

Evidence-Based Forensic Interviewing of Children: What Attorneys Need to Know

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Objectives

By the end of the seminar, you will be able to:

- Identify evidence-based forensic interview protocols that meet Daubert standards;
- Describe how biased interviewing can impact the reliability of children's statements;
- Understand how forensic interview quality influences juror decision making.

Little Rascals Day Care

- Biased interviewing techniques.
- Appellate courts scrutinize interview methods when evaluating reliability.



Memory and Suggestibility

- Children's memories are generