nikitas Polemikos, *Nonverbal Communication in Kindergarten: An Empirical Study* 132 (1998), *available at* www.fundp.ac.be/sciences/scphilosoc/prelude/manifestations/rhodes/actes/kodakos.pdf (last visited January 2, 2006).
[263] *Id.*
[264] *See* Perona et al., *supra* note 71, at 90.

cuss, such as a disclosure of abuse, the child's preferred communication mode can be utilized as a vehicle through which the child may share information.

c. Communication through the use of drawings

Drawings are utilized throughout RATAC, particularly during Rapport. Research and clinical experience have demonstrated drawings have multiple benefits in the Rapport stage of a forensic interview. Drawings can assist in building rapport with a child because drawing, typically, is an engaging activity and is an appropriate tool of communication with all ages of children.[265] Also, drawings can reduce the intensity of the interview process. Engaging the child in creating a visual work, like a drawing, can remove direct focus from the child; as a result, the child becomes more relaxed and information-gathering is enhanced.[266]

Incorporating drawings into an interview creates a natural opportunity for the interviewer to assess the child's competency.[267] While drawing, a child may independently correct the interviewer's spelling of a name or drawing of a family member and may spontaneously offer additional clarifying information.[268] The interviewer can use such situations as an opportunity to encourage the child to continue to correct the interviewer throughout the course of the interview.

For the above reasons, interviewers routinely use drawings in the Rapport stage of RATAC, doing so in two specific ways: the *Face Picture* and *Family Circles*. Drawing a picture of the child's face is one of the first child-centered tasks performed in the RATAC protocol. For this technique, the interviewer, the child, or both will draw a picture of the child's face. Through the interviewer's facilitation, the

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[265] Barb Hiltz & Grant Bauer, *Drawings in Forensic Interviews of Children*, 16 UPDATE (2003), *available at* http://www.ndaa.org/ publications/newsletters/update_volume_16_number_3_2003.html. *See generally* APSAC, *supra* note 8.

[266] HEWITT, *supra* note 38, at 210.

[267] *See* GARBARINO ET AL., *supra* note 129, at 224, 234, 237.

[268] *See* Sandra J. Altshuler, *Constructing Genograms With Children in Care: Implications for Casework Practice*, 78 CHILD WELFARE 777, 787 (1999).

child is encouraged to name the various features on his or her face. The intent of the drawing of the *Face Picture* is to convey to the child the message that he or she is the focus of the interview. Individual features such as braided hair, a missing tooth, a hat, or pierced ears are also included in the drawing. The intention is that a child will feel comfortable talking about these things and will then move into casual conversation about school, favorite activities, and so forth. The interviewer can utilize the *Face Picture* as an opportunity to observe and assess the child's competence and overall functioning, including motor skills, language, and cognitive skills. The interview can also utilize the *Face Picture* to check for the developmental skill of representational shift. Researchers have concluded that by the age of four, the majority of children should have developed their ability to see an object as a representation of themselves.[269]

The second use of drawings in Rapport is for the creation of *Family Circles*. For this technique, a child is asked about his or her family, and the interviewer makes a basic drawing of a face to represent each family member or significant individual that the child identifies. In addition to naming immediate family, children commonly identify extended family members and pets. *Family Circles* are another means to invite children to communicate about a familiar topic and continue building Rapport. It should be noted that the purpose of *Family Circles* is *not* to elicit the name of an alleged perpetrator.

3. Establishing the child's competence

During the Rapport stage of RATAC, interviewers should encourage the child to share information about his or her experiences in a way to maximize the child's abilities and demonstrate the child's individual competency. An interviewer can address this objective by sending the child a message that he or she is the expert in the room, by eliciting a narrative from a child, and by assessing a child's ability on developmental screening tasks.

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[269] Judy S. DeLoache, *Early Understanding and Use of Symbols: The Model Model*, 4 AM. PSYCHOL. SOC'Y 109 (1995) [hereinafter DeLoache, *Symbols*]; *see also* discussion *infra* Parts IV.B., D. *See generally* HEWITT, *supra* note 38.

a. Children are the expert in the interview setting

The interviewer's goal should be for the child to understand he or she is the expert on her or himself. In an ideal interview setting, the child feels comfortable enough to provide information in a narrative manner and does the majority of the communicating. A child who shares information with some hesitation can be gently reminded that there is no right or wrong answers in this particular adult-child interaction. The interviewer should take the position of being less knowledgeable than the child about topics.[270] As mentioned previously, an interviewer should avoid making assumptions about the child's experience. It is vital that interviewers are aware of their own individual biases surrounding ethnicity, sexual orientation, gender, age groups, family structure, education, socioeconomic status, and religion; interviewers should also understand how their biases may impact an interview.

b. Developmental screening

An interviewer must allow for a comprehensive display of a child's cognitive and language abilities in the Rapport stage. It is the interviewer's responsibility to conduct a developmental screening of a child in order to provide an environment that maximizes the child's competence and credibility. An interviewer should gently push at the competence of each child in order to obtain an approximate understanding of the child's cognitive, language, and social skills.

Interviewers should create natural opportunities for children to demonstrate competency; for example, an interviewer may create such an opportunity by having a child spell or write his or her name. Often, a young child may wish to draw with the interviewer, recite numbers, or identify letters of the alphabet, any of which can provide brief developmental information. Through these tasks, cognitive, motor, and social skills are assessed for young children.

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[270] *See* Ceci & Bruck, *Historial Review*, *supra* note 71, at 412-24; BOURG ET AL., *supra* note 44, at 67, 79.

During this screening, an interviewer will likely gather general information about a child's family members and home environment. It is important for the interviewer to get a sense of the child's home environment.[271] This is when a child may share that he or she splits living situations between a mother's and father's homes or that he or she is being cared for by a grandparent. While Rapport is not an appropriate time to probe for information about the sexual abuse allegations, an interviewer should be prepared to hear the child state the alleged offender's name during the course of listing family members. Research and clinical experience informs the field that in a majority of cases the alleged perpetrators are considered part of a child's immediate or extended family.[272] Based on CornerHouse's 2004 statistics, 60% of the nearly 600 children interviewed identified the alleged offender as a family member or relative.[273]

Throughout the above tasks within the Rapport stage, the use of multiple question types—ranging from indirect free or focused-recall to multiple-choice, to more direct questions such as yes/no questions—should be practiced to assess the child's abilities and prepare the child for question types used later in the interview.[274] Of particular importance, the interviewer should make multiple attempts to ask open-ended questions and invite narrative responses during Rapport. It is essential for school-age and adolescent children to have an opportunity to offer information on topics of interest to them, such as their friends, sports, music, or other hobbies, in addition to providing information about the more traditional topics of school and family.[275]

c. Invitation of children's narrative account

The invitation for a child's narrative account of his or her life experiences is a key component of all interviews with children. This single technique of inviting a child to "tell more" incorporates the

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[271] Perona et al., *supra* note 71, at 95.
[272] *See* Sorenson & Snow, *supra* note 249, at 6.
[273] CORNERHOUSE INTERAGENCY CHILD ABUSE EVALUATION AND TRAINING CENTER, ORIENTATION TRAINING (2004).
[274] *See* discussion *supra* Part III.C.
[275] YUILLE ET AL., *supra* note 124, at 105-06; *see generally* APSAC, *supra* note 8.

dual objectives of informing a child that he or she is the expert as well as of conducting a developmental screen.

Spending sufficient time in the discussion of general or non-stressful events allows the interviewer to observe the child's linguistic, cognitive, and social skills. Specifically, an interviewer can evaluate a child's vocabulary and sentence structure, which the interviewer can use to later mirror the child's communication style and language abilities.[276] Additionally, a child's narrative account can give the interviewer an approximate understanding of the kind of recall the child is able to convey for specific events.

The interviewer may assist and improve a young child's ability to talk about his or her experiences by practicing during Rapport: prompting the child with an open-ended question and then formulating and providing a narrative statement. Allowing the child to practice providing a narrative statement during Rapport may develop and further sharpen a child's retrieval strategies.[277] Thus, for younger children, this process may strengthen the child's ability to provide more candid and detailed accounts of abuse later in the interview. Myers et al. noted that by age eight to nine, children have developed their ability to recall experiences spontaneously and can use a variety of retrieval strategies without prompting from an interviewer.[278]

Asking about a topic in a general way provides an opportunity to model the format of the interview. Specifically, an interviewer displays the pattern of questions to be used throughout the interview, beginning with free-recall or opened-ended questions that will invite narrative accounts, and then following up with focused questioning, if necessary.[279] For instance, an interviewer may ask a child to tell about her- or himself, and the child responds by providing a narrative

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[276] *See* BOURG ET AL., *supra* note 44, at 64; Saywitz, *Bullying*, *supra* note 38, at 18; *see generally* APSAC, *supra* note 8; WALKER, QUESTIONING CHILDREN, *supra* note 37.

[277] Karen J. Saywitz et al., *Helping Children Tell What Happened: A Follow-up Study of the Narrative Elaboration Procedure*, 1 CHILD MALTREATMENT 200 (1996) [hereinafter Saywitz et al., *Helping*]; *see also* Sternberg et al., *Effects, supra* note 151, at 1141. *See generally* APSAC, *supra* note 8.

[278] Myers et al., *supra* note 122, at 9.

[279] Yuille et al., *supra* note 124, at 106-07; *see generally* Perona et al., *supra* note 71; Yuille, *supra* note 256.

account about listening to music. The interviewer may then follow up with a focused question about the child's favorite band. The objective is to encourage a child to use this type of communication pattern throughout the remainder of the interview.

When rapport is developed using open-ended questions that invite the child to speak freely, children who have experienced sexual abuse are more detailed in their subsequent disclosures.[280] Sternberg et al. concluded that children who were asked open-ended questions during the Rapport stage provided two and one-half times as many details and words than those children who were asked direct questions.[281]

B. Anatomy Identification

Anatomy Identification is the second stage in the CornerHouse RATAC protocol. This stage involves the use of anatomical diagrams. The purposes of the Anatomy Identification stage are to establish a very young child's ability to differentiate between genders and, for all ages, to establish a common language between the child and the interviewer regarding the child's names for body parts. Anatomical diagrams, along with other specific techniques, are used to accomplish these purposes.

Holmes and Finnegan extensively described the techniques used to accomplish the specific purposes of the Anatomy Identification stage in RATAC, and readers are encouraged to refer to this article as a resource for a specific review of the process.[282] For the purposes of this article, focus will be given to a discussion of the foundation that the techniques utilized in Anatomy Identification are based on and a review of research relevant to the practice of using anatomical diagrams for establishing gender differentiation and establishing a common language regarding the names for body parts.

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[280] BOURG ET AL., *supra* note 44, at 79-81; Sternberg et al., *Effects, supra* note 151, at 1142; Yuille et al., *supra* note 124, at 107-08.

[281] Sternberg et al., *Effects, supra* note 151, at 1140-41.

[282] Lori S. Holmes & Martha J. Finnegan, *The Use of Anatomical Diagrams in Child Sexual Abuse Forensic Interviews*, 15 UPDATE (2002), *available at* http://www.ndaa.org/publications/newsletters/update_volume_15_number_5_2002.html.

1. Introduction of the anatomical diagrams

CornerHouse's RATAC protocol endorses the use of detailed male and female anatomical diagrams that show front and back views of the body and are consistent in appearance with the age, ethnicity, and physical development of the child being interviewed.[283] Diagrams of both genders are always presented, regardless of the gender of the child or the alleged offender. To provide a transition from the Rapport stage, interviewers communicate the purposes of Anatomy Identification directly to the child with the introduction of the anatomical diagrams. For example, an interviewer may introduce the diagrams by saying, "Kids have all different names for body parts, and I want to know what you call different parts of the body." The importance and benefit of communicating the purpose of a tool or process to young children was well documented by DeLoache and Marzolf[284] and DeLoache et al.[285] An explanation of the interviewer's intended use of the diagram facilitates a child's use of the diagram as a symbol to name body parts. Although anatomical diagrams are generally used with children through age nine, the introduction and explanation of the anatomical diagrams and of the Anatomy Identification stage will vary based upon the child's age and developmental needs.

2. Gender differentiation

In the Anatomy Identification stage, the technique of *Gender Differentiation* is conducted in an effort to avoid an interviewer's making cursory assumptions about a young child's ability to differentiate

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[283] CORNERHOUSE INTERAGENCY CHILD ABUSE EVALUATION AND TRAINING CENTER, ANATOMICAL DIAGRAMS (2001) [hereinafter CornerHouse Diagrams]; A. NICHOLAS GROTH & THOMAS M. STEVENSON, JR., ANATOMICAL DRAWINGS: FOR USE IN THE INVESTIGATION AND INTERVENTION OF CHILD SEXUAL ABUSE (Forensic Mental Health Association, 1984).

[284] Judy S. DeLoache & Donald P. Marzolf, *The Use of Dolls to Interview Young Children: Issues of Symbolic Representation*, 60 J. OF EXPERIMENTAL CHILD PSYCHOL. 155 (1995).

[285] Judy S. DeLoache, *Dual Representation and Young Children's Use of Scale Models*, 71 CHILD DEV. 329 (2000) (*citing* DeLoache, DeMendoza & Anderson, 1999) [hereinafter DeLoache 2000].

between genders. When interviewing children up to the age of five, interviewers present both a male and a female anatomical diagram.[286] Children are asked to identify the "picture" [287] with body parts most like them and to identify themselves as a girl or a boy.

Responses to these questions clarify for the interviewer the child's ability to differentiate between genders. With very young children, the technique also serves as an opportunity to assess the child's developmental ability to use diagrams as a tool for naming body parts, and it provides helpful information to the interviewer for use in establishing what is developmentally appropriate for a particular child in order to conduct the interview in a developmentally appropriate manner.[288] Hewitt's work with very young children and anatomical dolls suggests that although dolls may be useful as a tool in naming body parts, children under the age of three or four may not, for developmental reasons, have the skills enabling them to use dolls as a symbolic representation of themselves.[289] Although in the RATAC protocol anatomical diagrams are used for *Gender Differentiation*, Hewitt's findings with anatomical dolls can be presumed to apply generally to the skill of representational shift and to its relationship with utilizing anatomical diagrams. Limited evidence suggests that utilizing anatomical diagrams as a representational tool for self may be more readily achieved by 3 and 4-year-olds. Bruck notes that in her study of 3 to 7-year-olds "even the youngest children . . .had achieved the necessary symbolic representational skills. . . ."[290]

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[286] CornerHouse Diagrams, *supra* note 283; GROTH & STEVENSON, *supra* note 283.
[287] When speaking directly to a child, the word "picture" is most appropriately used to refer to the anatomical diagrams.
[288] *See* discussion *supra* Part III.A.
[289] HEWITT, *supra* note 38. (This ability to see an object as a representation of oneself is referred to as representational shift.). *See* discussion *supra* Part IV.A.; *see also infra* Part IV.D.
[290] Maggie Bruck, *Human Figure Drawings and Children's Recall of Touching*, 15 J. OF EXPERIMENTAL PSYCHOL.: APPLIED 361, 366, 371 (2009).

3. Establishing a common language and naming body parts

The central purpose for the presentation of anatomical diagrams at this second stage is to facilitate identification of anatomy and to establish a common language between the child and the interviewer for communication about body parts. Using the diagrams to establish a common language allows children the opportunity to name body parts using their own words and circumvents the risk of interviewers making assumptions about a child's understanding, use, and intended meaning of the words the child uses to reference body parts. One researcher, Faller outlined the benefits of doll or diagram introduction for the purposes of conducting a body parts inventory.[291] These included the benefit of affording each child the opportunity to label anatomy with the child's own words or idiosyncratic terminology for body parts. Bourg et al. also noted that the process might assist in building rapport and with assessing the child's developmental abilities.[292] Further Raskin and Yuille note that "[w]hen used to check the child's labeling of body parts, showing the child drawings of nude pictures can be a useful aid in the interview process."[293] Anatomical models have also been viewed as an icebreaker, giving the child permission to communicate with comfort about private body parts and allowing the child to see that the interviewer is comfortable talking about private parts before any questions are asked about possible abuse.

The technique of *Naming Body Parts* is used with children through age nine during the Anatomy Identification stage; this occurs following *Gender Differentiation* for children through age five, and immediately after a transition from the Rapport stage for children ages six through nine. In *Naming Body Parts*, the interviewer presents diagrams of both genders and then begins with the diagram

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[291] Kathleen Coulborn Faller, *Anatomical Dolls: Their Use in Assessment of Children Who May Have Been Sexually Abused*, 14 J. OF CHILD SEXUAL ABUSE 1, 8-9 (2005) [hereinafter Faller, *Dolls*].

[292] BOURG ET AL., *supra* note 44, at 124.

[293] David C. Raskin & John C. Yuille, *Problems in Evaluating Interviews of Children in Sexual Abuse Cases*, *in* PERSPECTIVES ON CHILDREN'S TESTIMONY 184, 194 (Stephen J. Ceci et al. eds., 1989).

that matches the child's gender. Moving from head to toe on both the front and back views of the diagram, the interviewer indicates various body parts, which the child is asked to name. Inquiry begins with focused-recall, invitational questions, such as, "What do you call this part on the body?" Any word or words provided by the child are accepted as stated; there are no "wrong answers." The interviewer verbally repeats the child's words and writes the child's response onto the anatomical diagrams.

Emphasis is placed on allowing the child to use his or her own words. Saywitz et al. have endorsed the importance of understanding each child as an expert on her or himself.[294] The meaning that a child may attach to an object or concept may be different than an adult may attach. Therefore, the best practice in a forensic interview includes interviewers' avoidance of making assumptions about a child's words or of imposing their own words. When children are allowed to show or tell what they mean in their own words, rather than the interviewer's words, the likely result is enhanced consistency between the interviewer's understanding of a child's words (i.e., names for body parts) and the child's intended meaning of his or her words.

Schor and Sivan further demonstrated the importance of establishing a common language with a child regarding body parts in a study involving 144 children with an age range of three to eight.[295] They concluded that children tend to utilize unique words for sexually-related body parts (unique, even in reference to vocabulary utilized by an individual child's parents) and children often use one word as a reference to more than one sexually related body part. An interviewer's attention to both understanding a child's language and noting any limitations in the child's ability or willingness to name body parts, will minimize the interviewers assumptions about the child's language or experience, misinterpretation of the child's words, or suggestibility issues due to the introduction of information by the interviewer.

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[294] Saywitz, *Credibility, supra* note 70, at 68-73.

[295] David P. Schor & Abigail B. Sivan, *Interpreting Children's Labels for Sex-Related Body Parts and Anatomically Explicit Dolls,* 13 CHILD ABUSE & NEGLECT 523 (1989).

From a clinical perspective, the interviewer's understanding of the child's use of language is particularly critical to communication with very young children, with children who have developmental challenges, and with children who utilize words in their native or first language. The RATAC protocol takes each child's developmental functioning (e.g., verbal and cognitive skills) and emotional needs (e.g., sense of embarrassment, need to distance themselves from trauma-related conversational topics, or sense that some terminology may be inappropriate or disrespectful) into consideration by allowing the interviewer to use alternative, non-leading question types, if necessary, to facilitate children's naming of body parts. For example, an interviewer may ask a multiple-choice question with an open option.

Following Anatomy Identification, diagrams can remain visible to the child throughout the interview process and can often serve as a reference or as a demonstration aid later in the interview. Following the interview, the diagrams are retained in the file as a permanent record of the words the child used for body parts within the forensic interview.

4. Use of anatomical diagrams as a model or symbol

Although anatomical diagrams have been identified as the second most frequently employed tool used by forensic interviewers when interviewing children, they have rarely been studied systematically.[296] DeLoache reported extensive research in the 1990's and early 2000's specifically addressing young children's competence for utilizing cues.[297] This research, in practical application, is relevant to the nature or helpfulness of anatomical diagrams in a forensic process, such as in the RATAC protocol. Based on this work, the effective use of anatomical diagrams for gender differentiation and naming body parts with young children (ages three to five years) appears most closely tied to children's competence in the use of symbols and the degree to

[296] *See generally* Poole & Lamb, *supra* note 124 (discussing the state of forensic interview protocols).

[297] Judy S. DeLoache et al., *The Origins of Pictorial Competence*, 12 CURRENT DIRECTIONS IN PSYCHOL. SCI. 114 (2003) [hereinafter DeLoache, *Origins*].

which concrete, visual cues assist children in communicating their knowledge and experience.

Dual representation has been defined as "a mental ability to represent both facets of a symbol's dual reality, concrete and abstract, in relation to what it stands for."[298] In layperson's terms, and perhaps more helpful to the task of assessing a child's developmental ability to use symbols such as anatomical diagrams in the forensic interview, DeLoache et al. noted "[e]very symbolic artifact is an object in and of itself, and at the same time it also stands for something other than itself. To understand and use a symbol, *dual representation* is necessary."[299] Also, DeLoache et. al noted the inherent problems of using scale models with young children due to young children's inclination to respond to the model's physical reality. In essence, a child may become preoccupied or interested in the physical (concrete) model, decreasing its usefulness as a symbol (abstract model) for the child.[300]

It should be noted that dual representation as previously described by DeLoache et al.[301] does not necessarily equate to a child's ability to accomplish representational shift and is, in fact, distinctly different from representational shift. Representational shift, or the ability to see oneself outside oneself, appears to be a higher cognitive ability, beyond dual representation. As Holmes explained in regard to the use of dolls, representational shift is "the cognitive ability, generally developed between the ages of three and four, to understand that the doll is going to represent the child or another actual person, and is not an instrument for play."[302]

Experienced interviewers utilizing the RATAC protocol have found anatomical diagrams to be a helpful tool for children who possess the cognitive abilities of dual representation, representational shift, or both. The first opportunity to assess a child's ability for dual

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[298] *Id.* at 114-15 (*citing* DeLoache, Pierroutsakos & Troseth, 1996).
[299] *Id.* at 114.
[300] DeLoache 2000, *supra* note 285.
[301] DeLoache, *Origins, supra* note 297, at 114-15 (*citing* DeLoache, Pierroutsakos & Troseth, 1996).
[302] Lori S. Holmes, *Using Anatomical Dolls in Child Sexual Abuse Forensic Interviews*, 13 UPDATE 1 (2000), *available at* http://www.ndaa.org/publications/newsletters/update_volume_13_number_8_2000.html.

representation and for representational shift in RATAC occurs with the *face picture* during the Rapport stage. The *face picture* technique, as previously described, creates a symbol of the child in the interview room; the child's ability to view the picture as a likeness of himself or herself provides the interviewer with a sense of the child's abilities regarding dual representation and representational shift.

The introduction of anatomical diagrams for very young children provides children with the possibility of utilizing a diagram in several ways, but it depends upon the individual child's abilities. Consistent with the research by DeLoache et al.,[303] the utilization of diagrams in the RATAC protocol for establishing gender differentiation requires that a child utilize diagrams as a symbol to represent the body of a boy, a girl, or both. Assessing a very young child's ability to differentiate gender is facilitated through the use of the diagram as a dual representational model. For children with the cognitive ability of dual representation, the diagram can serve as a symbol of a male or female body for the child to use in naming body parts. For children who have the cognitive ability of representational shift, the anatomical diagram can be utilized as a direct representation of the child himself or herself.

Subsequent research with two-and-one-half-year-old children reported by DeLoache and Sharon suggested that in order to achieve dual representation with respect to a given symbolic object, children must avoid becoming captured by the symbolic object itself and keep in mind both the object and its referent.[304] Further, DeLoache and Sharon stated "the power of symbols derives from the fact that they are virtually never identical to their referents, thereby making it possible to use one to draw inferences about the other without risk of confusing them."[305] Anatomical diagrams, as used in RATAC, fit neatly within this description: the symbol of the anatomical diagram-a two-dimensional drawing-is not identical to its referent, the child. However, a child's ability for symbolic representation is considered depen-

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[303] *See generally* DeLoache, *Origins, supra* note 297 (explaining some of the specific ways in which young children and infants understand and relate to symbols).
[304] Judy S. DeLoache & Tanya Sharon, *Symbols and Similarity: You Can Get Too Much of a Good Thing*, 6 J. OF COGNITION AND DEV. 33, 34-35 (2005).
[305] *Id.* at 33.

dent upon the degree of closeness in appearance, or iconicity, of a symbol to its referent. It is this degree of closeness that allows a child to utilize the symbol as a representation of something else (dual representation), as a representation of himself or herself (representational shift), or both.

Related research carried out by DeLoache with two-and-one-half-year-old children suggests a young child's ability to treat a model as a representation of something other than itself (as a symbol) is best facilitated by minimizing the child's manipulation of the object.[306] Further research may lend insight as to the potential implications or benefits of the use of anatomical diagrams over the use of anatomical dolls for the specific purposes of gender differentiation and naming body parts. Using two-dimensional anatomical diagrams for these specific purposes restricts the child's opportunity to engage in play. At present, it appears that the utilization of diagrams in the RATAC protocol is not contradicted by the existing research.[307]

5. Use of anatomical diagrams as a cue

With particular regard to forensic interviews of young children, researchers and field practitioners have noted several benefits to providing tangible props to assist children in the interview process. For instance, Amacher specifically recommended "concrete cues for concrete thinkers;"[308] Ackerman noted the additional benefit of "concrete retrieval cues;"[309] and Ahlquist reported "the use of graphics facilitates communication and enhances memory, inviting children's knowledge and thus credibility."[310] Even more specifically, Aldridge

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[306] DeLoache 2000, *supra* note 285, at 335-36.

[307] *See generally id.* at 335; DeLoache & Marzolf, *supra* note 284, at 172; DeLoache, *Origins, supra* note 297; DeLoache & Sharon, *supra* note 304.

[308] Ethel Amacher, *Interviewing the Child Victim – Outline*, CHILD SEXUAL ABUSE INVESTIGATIONS: MULTIDISCIPLINARY COLLABORATIONS: AN INTERNET RESOURCE FOR FORENSIC INVESTIGATION OF CHILD SEXUAL ABUSE CASES 1, 1 (2001), University of Georgia Center for Continuing Education, *available at* http://childabuse.georgiacenter.uga.edu/both/amacher2/amacher2_1.phtml (last visited June 30, 2009).

[309] Pipe et al., *Research, supra* note 63, at 455 (*citing* Ackerman (1981, 1985)).

[310] ANN AHLQUIST, CHILD MALTREATMENT, DOMESTIC VIOLENCE & COGNITIVE

et al. found "systematic references to a concrete cue, the human figure drawing, were particularly helpful for younger children."[311] Everson and Boat cited studies by Jones; Swift and Johnson; Nelson and Ross; Price and Goodman; Salmon et al.; and Salmon and Pipe, which demonstrated visual cues and concrete props tend to evoke recall in young children more effectively than verbal cues or questions.[312] With regard to cues and props, Ahlquist deemed the process of naming body parts to be beneficial in narrowing the focus of the interview to the child.[313]

6. Timing of Anatomy Identification in the RATAC forensic interview process

Boat and Everson suggested a technique for assessing gender differentiation with young children that is similar to, yet more extensive than, the technique used in RATAC.[314] The protocol described in *Using Anatomical Dolls: Guidelines for Interviewing Young Children in Sexual Abuse Investigations* utilizes anatomical dolls rather than anatomical diagrams to assess a child's ability to differentiate between genders. It is one of a limited number of structured and semi-structured protocols that routinely introduces gender differentiation and naming of body parts immediately after rapport-building and before a disclosure of abuse. Boat and Everson noted their protocol was

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GRAPHIC INTERVIEW 63 (1997).

[311] Jan Aldridge et al., *Using a Human Figure Drawing to Elicit Information from Alleged Victims of Child Sexual Abuse*, 72 J. OF CONSULTING AND CLINICAL PSYCHOL. 304, 310 (2004).

[312] Mark D. Everson & Barbara W. Boat, *The Utility of Anatomical Dolls and Drawings in Child Forensic Interviews, in* MEMORY AND SUGGESTIBILITY IN THE FORENSIC INTERVIEW 383, 403 (Mitchell L. Eisen et al. eds., 2002) [hereinafter Everson & Boat, *Utility*] (*citing* Jones, Swift & Johnson, 1988; Nelson & Ross, 1980; Salmon, Bidrose & Pipe, 1995; Salmon & Pipe, 1997); Price & Goodman, *supra* note 161.

[313] *See generally* AHLQUIST, *supra* note 310.

[314] *See generally* BARBARA W. BOAT & MARK D. EVERSON, USING ANATOMICAL DOLLS: GUIDELINES FOR INTERVIEWING YOUNG CHILDREN IN SEXUAL ABUSE INVESTIGATIONS (University of North Carolina, 1986) [hereinafter Boat & Everson, *Dolls*].

specifically designed "to focus the child's attention in a non-directive or anxiety-provoking manner, on sexual issues and specifically, on the child's knowledge of and experiences with sexuality."[315]

Other well-established forensic interview models utilizing anatomical diagrams for the purpose of naming body parts, and introducing them directly following rapport, include the Child Sexual Abuse Interview (CSAI) protocol[316] and the Cognitive Interview Model.[317] The timing of and process for naming body parts in the forensic interview in both of these protocols are generally consistent with the timing and techniques employed in the Anatomy Identification stage of the RATAC protocol. The timing of the introduction of anatomical diagrams may be significant.[318] Bruck notes that errors were increased when anatomical diagrams were introduced at the end of an interview. Bruck recommends that, if used, it is best to introduce anatomical diagrams earlier in the interview. Bruck further suggests that using the diagrams to "assess children's knowledge of body part names" may be helpful. [319]

In the RATAC protocol, anatomical diagrams are used for the purpose of providing an anatomical model, symbol, or to use in the naming of body parts.[320] Not all protocols utilize diagrams for this purpose; however, many do use some type of representative object. The extensive use of anatomical dolls for the purpose of naming body

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[315] *Id.* at 15.

[316] *See generally* SHERRIE BOURG CARTER, CHILD SEXUAL ABUSE INTERVIEW (CSAI) (revised 2002).

[317] *See generally* RONALD P. FISHER & R. EDWARD GEISELMAN, MEMORY ENHANCING TECHNIQUES FOR INVESTIGATIVE INTERVIEWING: THE COGNITIVE INTERVIEW (Charles C Thomas Pub, 1992).

[318] Maggie Bruck, *Human Figure Drawings and Children's Recall of Touching*, 15 J. OF EXPERIMENTAL PSYCH.: APPLIED 361, 366, 370, 371 (2009); Deirdre Brown, Margaret-Ellen Pipe, Charlie Lewis, Michael Lamb, & Yael Orbach, *Supportive or Suggestive: Do Human Figure Drawings Help 5- to 7-Year-Old Children to Report Touch,* 75, 1 J. OF CONSULTING AND CLINICAL PSYCHOL. 33, 41 (2007).

[319] Maggie Bruck, *Human Figure Drawings and Children's Recall of Touching*, 15 J. OF EXPERIMENTAL PSYCHOL.: APPLIED 361, 366, 370, 371 (2009).

[320] *See* Amy Russell, *Out of the Woods: A Case for Using Anatomical Diagrams in Forensic Interviews*, 21(1) UPDATE (2008), *available at* http://www.ndaa.org/publications/newsletters/update_vol_21_no_1_2008.pdf.

parts has been well documented by Everson and Boat.[321] In a review of interview guidelines and protocols, Everson and Boat identified the utilization of anatomical dolls as an anatomical model in sixteen of the twenty protocols reviewed.[322]

The Anatomy Identification stage of RATAC, in forensic interviews with most children through the age of nine, occurs immediately following the stage of Rapport. Therefore, anatomical diagrams are regularly introduced early in the interview and are typically introduced prior to a verbal disclosure of abuse. Perspectives opposing the introduction of anatomical diagrams early in the interview, before a verbal disclosure, tend to focus on the timing of diagram use, the supposed inherent suggestibility of anatomical diagrams, or both.

7. Suggestibility issues

Unlike anatomical dolls, which have been researched in depth, anatomical diagrams have been used for years with little systematic evaluation.[323] Koocher et al. and Steward et al. reported on the literature related to speculation about the suggestiveness of anatomical models and the early work conducted in this area.[324] Following a review of studies utilizing anatomical diagrams, anatomical dolls, or both in assessing children's reports of genital touch in medical settings, Steward et al. appeared to suggest anatomical diagrams, due to

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[321] Mark D. Everson & Barbara W. Boat, *Putting the Anatomical Doll Controversy in Perspective: An Examination of the Major Uses and Criticisms of the Dolls in Child Sexual Abuse Evaluations*, 18 CHILD ABUSE & NEGLECT 113 (1994) [hereinafter Everson & Boat, *Controversy*].

[322] *Id* at 116.

[323] Jon R. Conte et al., *Evaluating Children's Reports of Sexual Abuse: Results From a Survey of Professionals*, 61 AM. J. OF ORTHOPSYCHIATRY 428 (1991); Mary E. Large, *The Interview Setting*, *in* MDIC HANDBOOK: A GUIDE TO THE ESTABLISHMENT OF MULTIDISCIPLINARY INTERVIEW CENTERS FOR THE INVESTIGATION OF CHILD SEXUAL ABUSE 13-1 (Kee MacFarlane, Volume 1, 1995).

[324] Gerald P. Koocher et al., *Psychological Science and the Use of Anatomically Detailed Dolls in Child Sexual Abuse Assessments*, 118 PSYCHOL. BULLETIN 199 (1995); MARGARET S. STEWARD ET AL., INTERVIEWING YOUNG CHILDREN ABOUT BODY TOUCH AND HANDLING (Monographs of the Society for Research in Child Development, Serial No. 248, Vol. 61(nos. 4-5) 1996).

their two-dimensional nature, may be less suggestive than anatomical dolls because diagrams do not invite exploration of orifices from curious children.[325]

In light of the limited research regarding the supposed inherent suggestiveness of anatomical diagrams with specific regard to their use in forensic interviews of children, expert opinions have frequently relied upon analogue studies.[326] Research remains limited, but there is some relevance to the appropriate timing and relative risks of introducing anatomical diagrams for the purpose of naming body parts before reaching the substantive portion of a forensic interview and prior to a disclosure of sexual abuse. In reality, very few interview strategies specifically employed for the purpose of moving a child *toward* the substantive portion of an interview are supported by research, compelling practitioners to rely on "agreement within the field" as to best forensic practices for interviewing children. For the objectives of this article's discussion regarding anatomical diagrams, it is perhaps helpful to recall that the purpose of the use of these diagrams during the Anatomy Identification stage in the RATAC protocol is limited to assessing a child's ability to differentiate between genders and establishing a common language for naming of body parts.

Recent work related to the use of anatomical diagrams *following* a verbal disclosure of abuse within a forensic interview employing the National Institute of Child Health and Human Development (NICHD) protocol has been accomplished through the efforts of Aldridge et al.[327] Regarding usefulness, anatomical diagrams were presented late in the interview, following extensive inquiry that resulted in a verbal disclosure.[328] The diagrams elicited an average of 18% of the total relevant details provided specific to the child's disclosure.[329] Aldridge et al. claimed that "introduction of drawings earlier in the interview is obviously not defensible in the field where the risk of contamination might jeopardize fact finding and intervention."[330] How-

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[325] STEWARD ET AL., *supra* note 324, at 125.
[326] Saywitz et al., *Memories, supra* note 120; Schor & Sivan, *supra* note 295.
[327] Aldridge et al., *supra* note 311, at 309.
[328] *Id*.
[329] *Id.*
[330] *Id.* at 310.

ever, Aldridge et al. failed to cite any research to support this claim, and the findings of their research were not demonstrative of this effect. In contrast to the concerns expressed by Aldridge et al., Faller noted that research does not indicate that anatomical dolls lead to false allegations of sexual abuse.[331] It appears there is a similar lack of research indicating that anatomical diagrams facilitate disclosure of private-part touching in children who have not had such experiences.

While the purposes of the Anatomy Identification stage in the RATAC protocol are limited to those previously described,[332] it is acknowledged that forensic interviews are themselves purposeful; they are conducted to gather information about a child's experiences, whatever those experiences may be. By its nature, a forensic interview typically must in some manner reach a position where the child has the opportunity to share his or her experiences. Multiple techniques, utilizing any variety of forensic interview protocols, have been proposed for approaching the substantive portion of a forensic interview. Despite these proposals, practicing clinicians and researchers have struggled to identify non-leading or non-suggestive methodologies that elicit verbal disclosures from young children. For example, some professionals may utilize techniques such as informing the child that the interviewer knows something, inserting information gained outside of the interview, specifically asking a child to tell the interviewer what the interviewer knows the child told someone else, or incorporating direct question types. Such strategies pose different, yet arguably significant, suggestibility issues.

Cautions regarding the "intrinsic suggestiveness" of anatomical diagrams (presented for any reason before a child's verbal disclosure) often rely upon the operational premise that anatomical diagrams are, in and of themselves, suggestive. Following that premise, the simple introduction of diagrams elevates the risk of suggestiveness and, presumably, of false disclosures of sexual abuse by non-victimized children.[333] However, some researchers have also concluded that anatomi-

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[331] Faller, *Dolls, supra* note 291.

[332] The purposes of Anatomy Identification in RATAC are to establish a common language for body parts and to establish a young child's understanding regarding gender.

[333] Koocher et al., *supra* note 324, at 217; *see generally* STEWARD ET AL., *supra*

cal diagrams "themselves did not appear to be inherently suggestive even though the figures were unclothed. . . ." [334]

An early publication by Lamb appears to be relevant to a discussion about the potential suggestiveness of the introduction of anatomical diagrams for the purpose of naming body parts; Lamb specifically referred to using anatomical dolls for the purpose of naming body parts.[335] Lamb stated, "In the context of investigation, these dolls may be helpful when used early in an interview to determine children's labels for certain body parts . . . . These uses are unlikely to pose any serious investigative difficulties, provided the interviewers avoid overly suggestive questions."[336]

The findings of two studies conducted by Brilleslijper-Kater and Baartman also appear pertinent to a discussion regarding whether detailed anatomical diagrams might be suggestive to young children.[337] Data from these studies indicated preschool children are generally limited in their sexual knowledge but can generally differentiate genitalia, gender identity, and sexual body parts, as well as their nonsexual functions. Based on their work with children who did not have a known history of abuse, Brilleslijper-Kater and Baartman further noted that "[c]hildren do not think sexually about the functions of the sexual body parts."[338] The studies' findings are also congruent with the clinical experience of Dr. Mindy Mitnick.[339]

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note 324.

[334] Deirdre Brown, Margaret-Ellen Pipe, Charlie Lewis, Michael Lamb, & Yael Orbach, *Supportive or Suggestive: Do Human Figure Drawings Help 5- to 7-Year-Old Children to Report Touch,* 75, 1 J. OF CONSULTING AND CLINICAL PSYCHOL. 33, 41 (2007).

[335] Michael E. Lamb, *The Investigation of Child Sexual Abuse: An Interdisciplinary Consensus Statement*, 3 J. OF CHILD SEXUAL ABUSE 93 (1994).

[336] *Id.* at 99.

[337] Sonja Brilleslijper-Kater et al., *Sexual Knowledge and Emotional Reaction as Indicators of Sexual Abuse in Young Children: Theory and Research Challenges*, 28 CHILD ABUSE & NEGLECT 1007 (2004) [hereinafter Brilleslijper-Kater 2004] (*citing* Brilleslijper-Kater and Baartman, 1997 & 2000); Sonja N. Brilleslijper-Kater & Herman E.M. Baartman, *What do Young Children Know About Sex? Research on the Sexual Knowledge of Children Between the Ages of 2 and 6 Years*, 9 CHILD ABUSE REVIEW 166 (2000) [hereinafter Brilleslijper-Kater & Baartman 2000].

[338] Brilleslijper-Kater 2004, *supra* note 337, at 1013 (*citing* Brilleslijper-Kater &

Aldridge et al. found that diagrams "helped investigators to elicit forensically important information from alleged victims after the interviewers believed that they had already exhausted the children's memories."[340] The researchers also found diagrams helpful as a concrete retrieval tool for eliciting substantial amounts of information from young children. Although they concluded that the quality of the information may have been compromised due to both the type of verbal prompts and the way verbal prompts were utilized to elicit the additional information. Reporting on this same study, Aldridge et al. acknowledged difficulty in eliciting verbal disclosures from young children through the exclusive use of free-recall invitations, without employing other question types like recognition memory prompts and yes/no question formats.[341]

Based on the research-oriented literature reviewed to date, it appears that, regardless of when anatomical diagrams are introduced, the risk for suggestiveness associated with diagrams appears most closely tied to the type of questions or prompts that are paired with the introduction of the diagrams. Consequently, to minimize issues of suggestiveness, forensic interviewers should rely as much as possible on free-recall prompts, as opposed to yes/no or forced-choice questions, when introducing and utilizing anatomical diagrams .[342]

It is acknowledged that professionals in the fields of research and clinical practice enjoy the freedom to render or reserve opinion about the suggestiveness or appropriate use of anatomical diagrams. However, it seems clear that research is lacking to either refute or support the use of anatomical diagrams within a forensic interview setting. This is particularly true of specific research regarding the use of anatomical diagrams as utilized within a protocol, such as RATAC, where their introduction occurs within the purposeful confines of Anatomy Identification prior to a verbal disclosure of abuse. Such

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Baartman, 1997 & 2000).

[339] Personal communication with Mindy F. Mitnick (November 16, 2006).

[340] Aldridge et al., *supra* note 311, at 309.

[341] *Id.* at 307-09; *see also* discussion *supra* Part III.C.

[342] Aldridge et al., *supra* note 311 at 310; Everson & Boat, *Utility*, *supra* note 312 at 384; Michael E. Lamb et al., *Conducting Investigative Interviews of Alleged Sexual Abuse Victims*, 22 CHILD ABUSE & NEGLECT 813 (1998).

research is both anticipated and warranted, and any study in this regard should specifically examine issues of suggestiveness related to this purposeful use of anatomical diagrams. Well-intentioned professionals, yearning to understand and accurately elicit children's experiences, will encourage additional research in this area.

8. Conclusion

The Anatomy Identification stage of the RATAC protocol seeks to achieve the purposes of establishing a common language regarding body parts and, for young children, establishing a child's ability to identify gender; both can be valuable to the interviewer conducting the forensic interview and to the child sharing his or her experiences. As has been discussed, anatomical diagrams are an integral tool in accomplishing these purposes. Although clinicians and researchers have raised concerns regarding the assumed intrinsic suggestiveness of anatomical diagrams, as well as the timing of naming body parts within a forensic interview, the research reviewed does not appear to confirm such concerns. Research does appear to support the use, when developmentally appropriate, of diagrams as a symbol, both in regard to the ability of children to use diagrams in this manner as well as the potential benefit of diagrams in eliciting details of children's experiences.

The clinical practice of CornerHouse staff includes an extensive history of utilizing anatomical diagrams within the RATAC protocol for the purpose of gender differentiation and the naming of body parts, occurring immediately following rapport-building. Although clinical practice appears to support interviewer confidence for both the timing and the context of introduction of anatomical diagrams as occurs in the Anatomy Identification stage in RATAC, suggestibility issues can and should be considered and evaluated within the context of the entire forensic interview. Practice, which relies on the integrity and ability of trained forensic interviewers, should balance research findings and clinical experience with meeting the needs of children.

C. Touch Inquiry

1. Broaching the topic of concern

In any forensic interview, the interviewer's method of approach to the topic of concern affects the child's opportunity to tell of his or her experience and also has implications for the overall forensic integrity of the interaction. With every child, the interviewer must attempt to find a delicate balance, asking the most indirect questions possible while accommodating the limitations of the individual child–due to development, possible trauma, or social mores–that may hinder the child's ability to report his or her experience. There are a myriad of approaches that can effectively be used as tools to intensify the focus of inquiry in a way that is forensically sound and developmentally appropriate. Despite specific differences in technique, style, and focus, most experts and investigators alike agree that "because of uncertainties about children's developmental level, their motivation to disclose abuse, and their understanding of why they are being interviewed, the investigator must be ready with multiple non-leading options to facilitate communication."[343]

In RATAC, CornerHouse teaches and practices a specific technique and method for inquiry about touch. Interviewers begin Touch Inquiry by asking about touches the child "likes" or are "okay" with, and then follow up with questions regarding possible unwanted or confusing touch. This type of query is supported by experts in the field such as Anne Graffam Walker, who wrote, "[A]sking if the child gets kisses . . . who kisses him, and where, is one way to move from the specific to the general ("touch") in a non-suggestive way that may lead to better communication of the facts."[344] Touch Inquiry, often serving as the third stage in the RATAC protocol, is one avenue to approach the topic of concern. However, the purpose of the Touch Inquiry stage of an interview is to "assess the child's ability to under-

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[343] Kathleen J. Sternberg et al., *Using a Structured Interview Protocol to Improve the Quality of Investigative Interviews, in* MEMORY AND SUGGESTIBILITY IN THE FORENSIC INTERVIEW 409, 423 (Mitchell L. Eisen et al. eds., 2002).
[344] WALKER, QUESTIONING CHILDREN, *supra* note 37, at 37.

stand and communicate about touch."[345] Touch Inquiry is not simply for the purpose of asking about the specific allegation at hand, nor is it conducted merely to prompt a disclosure. Touch Inquiry serves to further the interviewer's understanding of the child's communicative ability in regards to "touch." The interviewer invites the child to define a type of touch, to identify from whom the touch is received, and to indicate the part of the child's body that is touched. The intent is to first ask about conventionally innocuous types of touch common to all people. Children may offer information about hugs and kisses from caregivers or "high-fives" from peers.

a. Introducing the topic of inquiry

Some protocols recommend that interviewers start by asking a child about what has brought him or her to the interview. The CornerHouse RATAC® forensic interview protocol recognizes the utility of this approach, when developmentally appropriate and when rapport has been sufficiently built. Techniques used in RATAC may include posing the question, "What do you know about coming here today?" immediately following rapport-building. However, the tasks of the Anatomy Identification stage[346] and query regarding touch will likely precede this type of questioning for children who are younger, those who think concretely, or for those who likely do not have extensive information regarding the nature of the forensic interview.

While some interviewers appear wary of introducing the topic of inquiry, "most interviews involve . . . non-leading questioning about possible genital touch."[347] Poole and Lamb noted that questions about touch might be among the most common in investigative interviews.[348] Given this commonality in interviewing, some practitioners and protocols adopt this type of questioning as a routine component of the interview process. Of particular note in this regard is the use of Hewitt's Touch Survey, a structured format to screen for possible abuse that "has been accepted as evidence during testimony in Min-

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[345] CORNERHOUSE MANUAL, *supra* note 35, at RATAC-4.
[346] *See* discussion *supra* Part IV.B.
[347] HEWITT, *supra* note 38, at 226.
[348] Poole & Lamb, *supra* note 124, at 163.

nesota courts."[349] While the Touch Survey was initially designed as a component of a larger psychological evaluation of a child, it has been incorporated into forensic interviews.[350] For example, the Childhood Trust forensic interview training program, directed by Erna Olafson, teaches a modified version of Hewitt's Touch Survey, where the interviewer inquires about "hugging, tickling, spanking, hitting, and private touching."[351] Similarly, the National Children's Advocacy Center's extended forensic evaluation model also addresses inquiry regarding touch by stating that "[i]n the fourth component of the protocol, the topic of touching and body parts terminology are addressed. The child's experiences of different types of touching are explored."[352] The Step-Wise protocol offers a similar technique to introduce the topic of concern where "the child is asked to name [each body part] and describe its function. When the genitals (or anus) are described, the interviewer can ask if the child has seen this part of another person, and/or who has seen or touched this part of the child. The same procedure is then repeated for the drawing of the other gender."[353]

CornerHouse's RATAC protocol incorporates inquiry regarding touch because the experience of CornerHouse clinicians indicates that it is an effective, and often necessary, way to explore the topic of concern. It is the role of the forensic interviewer to "elicit a complete and accurate a report"[354] and "to collect the facts of the case."[355] To

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[349] HEWITT, *supra* note 38, at 227.

[350] Lindsay E. Cronch et al., *Forensic Interviewing in Child Sexual Abuse Cases: Current Techniques and Future Directions*, 11 J. OF AGGRESSION AND VIOLENT BEHAV. 195 (2006).

[351] Julie Kenniston & Erna Olafson, *Feelings Faces and Touch Survey Instructions*, THE CHILDHOOD TRUST FORENSIC INTERVIEWER TRAINING 177 (Aug. 2004).

[352] Connie Nicholas Carnes et al., *Extended Forensic Evaluation When Sexual Abuse is Suspected: A Model and Preliminary Data*, 4 CHILD MALTREATMENT 242, 246 (1999).

[353] John C. Yuille et al., *Interviewing Children in Sexual Abuse Cases, in* CHILD VICTIMS, CHILD WITNESSES: UNDERSTANDING AND IMPROVING CHILDREN'S TESTIMONY 95, 107 (Gail S. Goodman & Bette L. Bottoms eds., 1993).

[354] *See generally* APSAC, *supra* note 8.

[355] Nancy E. Walker, *Forensic Interviews of Children: The Components of Scientific Validity and Legal Admissibility*, 65 LAW AND CONTEMPORARY PROBS. 149, 151 (2002).

do so in a developmentally appropriate way often necessitates inquiry about touch when that is the topic of concern. While some interviewers fear asking about touch as categorically leading or suggestive of sexual abuse, CornerHouse interviewers would argue this position is based on an adult perspective that may be wholly irrelevant to the children with whom interviewers converse. For example, from a child's perspective, it may not be at all uncommon to be asked questions about his or her body, or even genitalia. If children, particularly young children, are sexually naïve, it is unlikely that they would associate a discussion of genitalia with sexual acts, because they would have no frame of reference for this association. Therefore, the hypothesis that a discussion of touch or of body parts is suggestive of sexual abuse is one based on adult assumptions and application of adult thinking, rather than one that is developmentally and contextually appropriate regarding interviews with sexually naïve children.

Research and expert opinions appear to support the frequent need for some specific questioning. For example, "children's reports in any one context may be imperfect indicators of what is stored in memory. . . . [C]hanges in various aspects of the context, including mode of inquiry, may very well result in different estimates of children's abilities to remember."[356] Given these limitations, the use of specific questions can help young children perform better on memory tasks.[357] Hewitt noted young children in particular need "'scaffolding' to help them present what they know."[358] This scaffolding can provide needed retrieval cues and a framework for questions developmentally necessary for many children. In use of the RATAC protocol, some of this scaffolding may manifest via sequence through the natural progression from the stages of Anatomy Identification to Touch Inquiry. This succession may serve to equip particularly young children with immediate recall from which to draw when questioned about their experiences; reliance on the anatomical diagram as a visual cue and additional modality further serves to clarify and augment communication.

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[356] Peter A. Ornstein et al., *Children's Memory for Medical Experiences: Implications for Testimony*, 11 APPLIED COGNITIVE PSYCHOL. S87, S99 (1997).
[357] *Id.* at S87.
[358] HEWITT, *supra* note 38, at 227.

Research also demonstrates children may not offer information about possible genital touch unless asked, as was shown in a study conducted by Saywit et al.[359] In this study, children between the ages of five and seven received a standard medical examination that included a vaginal and anal examination. Following the exam, in response to free-recall questions, 78% of the children did not report a vaginal touch, and 89% percent did not report anal touch. However, the majority of children did report both types of touches when direct questions were paired with pointing at the body parts on an anatomical doll. In a comparison group of children who received a standard medical exam that included a scoliosis exam (rather than a vaginal/anal exam), none of the children falsely reported vaginal or anal touch in response to open-ended questioning. With direct questioning, only one child erroneously reported a vaginal touch, only two children erroneously reported an anal touch, and only one child followed up this report with details. In their discussion of these results, Saywitz et al. opined:

> [A]wareness of others' reactions to nudity and genital touch . . . can reduce motivation to report genital contact to unfamiliar adults . . . . Direct questions about genital touch not only provide memory cues but also social cues . . . . [B]y the very nature of the questions the interviewer implicitly gave permission to talk about something that children may not have been socialized to discuss with strangers.[360]

In an additional study, following a staged event where children were touched by a photographer seven times, only 4 of 79 children reported being touched; researchers speculate reports may have been poor due to the length of delay and nature of touches.[361] Further, children who denied touching that occurred in the context of a magic show later

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[359] Saywitz et al., *Memories, supra* note 120, at 682.
[360] *Id.* at 689.
[361] Deirdre Brown et al., *Supportive or Suggestive: Do Human Figure Drawings Help 5- to 7-Year-Old Children to Report Touch,* 75, 1 J. OF CONSULTING AND CLINICAL PSYCHOL. 33, 35, 36, 39 (2007).

explained they had "forgotten," that the act was not a "touch," or provided no explanation at all.[362]

It is clear from the results of this study and others that the reasons children have for withholding abuse disclosures are well documented, yet remain innumerable, further indicating the need for sensitive yet thorough inquiry into the experiences of children who have made an allegation of abuse.

b. Developmental Need for Specific Inquiry

Adults understand the abstract concept of "touch" as inclusive of many kinds of contact. However, it is important to recognize children under age seven may have a concrete and limited understanding of the word *touch*,[363] which may, in turn, impact their understanding of and response to related inquiry. This lack of understanding could result in false negatives. For example, a child who understands touch to be contact from a hand may deny being touched if the contact to the child's body was something other than a hand. Furthermore, young children, whose primary life experience is intra-familial, and otherwise limited, commonly possess an esoteric set of language with which to describe their world.[364] One study shows that preschool children often do not categorize actions such as "kissing, biting, licking, and giving 'raspberries' to be instances of touch."[365]

It is imperative that interviewers consider these nuances of language to avoid limiting the child's report or making assumptions about the child's statement. In the clinical experience of CornerHouse interviewers, it is not uncommon for a child to deny touch but later to report contact that adults may categorize under the broad category of touch, such as kissing, licking, humping, rubbing, or "putting" a body part on or in another's body. In a forensic setting, an interviewer's conclusion that such responses are errors or inconsistencies on the

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[362] Maggie Bruck, *Human Figure Drawings and Children's Recall of Touching*, 15 J. OF EXPERIMENTAL PSYCHOL.: APPLIED 361, 369, 371 (2009).
[363] *See* WALKER, QUESTIONING CHILDREN, *supra* note 37, at 159.
[364] *See generally* STEWARD ET AL., *supra* note 324.
[365] Patricia Y. Hashima et al., *What Does "Touch" Mean to Young Children?: An Empirical Study*, 67 PERCEPTUAL AND MOTOR SKILLS 683, 690 (1988).

part of the child is demonstrative of how adult assumptions may contaminate the statements of children. Entertaining the possibility that these apparent inconsistencies are a result of linguistic imprecision better serves the intended purpose of the forensic interview, which is to learn more from the child about his or her experience. In the words of Anne Graffam Walker, "an act does not cease to be an act if the words used to describe it are not mutually understood; nor does it become a lie."[366]

2. Process of conducting Touch Inquiry in RATAC

CornerHouse's Touch Inquiry phase dictates that the child, not the interviewer, identifies the places where touches are or are not okay, thus circumventing any suggestibility issues that may arise from the interviewer communicating his or her own evaluative judgments in this regard. As previously stated, the interviewer invites the child to define or name a touch, to identify who gives the touch, and to indicate the part of the child's body that is touched. This process is consistent with Hewitt's Touch Survey, where the interviewer introduces different types of touches and asks the child about "who" and "where."[367] Hewitt's Touch Survey was subject to research that compared the results obtained through using the Touch Survey with the results of full investigative evaluations.[368] This research indicated no false positives resulting from the use of the Touch Survey.[369] The Touch Survey is more focused than CornerHouse's Touch Inquiry; since even the Touch Survey did not generate false positives, one could extrapolate that Touch Inquiry also would not generate false positives.

As in Hewitt's Touch Survey technique,[370] interviewers conducting Touch Inquiry might ask specifically about genital touch if it be-

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[366] WALKER, QUESTIONING CHILDREN, *supra* note 37, at 36-37.
[367] *See generally* HEWITT, *supra* note 38.
[368] Sandra K. Hewitt & Alice A. Arrowood, *Systematic Touch Exploration as a Screening Procedure for Child Abuse: A Pilot Study*, 3 J. OF CHILD SEXUAL ABUSE 31 (1994).
[369] HEWITT, *supra* note 38, at 238.
[370] *Id.*

comes appropriate as an interview progresses. While "there is no evidence . . . that simply asking a child if there has been touching in the genital area results in false positive statements,"[371] this inquiry can be an area of concern in a forensic interview because these questions have increased potential to be suggestive. Interviewers are cautioned to be cognizant of the implications of these types of questions asked in a forensic interview[372] and to ensure questions asked meet community standards. It should be noted that questions about genital touch should be presented in the same format as other touch-related questions.[373]

Following some verbal assessment of the child's ability to communicate about touch, the interviewer may more extensively use the anatomical diagram that most resembles the child to inquire about places on the body or parts of the body where the child does not wish to be touched. The child is invited to identify these places using the diagram, the child's own body, or through verbal communication. This type of touch-related focused-recall questioning utilized in RATAC, facilitated by the use of aids, is less direct than the technique used by Saywitz et al. in their previously discussed study,[374] where errors of omission drastically decreased through the use of aids without a commensurate increase in errors of commission. In the Saywitz et al. study, children were prompted with an undressed anatomical doll and asked by researchers, "Did that doctor touch you there?" while the researcher pointed to the doll's vagina. This practice proved effective, prompting disclosure from 86% of the children in the sample who had received genital touch.[375]

a. Alternative Questioning

Exploratory query within the RATAC protocol is not limited to asking about contact to the child's body. As is also recommended by

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[371] *Id.* at 228.
[372] *See* discussion *supra* Part III.C.
[373] *See generally* HEWITT, *supra* note 38.
[374] Saywitz et al., *Memories, supra* note 120, at 684.
[375] *Id.*

other professionals,[376] interviewers using RATAC routinely screen for touches to another person's body, either during the Touch Inquiry stage as part of an exploratory phase of the interview, or later in the interview process if a disclosure has occurred within the interview. Interviewers will additionally explore types of contact and behaviors outside the confines of the concept of *touch*, such as other descriptors for contact or exposure to pornography. Other aspects of an alleged event or relationship may be salient for a child, such as the experience of telling, a visit to a doctor, or a visit to another professional subsequent to the events of interest, as well as memories of particular places, people, or feelings; all of these topics may be the focus of inquiry. Interviewers are cautioned to escalate inquiry gradually and incrementally as necessary.

As previously detailed, it is recommended that, to the extent the child is developmentally able to respond, direct questions should be followed by indirect questions.[377] Given that some direct questions may be necessary, every forensic interviewer and multidisciplinary team must make a concerted decision regarding the degree to which query can and should be focused, and the extent to which outside information can permissibly be brought into the interaction by the interviewer. This decision must be based on local practice and laws as well as idiosyncratic factors such as the child's personal experience, mental health concerns, imminent risk to the child, and suggestibility.

Strategies recommended for decreasing suggestibility in interviews include reducing the interviewer's perceived authority as well as refraining from the formation of preconceived ideas and suspending a presumption that pre-interview information is accurate.[378] Interviewers are cautioned against routinely adding information to an interview in a way that implies or presumes the omnipotence of the interviewer. Therefore, interviewers should generally avoid phrases that begin, "I understand something happened . . ." or "I heard . . .," as these arguably imply the interviewer's prior knowledge of the child's experience. Clearly, the entire purpose of the forensic interview is to garner details of the child's experience from the source

[376] *See* HEWITT, *supra* note 38.
[377] *See* discussion *supra* Part III.C.
[378] Reed, *supra* note 155, at 112, 113.

while minimizing contamination; consequently, questions implying prior knowledge are generally contrary to this purpose.

3. Conclusion

When children have made some type of apparent disclosure, the RATAC protocol suggests the interviewers should move to an information gathering stage, Abuse Scenario. Although children should be given many opportunities to tell of any experiences they may have had, and the topic of inquiry should be broached in multiple ways, when children do not make a report indicative of possible abuse, the interviewer is encouraged to move to the Closure Phase of the interview process.

D. Abuse Scenario

The purposes of the Abuse Scenario stage of RATAC are to allow children to provide the details of any abuse experiences they may have had and to explore alternative hypotheses or explanations for statements made by the child. As logic would dictate, forensic interviews will only include an Abuse Scenario stage if, within the interview, a child discloses events that appear abusive in nature. Team members must thoroughly consider what details should be sought from a child if abuse is disclosed, and they should consider and explore alternative explanations when appropriate. Interviewers must understand the multifaceted perspectives of law enforcement, child protection, and prosecuting attorneys; they must balance the needs of each perspective while still abiding by a child-first principle.

1. Learning about the child's experience

The primary purpose of the Abuse Scenario stage is to gather the most pertinent details of a child's experiences. Interviewers can attempt to organize interviews to accomplish this goal. Structuring interviews within the RATAC protocol will be discussed in this section; prior to this discussion, it is important to revisit the Process of Inquiry. Because forensic interviews are truly about giving children the

opportunity to tell about their experiences, it is essential that interviewers understand and appropriately apply the Process of Inquiry and conduct the interview with the considerations necessary to utilize a developmentally appropriate approach.[379] Doing so is essential to provide children with the best opportunity to communicate more completely and accurately.

a. Structuring inquiry

Children are unique, and not every child who discloses abusive acts will be able to give an organized, structured report during the Abuse Scenario stage.[380] For example, young children may not be able to give chronological reports; rather, they may provide details in a scattered manner. As Hewitt stated, "young children do not have the organizational strategies available to adults . . . they still do not usually structure their information with a beginning, middle, and end sequence."[381] Interviewers can attempt to provide structure to children's reports during forensic interviews through both the questions they ask and the techniques they employ. In doing so, both the interviewer seeking and the child reporting details are more thorough and complete. How to appropriately provide structure will depend on the age, abilities, experiences, and cultural influences of the child being interviewed.

Providing structure to children's reports during interviews may be beneficial in facilitating children's recall. Before an interviewer attempts to provide structure in an interview, it is important to allow children of all ages to recall as much narrative information as they can immediately following disclosure. This is accomplished by a simple invitation such as, "Tell me all about that," or "And then what happened?" or "Tell me everything you remember." It is important to continue to ask these types of questions until a child's free-recall memory is exhausted.[382] With young children, free-recall narratives are likely to be limited; however, with older children, much informa-

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[379] *See* discussion *supra* Parts III.A. & C.
[380] *See* FIVUSH, *supra* note 147; WALKER, QUESTIONING CHILDREN, *supra* note 27.
[381] *See generally* HEWITT, *supra* note 38.
[382] BOURG ET AL., *supra* note 44, at 79.

tion can be gathered before the use of direct questions becomes necessary. Older children can usually provide "longer more fully elaborated and hierarchically organized responses spontaneously."[383]

After a child's free-recall memory is exhausted, the interviewer will follow with questions seeking detail or clarification. An early question the interviewer may ask is whether the alleged incident occurred one time or more than one time. If a child indicates that there was more than one incident, organizing the child's report might take the form of the interviewer asking questions about the first and last incidents, the most clearly remembered incident, or an incident that was somehow different.[384] This requires an invitation such as, "Tell me about the first/last time that happened," or "Was there a time that happened somewhere else?" or "Was there a time that was different?" It is important to note that structuring an inquiry in this manner will probably not prove useful with preschool children, as they are more likely to focus on routines, what usually happens, or memory "scripts."[385] However, this technique is generally effective with older children.[386] As Fivush described, "with increasing experience, the script fades into the background, and children begin to focus on the unusual aspects of events. They can now report a more interesting story about past experiences, focusing on what was unusual, distinctive, and ultimately memorable about each event."[387]

Regardless of a child's age, however, interviewers can attempt to provide structure to a child's report by asking a child to tell about an experience from the very beginning to the very end.[388] Interviewers can invite the child to "tell me all about that" or "tell me everything you remember."[389] Identifying and inquiring about specific time-

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[383] Saywitz et al., *Helping, supra* note 277, at 201.

[384] MARCIA MORGAN, HOW TO INTERVIEW SEXUAL ABUSE VICTIMS: INCLUDING THE USE OF ANATOMICAL DOLLS (Sage Publications,1995); Erna Olafson, *Children's Memory and Suggestibility*, *in* INTERVIEWING CHILDREN ABOUT SEXUAL ABUSE 10, 26 (Kathleen Coulborn Faller ed., 2007). *See generally* BOURG ET AL., *supra* note 44; Poole & Lamb, *supra* note 115; Sternberg et al., *supra* note 343.

[385] FIVUSH, *supra* note 38, at 18.

[386] *See* discussion *supra* Part III.A.2.a.

[387] FIVUSH, *supra* note 38, at 18.

[388] *See generally* Poole & Lamb, *supra* note 124.

[389] Mindy F. Mitnick, *The Use of Language in Interviewing Children, in*

frames can also prove to be helpful: "tell me everything that happened from the time you went home until you went to the store."[390]

Through the manner in which questions are asked, interviewers can encourage a more sequential report: "Right after he laid on top of you, what happened?," "Just before he walked out of your room, what happened?," and "And just before that, what happened?"[391] It should be noted, however, that the words *before* and *after* can be difficult to understand and to use appropriately for children under the age of seven.[392] Interviewers can also provide structure to a child's report through the use of other techniques, such as drawing timelines or maps of reported events. Traditional timelines, with dates or years marked on a vertical or horizontal line, are only one option. Other forms of timelines can be based on how old the child was, who the child's teacher was, or which home the child lived in during the described events.[393] Mapping a child's report may include drawing people or places on a piece of paper and then using the paper as a visual aid to assist a child in talking about his or her experiences.[394]

Providing structure in an interview can be invaluable for differentiating among multiple incidents that children may disclose. Interviewers can attempt to discern disclosed events, such as different actions, times, or locations. This will allow interviewers to more fully understand the details of the child's experiences. This may provide beneficial information for use by child protection, law enforcement, and prosecution. For instance, such discerning information can enable prosecutors to file charges that accurately represent the seriousness of a defendant's alleged actions.[395]

CORNERHOUSE CHILD SEXUAL ABUSE FORENSIC INTERVIEW TRAINING MANUAL (CornerHouse Interagency Child Abuse Evaluation and Training Center 2004).

[390] Sternberg et al., *supra* note 343, at 421.

[391] AMERICAN PROSECUTORS RESEARCH INSTITUTE'S NATIONAL CENTER FOR PROSECUTION OF CHILD ABUSE, INVESTIGATION AND PROSECUTION OF CHILD ABUSE 50 (3d ed. 2004) [hereinafter APRI].

[392] *See generally* WALKER, QUESTIONING CHILDREN, *supra* note 45; *see* discussion *supra* Part III.A.

[393] Morgan, *supra* note 384, at 45.

[394] *See* discussion *infra*, Part IV.D.1.e.

[395] APRI, *supra* note 391, at 57.

b. Gathering details

Using a developmentally appropriate approach in forensic interviews is imperative in understanding what details can typically be gathered from children who are at various developmental levels. Interviewers need to attempt to gather age-appropriate information about who, what, where, when, how, and other circumstances of the reported experiences, continuing to do so until children are unable to provide more details. For instance, when a child identifies by whom he or she was allegedly abused, the interviewer's gathering information about this person means more than just learning the person's first name. An interviewer might be able to gather the alleged perpetrator's first and last name or nicknames; a brief or detailed physical description; where the person lives; or how the child knows the person. Before closing an interview, it is good practice for an interviewer to mentally review whether critical elements were explored to the fullest extent possible, given the age and abilities of the child. Interviewers must recognize the limited ability of young children to provide certain details, such as when an incident occurred or the number of times it happened. Pushing at a child's competencies is acceptable in order to assess a child's abilities; however, it is irresponsible to continue with questioning that is beyond a child's established abilities.

It is often helpful for observing multidisciplinary team members to have the CornerHouse Guidelines for Age-Appropriate Questions chart[396] available to assist in determining whether further information can or should be pursued. Further, as noted in the discussion regarding Touch Inquiry, forensic interviewers and multidisciplinary teams need to decide how focused they will become during inquiry about the alleged abuse, to what extent, and how they will question children about issues not previously mentioned (e.g., ejaculant, blood, or penetration).

In gathering details during a forensic interview, interviewers must also understand how to maximize the memory recall of children, especially of young children who may have extensive memories to share but possess relatively underdeveloped memory retrieval

[396] *See* discussion *supra* Part III.A., Figure B.

processes. To maximize the memory recall of young children, it is helpful to focus on the *central elements* of an alleged incident. Research on memory and suggestibility indicates central or core elements are better remembered than peripheral details, [397] and preschool children are more sensitive to misleading questions about the latter.[398] By focusing on central elements, such as *who* did *what*, rather than peripheral details, such as what color the walls were; it is more likely that interviewers will obtain accurate information. However, interviewers should note that what adults may perceive to be central elements are not always the most salient pieces of information to children; consequently, the details of an event that are most prominent, conspicuous, and, therefore, memorable may be different for a child than for an adult.

Since research indicates that children are more likely to recall details about an event in which they participated, rather than details of an event they simply observed,[399] it would follow that questions related to core elements and those based upon what the children directly experienced can maximize both the quantity and the quality of information children are able to provide. Further, interviewers must recognize there is a limited amount of time in which the forensic interview will occur. Focusing on central elements provides an opportunity for the interviewer to gather details that are both the most pertinent to the investigation and are most likely to be remembered by a child.

c. Asking about sensory experiences

Asking questions about what was experienced through the five senses is valuable in interviews with both younger and older children.

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[397] Elisabeth Engelberg & Sven-Åke Christianson, *Stress, Trauma and Memory, in* MEMORY AND SUGGESTIBILITY IN THE FORENSIC INTERVIEW 143, 156 (Mitchell L. Eisen et al. eds., 2002); Leippe et al., *supra* note 56, at 368; Olafson, *supra* note 375, at 23; Saywitz, *Credibility, supra* note 70, at 71; Margaret S. Steward et al., *Implications of Developmental Research for Interviewing Children*, 17 CHILD ABUSE & NEGLECT 25, 26 (1993).

[398] FIVUSH, *supra* note 38, at 5; Gail S. Goodman & Rebecca S. Reed, *Age Difference in Eyewitness Testimony*, 10 LAW & HUM. BEHAV. 317, 328 (1986); Saywitz, *Credibility, supra* note 70, at 71.

[399] Tobey & Goodman, *supra* note 161, at 792.

Being asked sensory-based questions allows children to focus on the experiential details of an incident and offers the opportunity to share unique, idiosyncratic information within a disclosure. Despite their limited cognitive abilities, even young children are generally quite capable of remembering meaningful, tactile, or other sensory information. For example, a child may remember how something felt on the child's body, how something tasted, or what the child heard during a specific incident. However, it is important to note that young children, when attempting to report sensory information in terms of what something "seemed like," may provide information as if it were factual, when in reality it is simply descriptive. Lacking the experience to put an event into context, children may be left with describing what something *felt like*, rather than what actually happened.[400] For instance, a child who was anally penetrated by a penis may say he or she was poked with a stick or knife because that is how it *felt*.[401] Rather than reporting about the object by which he or she was penetrated (which the child may or may not have knowledge of), the child may instead be reporting how he or she experienced this by expressing that it felt as a knife would feel (e.g., sharp, painful, etc.). Referred to as "metaphorical communication," this is the information that may be retrieved and reported by a child when the child does not understand an event or when the most salient aspect of the event as remembered by the child was the tactile sensation.[402]

While questions concerning sensory experiences are important, they are only valuable if asked in a developmentally appropriate way. Because young children are concrete and literal in their thinking,[403] asking a young child, "[W]hat did the stick look like?" is likely to produce the only logical answer from a young child: "Like a stick." It may be more effective to ask, "What makes you think it was a stick?" or, "Did you see the stick?" and then, "What did you see?" From experience, CornerHouse interviewers have learned it is important to consider children's concrete and literal thinking when asking about other types of sensory experiences, such as how something tasted. If

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[400] *See generally* BOURG ET AL., *supra* note 44.
[401] *Id. See generally* WALKER, QUESTIONING CHILDREN, *supra* note 37.
[402] *See generally* BOURG ET AL., *supra* note 44.
[403] *See generally* WALKER, QUESTIONING CHILDREN, *supra* note 37.

asked what something tasted like, the young, concrete child may answer by naming an item that the child believes is similar to the item tasted, either by sight (milk), texture (water), or taste (broccoli). Asking, "How did that taste?" may elicit a more accurate and descriptive response, such as "warm," "gross," or "nasty." These types of sensory questions may prove to be too abstract for a young child's comprehension; if so, as with all abstract questions, the child might provide a response that appears unrelated to the question asked. Although some children may have difficulty, this should not preclude the use of sensory questions with young children, as these questions can elicit valuable information about a child's idiosyncratic experience. If open-ended questions about sensory experiences do not prove useful, interviewers can try asking multiple-choice questions, such as, "[W]as someone talking, or making noises, or something else?"

d. Gathering facts that can be corroborated

Although the importance of a child's statement within the forensic interview is irrefutable, investigators should not rely solely on forensic interviews to prove or disprove allegations of child sexual abuse.[404] Yet, supporting a case with solid corroboration first requires an interviewer to elicit valuable information from a child that can be corroborated. Child sexual abuse is a crime surrounded by secrecy.[405] There are often no eye-witnesses; no faces captured on surveillance cameras, and, due to delayed disclosures, no extant crime scenes. However, children often make statements about which corroborative evidence can be gathered. For example, a child may be able to report the location of items within a room the alleged perpetrator claims the child has never entered, the child may be able to describe photographs the alleged perpetrator took, or the child may recount witnessing abuse of other victims. Interviewers can attempt to elicit

[404] Reed, *supra* note 155, at 118 (*citing* Cage, 1995); Victor I. Vieth, *When a Child Stands Alone: The Search for Corroborating Evidence*, 12 UPDATE (1999), *available at* http://www.ndaa.org/publications/newsletters/apri_update_vol_12_no_6_1999.html.

[405] Lyon, *supra* note 71, at 114-16; *see generally* Summit, *supra* note 121.

information from a child, which in turn could be used for corroboration by investigators. Vieth offers a comprehensive review of the myriad details that could be gathered for later corroboration.[406]

e. Using interview aids

Although various protocols implement other aids in conducting forensic interviews, CornerHouse interviewers have found drawings, anatomical diagrams, and anatomical dolls to be helpful in the process of gathering accurate and comprehensive information regarding a child's reported experience. These tools are the only ones included in the RATAC protocol. The introduction of these various interview aids should include verbal clarification of their purpose and appropriate instruction regarding their use.

These interview aids are tools and, as such, their usefulness is dependent upon the abilities of the individuals employing them. The responsible use of interview aids requires understanding by both the interviewer and the child as to how a tool is to be used and why it is being used. Interviewers are obligated to assess whether a child possesses the cognitive and developmental skills necessary to use these tools appropriately. For example, utilizing anatomical diagrams requires a child to understand dual representation, and using anatomical dolls requires a child to have the developmental ability to make a representational shift.[407] When interviewers recognize the use of these tools is beyond a child's abilities, it might be appropriate to try introducing other interview tools or to rely on verbal descriptions alone.

i. Drawings

Just as drawings can be a helpful tool in the other stages of RATAC, drawings can be an incredibly beneficial tool during the Abuse Scenario stage. Drawings may serve as cues for children's memory retrieval.[408] Research has demonstrated that children provide

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[406] *See generally* Vieth, *supra* note 396.
[407] *See* discussion *supra* Parts IV.A. & B.
[408] Sarnia Butler et al., *The Effect of Drawing on Memory Performance in Young Children*, 31 DEVELOPMENTAL PSYCHOL. 597, 605 (1995); Karen Salmon et al.,

up to twice the information when encouraged to draw as they are questioned.[409] In addition to increasing the amount of information children may disclose, the use of drawings may also be helpful for enhancing children's ability to report details in an organized manner[410] and for clarifying a child's verbal statements.[411] Having children draw during the Abuse Scenario stage can also reduce some of the intensity of verbally disclosing abuse.[412] Beyond their benefits within the interview, drawings made during a forensic interview can also be used as physical evidence in court.[413]

Two factors to consider when utilizing drawings in forensic interviews include the child's age and developmental abilities. A young child can have difficulty drawing complex pictures, yet a school-aged child can sometimes "make very good location (crime scene) drawings and diagrams." [414] If a child is too young to draw, then perhaps the interviewer instead could draw, and the child could be engaged to assist with the placement of people or objects onto the drawing. Utilizing drawings allows children an alternative means to express what

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Children's Reports of Emotionally Laden Events: Adapting the Interview to the Child, 17 APPLIED COGNITIVE PSYCHOL. 65, 75 (2003).

[409] Butler et al., *supra* note 408, at 602; Whitney J. Cain, *Telling Stories: Examining the Effects of Elaborative Style, Reporting Condition, and Social Class in Preschoolers' Narratives*, 50 MERRILL-PALMER QUARTERLY 139, 150 (2004); *see* Julien Gross & Harlene Hayne, *Drawing Facilitates Children's Verbal Reports of Emotionally Laden Events*, 4 J. OF EXPERIMENTAL PSYCHOL.: APPLIED 163 (1998); Julien Gross & Harlene Hayne, *Drawing Facilitates Children's Verbal Reports After Long Delays*, 5 J. OF EXPERIMENTAL PSYCHOL.: APPLIED 265, 267 (1999); Salmon, et al., *supra* note 408, at 66; Michaela Wesson & Karen Salmon, *Drawing and Showing: Helping Children to Report Emotionally Laden Events*, 15 APPLIED COGNITIVE PSYCHOL. 301, 302 (2001).

[410] *See generally* Butler et al., *supra* note 408.

[411] *See generally* Faller, *supra* note 123; Hiltz & Bauer, *supra* note 265.

[412] Wesson & Salmon, *supra* note 409, at 313. *See generally* Altshuler, *supra* note 268; Faller, *supra* note 123; HEWITT, *supra* note 38.

[413] Marcia Sue Cohen-Liebman, *Drawings as Judiciary Aids in Child Sexual Abuse Litigation: A Composite List of Indicators*, 22 THE ARTS IN PSYCHOTHERAPY 475, 476 (1995); Ann W. Burgess et al., *Children's Drawings as Indicators of Sexual Trauma*, 19 PERSPECTIVES IN PSYCHIATRIC CARE 50 (1981); Susan J. Kelley, *The Use of Art Therapy with Sexually Abused Children*, 22 J. OF PSYCHOSOCIAL NURSING 12 (1984); *see generally* Hiltz & Bauer, *supra* note 265.

[414] Amacher, *supra* note 305, at 14.

may be difficult to explain or express verbally. Children might draw items relevant to their experience, such as guns, creams, or sexual devices, providing information that could be used for corroboration.

Occasionally, children will spontaneously create drawings during forensic interviews. Sometimes these drawings are pertinent to the interview and investigation and sometimes they are not. It is vital to have children of all ages verbalize what they are drawing, as interviewers should never interpret or independently place meaning upon children's drawings. It should be noted that even preschoolers attach meaning to the lines that they draw, so while what is drawn may look like scribbles, interviewers should still ask the child to give a verbal description of his or her drawing.[415]

ii. Anatomical diagrams

While anatomical diagrams are typically introduced in the Anatomy Identification stage of RATAC,[416] they may also be used during the Abuse Scenario stage. Anatomical diagrams may be employed for the purpose of clarifying a child's report of an abusive event. Specifically, a child can use the diagrams to indicate which body parts were being referenced in the child's verbal report. This is particularly useful if the child and interviewer have yet to establish a common language for body parts prior to the child's disclosure, if the child uses multiple words to reference a single body part, or if the child uses one word to describe multiple parts of the body. Anatomical diagrams may also allow a child to demonstrate consistency in his or her disclosure by providing another way to tell about his or her experience. Under some circumstances, diagrams may be offered to a reluctant child for use as an alternative to verbal communication or as a concrete and visual aid in the process of exploring alternative hypotheses (e.g., referencing the diagram while asking the child if he or she was touched on any other part of the body).[417]

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[415] *See generally* BERK, *supra* note 40; BOBBIE KAUFMAN & AGNES WOHL, CASUALTIES OF CHILDHOOD: A DEVELOPMENTAL PERSPECTIVE ON SEXUAL ABUSE USING PROJECTIVE DRAWINGS (Brunner-Routledge, 1992).

[416] *See* discussion *supra* section IV.B., entitled *Anatomy Identification*.

[417] *See generally* Holmes & Finnegan, *supra* note 282.

iii. Anatomical dolls.

The field of forensic interviewing has given much attention to the use of anatomical dolls in the forensic interview. In a full literature review regarding the forensic use of anatomical dolls, Faller noted that the anatomical doll was the most often used aid in sexual abuse cases.[418] The general consensus in the field is that, with appropriate use, anatomical dolls can "serve as props to enable children to 'show' rather than 'tell' what happened, especially when limited verbal skills or emotional issues, such as fear of telling or embarrassment about discussing sexual activities, interfere with direct verbal description."[419]

Faller reviewed several studies that indicated that dolls do enhance children's responses when compared to inquiry without tools, or "props."[420] For example, Leventhal et al. found children's recall of details increased from 13 to 48 percent with the use of dolls.[421] In addition to increasing the number of details gathered, anatomical dolls can enable a child to provide a more cogent account of his or her experiences. In an unpublished opinion from the Minnesota Court of Appeals, the court specifically noted that the child's demonstration with the dolls was "'vivid' and 'unambiguous and persuasive on the ultimate issue.'"[422]

Consistent with the *Guidelines for Use of Anatomical Dolls*, published in 1995 by the American Professional Society on the Abuse of Children,[423] CornerHouse recommends that the best use of anatomical dolls in a forensic interview is as a *demonstration aid*, after a verbal disclosure. Interviewers must be trained in the use of dolls, and a

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[418] Faller, *Dolls, supra* note 291, at 2.

[419] AMERICAN PROFESSIONAL SOCIETY ON THE ABUSE OF CHILDREN, USE OF ANATOMICAL DOLLS IN CHILD SEXUAL ABUSE ASSESSMENTS 4 (1995) [hereinafter APSAC, *Dolls*].

[420] Faller, *Dolls, supra* note 291, at 6.

[421] John M. Leventhal et al., *Anatomically Correct Dolls Used in Interviews of Young Children Suspected of Having Been Sexually Abused*, 84 PEDIATRICS 900, 903 (1989).

[422] *In re* the Welfare of M.J., 2006 Minn. App. Unpub. LEXIS 564, *7 (Minn. Ct. App. 2006).

[423] *See generally* APSAC, *Dolls, supra* note 419.

specific, non-leading process should be followed.[424] Even with these elements in place, the use of anatomical dolls must be selective. It is crucial that dolls are only introduced following a child's disclosure of abuse, that children are developmentally capable of making a representational shift, that children are willing to use a doll, and that children use the dolls as a demonstration aid and not as a toy.[425] Under these conditions, an interviewer may introduce dolls to enhance the child's competence in telling his or her experiences.

CornerHouse is conducting an ongoing research project regarding anatomical dolls in forensic interviews, using a sample consisting of interviews conducted with children in cases exclusively involving allegations of sexual abuse.[426] Statistics indicate that of 500 interviews of alleged sexual abuse, anatomical dolls were used 49% of the time. The interviewers in this study determined that the dolls enhanced children's ability to share information in 86% of the interviews in which dolls were used.[427] CornerHouse has identified four primary purposes for utilizing anatomical dolls within the RATAC protocol: (1) to clarify details, such as clothing or body positioning; (2) to demonstrate consistency of verbal statements; (3) to allow for distance from the child's own body; (4) and to allow a child to tell when the child cannot or will not share details verbally.[428] Each purpose for using the anatomical dolls was also examined in this study. CornerHouse interviewers concluded that the children were able to clarify their verbal disclosure of abuse when using the dolls as a demonstration aid.[429]

As with all interview tools, anatomical dolls should not be the only tool used to determine if the child experienced maltreatment.

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[424] *Id.*; *see* Holmes & Finnegan, *supra* note 282.
[425] APSAC, *Dolls, supra* note 419; APRI, *supra* note 391, at 59-60; *see* DeLoache, *Symbols* 1995, *supra* note 269; *see generally* CORNERHOUSE MANUAL, *supra* note 35.
[426] Heather Hlavka et al., The Use of Anatomical Dolls as a Demonstration Aid in Child Sexual Abuse Interviews: A Pilot Study of Forensic Interviewers' Perceptions (2009) (unpublished manuscript, on file with CornerHouse Interagency Child Abuse Evaluation and Training Center).
[427] *Id.*
[428] *See generally* CORNERHOUSE MANUAL, *supra* note 35.
[429] *See generally* Hlavka et al., *supra* note 426.

While they may be helpful in enhancing a child's disclosure, anatomical dolls should not be relied upon as the sole means of obtaining information and determinations or findings based upon their use must be kept out of the realm of mere interpretation.[430]

f. Understanding and responding to bizarre and fantastic elements

Bizarre and fantastic elements in forensic interviews can be defined as any strange, ill-fitting, or improbable information reported by children during sexual abuse disclosures. There is little empirical data regarding the occurrence of fantastic elements in children's reports; however, one study, which examined over 600 interviews of children ages three to seventeen, found that fantastic elements were reported in about 2% of the interviews overall.[431] In this study, cases were divided into groups based upon certainty that abuse occurred and severity of the abuse reported. Dalenberg found fantastic elements were present at the highest rate within the group of cases identified as both most likely for abuse to have occurred and for abuse to have been most severe.[432] In 2002, the data set from the 1996 study was revisited and expanded, and the researchers determined that reports of fantastic elements occurred most often in interviews involving children ages four to nine.[433]

In apparent contrast, Bruck et al. reported that their study, involving 16 children, yielded a greater frequency of improbable information in false, rather than true, narratives by children.[434] It should be

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[430] *See* APRI, *supra* note 391, at 59-61; *see generally* APSAC, *Dolls, supra* note 419; CORNERHOUSE MANUAL, *supra* note 35; Everson & Boat, *Controversy, supra* note 321; Holmes & Finnegan, *supra* note 282; Poole & Lamb, *supra* note 124; Karen L. Thierry et al., *Developmental Differences in the Function and Use of Anatomical Dolls During Interviews with Alleged Sexual Abuse Victims*, 73 J. OF CONSULTING AND CLINICAL PSYCHOL. 1125 (2005).

[431] Dalenberg, *supra* note 237, at 7.

[432] *Id.* at 1.

[433] Constance Dalenberg et al., *Sources of Fantastic Elements in Allegations of Abuse by Adults and Children*, *in* MEMORY AND SUGGESTIBILITY IN THE FORENSIC INTERVIEW 185, 186 (Mitchell L. Eisen et al. eds., 2002).

[434] Maggie Bruck et al., *The Nature of Children's True and False Narratives*, 22 DEVELOPMENTAL REV. 520, 531, 536 (2002).

noted this study intentionally employed repeated use of highly suggestive and leading interview techniques and that implausible information appeared in reports that were otherwise accurate, although the occurrence rate of fantastic elements as found in this study was lower than the rates found by Dalenberg.[435] Ceci has acknowledged "there is some evidence that in true disclosure, that is to say, where a child really was abused, you often get a combination of bizarre unbelievable details with plausible details."[436]

While fantastic elements may not be typical in child sexual abuse reports, they occur often enough to be recognized as an issue in forensic interviewing. The presence of fantastic elements repeatedly generates concerns regarding the child's credibility. Historically, the appearance of improbable information has had a significantly negative impact on the perception of a child's overall report. Everson and Boat noted improbable elements in a child's disclosure were second only to recantation as the most common reason for judging a child's report of child sexual abuse as false.[437] Dalenberg noted when children offered implausible information, interviewers were less likely to be neutral and more likely to be skeptical, challenging, or both in their responses.[438]

However, it is important for interviewers to keep an open mind when fantastic elements are present in an interview. There are numerous feasible explanations that could account for such reports, as was discussed in Everson.[439] Accordingly, an immediate disbelieving response from interviewers would indicate interviewer assumption or bias.[440] When addressing fantastic, bizarre, or improbable elements, interviewers should maintain an open, nonjudgmental, and nonconfrontational position and have an awareness of the possible expla-

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[435] *See* Bruck et al., *supra* note 434; Dalenberg et. al., *supra* note 433, at 199.
[436] *FRONTLINE: The Child Terror* (n.d.), (interview with Dr. Stephen Ceci), *available at* http://www.pbs.org/wgbh/pages/frontline/shows/terror/interviews/ceci.html (last visited July 6, 2009).
[437] Mark D. Everson & Barbara W. Boat, *False Allegations of Sexual Abuse by Children and Adolescents*, 28 J. OF THE AM. ACAD. OF CHILD AND ADOLESCENT PSYCHIATRY 230, 232-34 (1989).
[438] *See generally* Dalenberg, *supra* note 237.
[439] Everson, *supra* note 237, at 135.
[440] *See* discussion *infra* Part IV.D.2.

nations for the unusual information. This includes acknowledging potential elements within the interview itself that may have elicited the improbable report. For example, a child's fantastic or bizarre statement may be the result of the interviewer asking inappropriate questions that are beyond a child's developmental capabilities. In such a situation, the interviewer can attempt clarification by simply using language and sentence structure appropriate to the child's developmental level. Clarifying a child's fantastic statements generally requires the interviewer to use further inquiry; however, questions about fantasy can often result in additional fantasy statements. Therefore, interviewers must determine, based upon the context of each individual child and interview, when and how to appropriately pursue clarification of fantastic or bizarre statements if they occur.[441]

2. Exploring alternative hypotheses

By definition, a forensic interview must be neutral and nonleading, with information gathered directly from the children, who are experts on themselves and their own experiences. Interviewers cannot make assumptions, draw preconceived conclusions, or act on biases. The goal of a forensic interview is to "gather information from the child, rather than to ask the child to confirm previously obtained information or to affirm what the interviewer thinks has happened."[442] This goal, though, should not preclude interviewers from having information about a case prior to a forensic interview; it simply means interviewers must remain open minded with regard to all possible explanations for a presenting allegation.

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[441] *See, e.g.,* Anne Lukas Miller, *Bizarre & Fantastic Elements: A Forensic Interviewer's Response, Part I*, 21(2) UPDATE (2008), *available at* http://www.ndaa.org/publications/newsletters/update_vol_21_no_2_2008.pdf; Anne Lukas Miller, *Bizarre & Fantastic Elements: A Forensic Interviewer's Response, Part II*, 21(3) UPDATE (2008), *available at* http://www.ndaa.org/publications/newsletters/update_vol_21_no_3_2008.pdf; Anne Lukas Miller, *Bizarre & Fantastic Elements: A Forensic Interviewer's Response, Part III*, 21(2) UPDATE (2008), *available at* http://www.ndaa.org/publications/newsletters/update_vol_21_no_4_2008.pdf.

[442] Faller, *supra* note 123, at 39.

Research indicates that interviews conducted in a biased manner can influence the accuracy of the children's reports.[443] A biased interviewer focuses the interview to his or her own assumptions, consciously, or unconsciously seeking information to validate those assumptions. Subsequently, the interview is molded to fit the preconceived beliefs of the interviewer and not the experiences of the child. Interviewers who hold preconceived ideas elicit a higher proportion of inaccurate information than do interviewers who are neutral.[444] Such interviewers are more likely to be misleading and will likely tend to ignore information inconsistent with their own assumptive beliefs.[445] Goodman et al. also concluded that children provided less overall information, inserted more fantasy material, and shut down more often with biased interviewers.[446] Based upon this research, it is clear that interviewers have a fundamental responsibility to vigilantly avoid bringing personal bias into their interviews.

A widely accepted and highly recommended safeguard against interviewer bias is the exploration of *alternative hypotheses*.[447] In a forensic interview, alternative hypothesis questions are asked to explore alternate explanations for a child's reported experience. Asking

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[443] *See* STEPHEN J. CECI & MAGGIE BRUCK, JEOPARDY IN THE COURTROOM: A SCIENTIFIC ANALYSIS OF CHILDREN'S TESTIMONY 92 (American Psychological Association ,1995) [hereinafter Ceci & Bruck 1995]; Lyon, *Speaking, supra* note 102, at 4; *see* Ceci & Bruck, *Historical Review*, *supra* note 71.

[444] *See generally* Dent, *supra* note 129.

[445] Maggie Bruck et al., *Children's Reports of Pleasant and Unpleasant Events*, *in* RECOLLECTIONS OF TRAUMA 199, 200 (J. Don Read & Steve Lindsay eds., 1997); Maggie Bruck et al., *Reliability and Credibility of Young Children's Reports: From Research to Policy and Practice,* 53 AM. PSYCHOL. 136, 140 (1998); *see* Ceci & Huffman, *supra* note 157.

[446] Gail S. Goodman et al., *Mother Knows Best: Effects of Relationship Status and Interviewer Bias on Children's Memory*, 60 J. OF EXPERIMENTAL CHILD PSYCHOL. 15 (1995).

[447] APRI, *supra* note 391, at 59; *see generally* BOURG ET AL., *supra* note 44; Ceci & Bruck 1995, *supra* note 434; Ceci & Huffman, *supra* note 157; Poole & Lamb, *supra* note 124, at 109; Scullin et al., *supra* note 161. Victor I. Vieth, *Memory and Suggestibility Research: Does the Surreal World of the Laboratory Apply to the Real World?*, *in* FINDING WORDS INTERVIEWING AND PREPARING CHILDREN FOR COURT TRAINING MANUAL (American Prosecutors Research Institute and CornerHouse Interagency Child Abuse Evaluation and Training Center, 1998).

such questions reaffirms the interviewer's neutrality. Exploring an alternative hypothesis is asking if someone else, other than whomever the child reported in the interview, touched or abused the child. For example, the interviewer's asking, "Did someone else touch your private?" allows the child the opportunity to give another explanation for his or her reported experiences.

Screening for alternative hypotheses about a child's report can include several other areas of exploration. For instance, interviewers may need to explore alleged offender identity issues, such as confirming to whom a child's statement of "daddy did it" refers. Alternative hypothesis inquiry can also include asking about other possible sources to account for the child's sexual knowledge, such as exposure to pornography. It might involve the exploration of possible coaching or contamination and may also be used to clarify the context or the circumstances surrounding the reported incident, such as whether the touching occurred during a diaper change or a bath. It is important to note that interviewer bias might also limit the completeness of children's reports by presuming that the only abuse a child will reveal is that which was previously reported. Therefore, alternative hypothesis questioning should also include inquiry about whether the child had to touch someone else's body, whether the child was touched in a different way, or whether the child was touched on a different part of the body.

The interviewer's exploration of alternative hypotheses during forensic interviews allows children to differentiate between people, behaviors, or situations, thereby avoiding issues of confusion or assumption on the part of the interviewer. Such exploration also reaffirms that an interviewer did not enter a forensic interview with preconceived ideas about what was *supposed* to be disclosed. These types of questions challenge interviewers to remain open-minded and to provide children with the opportunity to report accurate and credible information and, in general, they "lessen the reliability risks due to suggestions."[448] All potential alternative hypotheses need not be explored in every interview; rather, interviewers and their team members should discuss on a case-by-case basis alternative hypotheses the

[448] Ceci & Huffman, *supra* note 157, at 949.

interviewer may need to explore. It is recommended that, at the minimum, interviewers routinely include questions about "someone else."

Exploring alternative hypotheses is not a process of testing one hypothesis against another and should not involve introducing information into an interview or using leading questions. For example, "That's what Uncle Paul did to you; now tell me what Vicki did" is not an example of how to explore alternative hypothesis as recommended as part of the RATAC protocol. A more appropriate example would be to ask the child, "Has someone else touched your privates?"

3. Conclusion

An interviewer's focus is to appropriately "strive to create an opportunity for children to provide the most accurate, complete, and honest account possible, given the unique circumstances of each case."[449] When preparing for and conducting the Abuse Scenario stage of RATAC, it is important for interviewers to remember that interviewing is both a science and an art, that interviewers and children are unique, and that there are many approaches to questioning children, just as there are many ways that children tell about their experiences. Providing children with an opportunity to tell about their experiences requires questioning that follows an approach that is flexible, practical, defensible, and non-suggestive, and which is supported by relevant research and clinical practice. Finally, any approach utilized must abide by the Child First Doctrine.

E. Closure

The ending of a forensic interview is just as important as its opening and requires as much skill and thought as do other parts of an interview.[450] Accordingly, Closure is considered to be an essential stage of RATAC. Closure is incorporated as a distinct stage in many other

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[449] Myers et al., *supra* note 122, at 35; *see also* discussion *supra* Part III.A., entitled *A Developmentally Appropriate Approach* for further information.

[450] NANCY WALKER PERRY & LAWRENCE S. WRIGHTSMAN, THE CHILD WITNESS: LEGAL ISSUES AND DILEMMAS (Sage Publications, 1991).

forensic interview processes as well.[451] Although it appears that little research has been carried out to support conducting closure according to any one particular method, there does appear to be agreement among professionals in the field that closure is an integral stage in any interview, regardless of which protocol is used. The methods incorporated into the RATAC protocol are purposeful in design for providing closure to a forensic interview in accordance with the Child First Doctrine. The purposes of the Closure stage in the RATAC protocol are to educate the child, to explore safety options, and to provide a respectful end to the interview. Both educating children and exploring safety options encompass providing messages related to a child's personal safety and are intended to serve a protective function with regard to possible future experiences. Providing a respectful end to the interview is considered an overarching goal of the entire Closure process.

1. Transitioning into Closure

For the purposes of this article, before fully entering into a discussion regarding the Closure stage of RATAC, it is necessary to first examine the transition phase that occurs as a forensic interview moves out of the Abuse Scenario stage and into Closure. Following a thorough elicitation of the details of the child's experiences (to the degree that is appropriate based upon the individual needs of the child) and after adequate exploration of alternative hypotheses, interviewers should pause before fully leaving the Abuse Scenario stage and moving into Closure. Although the interviewer may believe that all possible areas of inquiry have been exhausted, it is possible that children may still have additional, pertinent information to share.

In order to provide children with every opportunity to tell of their experiences, interviewers should invite children to share any other

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[451] HEWITT, *supra* note 38, at 200; Kee MacFarlane & Sandy Krebs, *Techniques for Interviewing and Evidence Gathering, in* SEXUAL ABUSE OF YOUNG CHILDREN: EVALUATION AND TREATMENT 67 (Kee MacFarlane et al. eds., 1986); Poole & Lamb, *supra* note 124, at 144; Saywitz, *Bullying*, *supra* note 39, at 20; Perona et al., *supra* note 71, at 103. *See generally* Amacher, *supra* note 308; APRI, *supra* note 391.

information that was not yet discussed. An interviewer can do this by asking the child if there are any details that the interviewer missed or questions the interviewer forgot to ask.[452] Doing so continues to demonstrate to the child that he or she remains the expert on his or her own experiences. A child may not independently present additional information, to not offer a child the opportunity to tell about "anything else" may result in limiting the child's chance to report additional significant details. At this point in the interview, it is also appropriate for interviewers to offer children the opportunity to ask any questions they may have for the interviewer.[453] It should be noted that even if an interview does not contain an Abuse Scenario stage (i.e., the child did not report a *who* or a *what*), it is still appropriate to offer the child an opportunity to indicate if there was something the interviewer forgot to ask. Forumlate the opportunities in an open, invitational manner and within context relative to the rest of the interview. After any additional information has been gathered, the interview progresses into the Closure stage.

2. Providing a respectful end

Bourg et al. suggested that interviewers should attempt to end interviews in a positive manner.[454] Similarly, providing a respectful end is the overall goal of the Closure stage of RATAC. Regardless of the information shared by a child during a forensic interview, ending an interview in a respectful manner can help validate a child's experience within the forensic interview and impart the message that a child's participation was valued. For a child, particularly one who

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[452] APRI, *supra* note 391, at 63; Perona et al., *supra* note 71, at 103-04; Poole & Lamb, *supra* note 124, at 144; STEWARD ET AL., *supra* note 324, at 199.

[453] MICHELLE ALDRIDGE & JOANNE WOOD, INTERVIEWING CHILDREN: A GUIDE FOR CHILDCARE AND FORENSIC PRACTITIONERS 144 (Wiley, 1998); APRI, *supra* note 391, at 63; BOURG ET AL., *supra* note 44, at 139; Mary Martone & Paula Jaudes, *Victim Sensitive Interviewing Program: Outline and Data*, 5 APSAC ADVISOR 3 (1992); Poole & Lamb, *supra* note 124, at 144; James M. Wood & Sena Garven, *How Sexual Abuse Interviews Go Astray: Implications for Prosecutors, Police, and Child Protection Services*, 5 CHILD MALTREATMENT 109 (2000). *See generally* Saywitz, *Bullying*, *supra* note 39.

[454] BOURG ET AL., *supra* note 44, at 137.

has experienced abuse, participation in a forensic interview may be challenging. For those children who do disclose abuse during a forensic interview, it is possible some may experience the act of disclosing as painful or uncomfortable; however, the interview itself, if perceived as a positive or supportive experience, may encourage some children to feel comfortable about talking with adults in the future about difficult subjects if doing so becomes necessary.

Validating a child's experience includes recognizing and acknowledging the child's perception of his or her experience in the forensic interview based upon what the child has expressed or upon observations the interviewer has made. For example, in attempts to validate a child's feelings, an interviewer may note observed behaviors or emotions exhibited by the child that appear to convey a child's distress in talking about his or her experiences, or the interviewer may acknowledge what the child has expressed. This can help the child feel he or she has been understood.[455] Interviewers may also provide statements of reassurance during Closure. For example, during interviews where a child has expressed feelings of self-blame, interviewers can provide or reiterate messages that may assist the child in gaining greater perspective with regard to these feelings of self-blame. It is important that messages of validation be reflective of the child's statements within the rest of the interview, and as within the other stages of RATAC, the interviewer should remain objective and avoid expressions based upon assumption and bias: for example, avoiding statements labeling the alleged perpetrator as "bad."

To provide a respectful end, an interviewer can also invite the child to ask any questions he or she may have and make a concerted effort to ensure that the child's questions have been appropriately addressed. Further, it is important to thank the child in order to convey appreciation for the child's willingness to engage with the interviewer. Doing this expresses to the child that he or she is important and valued, no matter what the child may or may not have reported during the interview. As is recommended by Saywitz et al., interviewers should avoid praising the child specifically for disclosing abuse.[456]

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[455] APRI, *supra* note 391, at 63; PERRY & WRIGHTSMAN, *supra* note 450, at 240; Saywitz, *Bullying*, *supra* note 39, at 17.

[456] Saywitz, *Bullying*, *supra* note 39, at 19; *see generally* MacFarlane & Krebs, *su-*

However, more generalized expressions are considered appropriate. A number of professionals have encouraged the practice of thanking the child for participating in the interview or for helping the interviewer understand the child's experience [457] and have offered recommendations that interviewers compliment or praise a child's effort and hard work, regardless of whether the child made a disclosure.[458] Such messages should be reflective of the child's participation within the interview. For example, if a child expressed that something was hard to talk about, the interviewer can express appreciation for the child's discussion of a difficult topic. Likewise, if a child was minimally engaged or talked little during the interview, the interviewer can simply thank the child for spending some time with the interviewer.

Acknowledging the child's participation, to whatever degree, is important to create a positive end, which may impact the child's involvement if similar interactions with other adults are necessary in the future. Steinmetz stated, "The closure phase of an interview is usually brief. However, these minutes can make a significant difference not only to the child's recovery process, but also to his/her response to the intervening system, which may need his/her involvement later."[459] As stated previously, the elements of providing a respectful end are important even if the child did not disclose abuse or was unable to answer all questions posed during the interview.[460] Accordingly, all children should receive validation and acknowledgment of their experiences within the forensic interview, and interviewers should express their appreciation for the child's participation.

Providing a transition between the forensic interview process and the child's return to his or her daily life is integral to ending an inter-

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pra note 451.

[457] APRI, *supra* note 391, at 63; Perona et al., *supra* note 71, at 104; Poole & Lamb, *supra* note 124, at 144; Saywitz, *Bullying*, *supra* note 39, at 19; *see generally* MacFarlane & Krebs, *supra* note 451.

[458] Amacher, *supra* note 308, at 16; MacFarlane & Krebs, *supra* note 451; Perona et al., *supra* note 71, at 104; Saywitz, *Bullying*, *supra* note 39, at 19.

[459] STEINMETZ, *supra* note 124, at 98.

[460] Kathleen Coulborn Faller, *Interview Structure, Protocol, and Guidelines*, *in* INTERVIEWING CHILDREN ABOUT SEXUAL ABUSE: CONTROVERSIES AND BEST PRACTICE 66, 80 (Kathleen Coulborn Faller ed., 2007).

view respectfully; therefore, it is important to refrain from ending the interview too abruptly. Children should receive the dignity of an ending, and interviewers should convey a tone that the child's involvement, to whatever degree, was appropriate and was enough. Abrupt or ambiguous endings can leave children uncertain about their participation.[461] As part of the process of transitioning out of the forensic interview, during Closure, interviewers should take the time to check with the child regarding the child's emotional state. This demonstrates to the child that the interviewer is not only interested in what the child had to say but is also concerned about the child's emotional well-being. As Davies et al. suggested, during Closure, children should be given the opportunity to "express questions, worries, or concerns regarding the interview, the abuse, or the consequences of the disclosure."[462] It is important to recognize that children may have questions or concerns about which an interviewer may not be able to provide an answer. Ending an interview respectfully also means that interviewers must not make promises they cannot keep, to avoid further betrayal of a child who may already have been betrayed by an act of abuse.[463] For example, Yuille et al. suggested avoiding statements such as, "We will make sure this never happens to you again,"[464] since interviewers ultimately cannot guarantee it will not happen again.

As part of providing a respectful end to the interview, CornerHouse interviewers offer children a business card and invite children to take their face drawing. The card is a tangible item that can validate the child's experience of having been interviewed. Giving this to the child reinforces the fact that the child is important and the child's participation was valued. The child's face drawing is another tangible symbol of the child's experience and can serve as a transitional object when the child moves from the interview room back to the waiting area.

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[461] APRI, *supra* note 391, at 63.
[462] Deborah Davies et al., *A Model for Conducting Forensic Interviews with Child Victims of Abuse*, 1 CHILD MALTREATMENT 189, 196 (1996).
[463] Perona et al., *supra* note 71, at 104; Yuille et al., *supra* note 124, at 110.
[464] Yuille et al., *supra* note 124, at 110; *see generally* APRI, *supra* note 391; Davies et al., *supra* note 462; Martone & Jaudes, *supra* note 453.

3. Providing education about personal safety

a. Messages regarding personal safety

During Closure, the interviewer should educate children about personal safety in a manner consistent with what the child may or may not have reported during the interview. Messages are likely to include a basic framework of identifying which parts of the body are private and that no one should do something, or make the child do something, to those parts. Still, interviewers should base educational messages on information the child provided, and messages should reflect the child's perspective regarding his or her experiences. During a forensic interview, some children may report clear information about a touch that is not okay or about places of the body that others should not touch—either reporting this generally or in terms of the child's own experience. However, such reports are not always the case. Within a forensic interview, there are myriad variations of what, if any, information children may share and how they may share it, which will affect how an interviewer formulates messages regarding personal safety during Closure.

Safety messages will take varied forms based upon the child's statement. For example, if during Touch Inquiry a child states that the genitals and buttocks are places that no one should touch, then during Closure an interviewer could simply refer back to this and the child's statement can be acknowledged and reaffirmed. In situations where the child's perspective about touch may be more neutral or positive, or where the child expresses feelings of culpability, the interviewer will need to assess what types of educational messages are appropriate to provide to the child, considering in particular what messages are appropriate within the context of a forensic interview.

A child may express feeling he or she was a participant in the experience, such as may occur in situations where the child was coerced or tricked into participating, where a child was made to touch others, or where the child may have received some positive benefits as a result of the touch. In such situations, while imparting safety messages, the interviewer should be careful to refrain from conveying judgment, or anything that may be perceived as judgment regarding the child's

report. Such an approach is also necessary when, as may occur with adolescents, the child believes he or she was involved in a romantic, rather than abusive, relationship. When providing safety messages in these cases, the interviewer must avoid efforts to convince the child into believing that the experience was abusive. If a child does not appear to have awareness or understanding regarding the concepts of private parts or abusive touches, such as may occur with children who have been sexualized,[465] interviewers could provide the safety message that the child has a right to personal boundaries, and there are parts of the child's body that are private, without necessarily emphasizing the message that touches to those parts are *okay* or *not okay*. In all situations, it is important that the interviewer recognize that although it is important to provide appropriate safety messages, a child likely may not gain a full understanding of these concepts within the forensic interview. When necessary, recommendations should be provided to the multidisciplinary team for the child to receive further appropriate education and support following the interview.

b. Messages regarding reporting of future experiences

During the Closure stage of RATAC, interviewers also provide education to children to impart the message that children can and should tell an adult, if necessary. These messages typically will correlate with messages the interviewer has provided regarding personal safety (e.g., The interviewer may reference body parts the child said no one should touch and let the child know that if someone touches one of those parts, he or she should tell an adult.). Conveying the message of telling an adult is intended to empower children to seek help if it becomes necessary by providing both education of what to do, and the permission to do so. Interviewers can further emphasize this by sending the message that the child should continue to tell until someone listens to and helps the child.[466]

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[465] *See* Finkelhor & Browne, *supra* note 250.

[466] Connie Nicholas Carnes et al., *Extended Forensic Evaluation When Sexual Abuse is Suspected: A Model and Preliminary Data*, 4 CHILD MALTREATMENT 242, 247 (1999).

All children are conveyed messages to tell adults during the Closure stage in order to help them know what they can do in the event of future experiences of abuse; these messages benefit children in many situations. Children who disclosed abuse experiences during the forensic interview can utilize safety messages to guide their actions if abuse reoccurs. As research has found, it is statistically probable that a victim of child sexual abuse will be sexually victimized again in his or her lifetime.[467] Children who fall prey to other types of victimization, crime, and violence are also highly likely to be re-victimized.[468]

It is also necessary to provide safety messages to children who do not report abuse. It is important to remember that even if a child did not disclose abuse during a forensic interview, abuse still may have occurred. Many children deny or minimize their abuse experiences,[469] others delay disclosure or never disclose in childhood,[470] and some children, even those who have disclosed prior to an interview, may not be able to tell of their experiences at the time of a forensic interview.[471] Messages about telling may be beneficial in assisting such

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[467] Catherine C. Classen et al., *Sexual Revictimization: A Review of the Empirical Literature*, 6 TRAUMA, VIOLENCE, & ABUSE 104, 112 (2005).

[468] David Finkelhor et al., *The Victimization of Children and Youth: A Comprehensive, National Survey*, 10 CHILD MALTREATMENT 5, 20 (2005).

[469] Erna Olafson & Cindy S. Lederman, *The State of the Debate About Children's Disclosure Patterns in Child Sexual Abuse Cases*, 57 Winter JUV. & FAM. COURT J. 27, 29 (2006); Rickard L Sjöberg & Frank Lindblad, *Limited Disclosure of Sexual Abuse in Children Whose Experiences Were Documented by Videotape*, 159 AM. J. OF PSYCHIATRY 312, 313 (2002); Sorenson & Snow, *supra* note 250, at 12.

[470] Elliot & Briere, *supra* note 250, at 262; David Finkelhor et al., *Sexual Abuse in a National Survey of Adult Men and Women: Prevalence, Characteristics, and Risk Factors*, 14 CHILD ABUSE & NEGLECT 19 (1990); London et al., *supra* note 250, at 204; Lyon, *supra* note 71, at 114; Olafson & Lederman, *supra* note 469, at 31; Daniel W. Smith et al., *Delay in Disclosure of Childhood Rape: Results from a National Survey*, 24 CHILD ABUSE & NEGLECT 273, 275 (2000); Summit, *supra* note 121, at 186.

[471] Deborah Daro, *When Should Prevention Education Begin?*, 4 J. OF INTERPERSONAL VIOLENCE 257 (1989); April R. Bradley & James M. Wood, *How Do Children Tell? The Disclosure Process in Child Sexual Abuse,* 20 CHILD ABUSE & NEGLECT 881 (1996); Lauren Shapiro Gonzalez et al., *Children's Patterns of Disclosures and Recantations of Sexual Abuse Allegations in Psychotherapy*, 17 CHILD ABUSE & NEGLECT 281 (1993); Catherine Koverola & David Foy, *Post Traumatic Stress Disorder Symptomatology in Sexually Abused Children: Implica-*

children to disclose when they are ready to do so. In addition, while some children may not have experienced abuse at the time of a forensic interview, this does not mean they will never experience abuse.[472] Therefore, it is important during Closure to provide relevant safety education to all children, regardless of whether a child did or did not disclose sexual abuse within the forensic interview.

As Summit indicated, secrecy messages from offenders can be very powerful for children who have been sexually abused.[473] The impact of such messages may be lessened by the interviewer giving encouragement and permission to a child to tell an adult if they are being touched, or if someone wants the child to touch them, in a way that is not okay. Based upon the child's statements in the interview, an interviewer may be able to identify potential blocks to a child's ability to disclose in the event of future abuse experiences. If a child appears to indicate particular concerns that would prevent them from telling an adult, interviewers should give additional attention and focus to the provision of safety messages during Closure and emphasize a child's right to tell an adult.

Children may report receiving threats or other explicit or implicit messages not to tell. Along with these messages, there are additional potential blocks which may impact a child's ability to disclose abusive experiences within the interview or which may impact a child's ability to tell if experiences occur in the future. For example, "loyalty to family members or fear of family members' reactions" [474] could impact a child's disclosure. In addition to individual family messages

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tions for Legal Proceedings, 2 J. OF CHILD SEXUAL ABUSE 119 (1993); Louanne Lawson & Mark Chaffin, *False Negatives in Sexual Abuse Disclosure Interviews: Incidence and Influence of Caretaker's Belief in Abuse in Cases of Accidental Abuse Discovery by Diagnosis of STD*, 7 J. OF INTERPERSONAL VIOLENCE 532 (1992); Lyon, *supra* note 71, at 126; Olafson & Lederman, *supra* note 460, at 31; Maria Sauzier, *Disclosure of Child Sexual Abuse: For Better or for Worse*, 12 PSYCHIATRIC CLINICS OF NORTH AMERICA 455 (1989).

[472] *See* Finkelhor et al., *supra* note 468, at 10 (indicating that one in twelve children in a nationally representative sample had experienced a sexual victimization in the study year; and when other types of direct and indirect violence, crime and victimization were taken into account, seventy-one percent were affected).

[473] Summit, *supra* note 121, at 81.

[474] Bradley & Wood, *supra* note 471, at 882.

and norms, it is important to consider that cultural messages may also impact a child's willingness or ability to tell. For example, Fontes articulates that "taboos around the discussion of sex may make it even harder . . . to disclose sexual abuse"[475] for some cultural groups. Children from social and cultural environments that discourage talking about such topics may need to be provided additional safety messages giving permission to tell. Likewise, it might be necessary for the interviewer to place additional emphasis on educational messages, specifically those regarding telling, when interviewing children who report feeling too scared or shy to tell.

As with educational messages regarding personal safety or boundaries, educational messages to tell should also correlate with the child's statements within earlier portions of the interview. For children who indicate that they reported to an adult in the past, the interviewer can reflect back to the child's past experience of telling and encourage the child to do so again. In addition, the interviewer can "emphasize to the child that he or she did the right thing by telling about the abuse."[476]

During Closure with children who did not report telling in the past, either because they were unable to tell or the child has not experienced events about which the child needed to tell, an interviewer can still convey to the child that it is a good idea—and the child's right—to tell and to seek assistance from an adult if situations occur which make telling necessary. In order to maintain the goal of providing a respectful end to the forensic interview, interviewers should provide messages to tell an adult in a manner that incorporates a careful balance of providing opportunity for the future while not inviting or encouraging a child's feelings of guilt or culpability for the child's past inability to tell.

Messages to tell are incorporated into the Closure stage of RATAC with the intended effect of serving a protective function. These are not focused on imparting the message that children should be expected or able to independently prevent or stop abuse from oc-

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[475] Lisa Aronson Fontes, *Disclosures of Sexual Abuse by Puerto Rican Children: Oppression and Cultural Barriers*, 2 J. OF CHILD SEXUAL ABUSE 21, 33 (1993).

[476] ANGELO P. GIARDINO ET AL., A PRACTICAL GUIDE TO THE EVALUATION OF SEXUAL ABUSE IN THE PREPUBERTAL CHILD 27 (1992).

curring. The result, ideally, is a response from protective adults to prevent the continuation of abuse or re-victimization.

While it may seem logical to also talk with children about telling their offenders "no," a study by Berliner and Conte indicates that "only a few of the children we have interviewed felt that if they had said no the abuse would have stopped. Many [have] expressed a belief that it would have continued or that they would have been further harmed."[477] Given this perspective, messages are presented in terms of letting children know that if future abuse is experienced, or if someone wants to or tries to harm the child, then the child is encouraged to tell.

For children who mention that they have received safety messages at home or in school, messages given in the forensic interview can serve as a reinforcement of previous messages. Research regarding formal sexual abuse prevention education programs has not clearly shown that such programs result in prevention of the sexual abuse of children; however, research has demonstrated that such programs do result in disclosures of abuse from children.[478] Safety messages provided to all children, regardless of whether a child has experienced abuse and without regard to any disclosure within the forensic interview, are incorporated as a general practice into the Closure stage of RATAC, since such discussion of what a child can do if abuse occurs may assist a child's telling in the future, if doing so becomes necessary.[479]

4. Exploring safety options

After children receive personal safety education and messages to tell an adult, interviewers explore safety options with children. In exploring safety options, interviewers can assist children in identify-

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[477] Berliner & Conte, *supra* note 250, at 39.
[478] David Finkelhor & Nancy Strapko, *Sexual Abuse Prevention Education: A Review of Evaluation Studies, in* PREVENTION OF CHILD MALTREATMENT: DEVELOPMENTAL AND ECOLOGICAL PERSPECTIVES 150, 162 (Diane J. Willis et al. eds., 1992).
[479] HEWITT, *supra* note 38, at 63.

ing whom a child can tell if abuse occurs.[480] This includes asking children to name adults both in their homes and families, such as parents or grandparents, and outside of their homes, such as school personnel, neighbors, or law enforcement. In addition to helping the child name people the child can tell, interviewers may review with the child how to seek assistance, such as establishing if the child knows how to call 911.

As with other safety messages in Closure, the interviewer should link exploration of safety options to the child's report within the interview. For example, if during Abuse Scenario the child reported telling his or her parents about an experience, the interviewer may say, "You said you told your mom and dad. If something else happens, it would be a good idea to tell mom and dad again, just like you told me you did."

Likewise, if the child reported keeping an experience a secret or identified individuals who the child could *not* tell, the interviewer may reflect back to such statements and inquire about whether the child now feels they could tell and if the child is able to identify individuals he or she could tell if the need should arise. It is important to understand that safety messages may vary from one professional to the next, depending upon the individual's discipline and the interviewer's perceived role. Child protection, law enforcement, and forensic interviewers may have stylistic, procedural, or ethical differences. For example, law enforcement may feel that it is necessary to tell the child that he or she could call 911 if something happens to the child. Child protection may feel a responsibility to tell the child that he or she may call the local child protection agency if the child feels threatened or abused.

Again, exploration of safety options is conducted with all children, those who disclose abuse and those who do not, for similar purposes as those identified regarding providing safety messages to all children: since any child participating in a forensic interview may possibly experience abuse in the future, it is important that all children have a specific plan regarding what to do if future abuse occurs.

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[480] PERRY & WRIGHTSMAN, *supra* note 450, at 246.

Some children will not identify safety resources, and these children's perspectives must be validated. While a child will ideally leave an interview with a plan of who he or she could tell, if a child is not able to name anyone, the interviewer may need to simply offer encouragement for the child to think about whom they might be able to tell and continue to emphasize the message that it is okay to tell someone.

5. Conclusion

The Closure stage of the RATAC protocol is significant within the context of the forensic interview as a whole. The Closure stage of an interview, like the other stages of RATAC, will vary depending on the individual needs of the child and upon the context of the interview; yet, the basic purposes of Closure remain constant. By providing children with a respectful end, appropriate educational messages, and an exploration of safety options, children will ideally leave the forensic interview having had a child-friendly experience and equipped with better skills with which to report future abuse should it occur. Although safety messages within a forensic interview are likely to be brief, they could serve as a foundation for concepts that can be reinforced in future therapeutic or educational settings. Likewise, the experience of talking to an adult in a child-friendly setting can be a foundation for the child's comfort in talking with adults about significant topics in the future. The purposeful application of Closure within the CornerHouse RATAC Forensic Interview Protocol can serve as not only a means of ending a forensic interview, but as something that may positively influence a child long after the interview has concluded.

V. CONCLUSION

The CornerHouse RATAC Forensic Interview Protocol is one avenue by which to explore a child's experience in a way that is both forensically sound and respects the child's individuality. Just as there are many constructs that can be used to categorize the types of questions asked, there are many valid ways to approach the forensic interview itself, from structured protocols to flexible guidelines. RATAC

is merely one approach: an approach that strives to balance the simple with the complex, the amorphous with the prescriptive, and most of all, offers interviewers principles from which to learn about children and their experiences. The protocol can accommodate considered adaptation by trained professionals, when desired, to meet a myriad of local community standards, but should not be expected to produce a "perfect" interview, as no model can fulfill that promise. Furthermore, adaptations of the five previously delineated stages due to developmental considerations and the spontaneity of a child are implicit to the model. An interview may still comport with the RATAC protocol even when an interviewer skips, repeats, or eliminates stages based on the needs of the child.

While this article brings focus to the research basis for the CornerHouse RATAC Forensic Interview Protocol, the importance of clinical knowledge should not be overlooked. It is for this reason that reading this article is not an adequate replacement of quality forensic interview training. This is also why experts who train professionals in the use of RATAC should be practitioners, who are actively using the protocol in forensic interviews with children. In the words of Saywitz and Lyon:

> Research dictates that practical decisions in the field will still be made on the basis of imperfect information. Practitioners cannot cede these difficult decisions to researchers in laboratories. In each case interviewers need to weigh the merits and drawbacks of the options available to them at a given point in time.[481]

While much can be learned in the laboratory, valuable information is also learned in the field. The most efficacious professionals are those who take what each can contribute and use what is garnered to build their skills to serve justice.

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[481] Karen J. Saywitz & Thomas D. Lyon, *Coming to Grips with Children's Suggestibility, in* MEMORY AND SUGGESTIBILITY IN THE FORENSIC INTERVIEW 85, 107 (Mitchell. L. Eisen et al. eds., 2002).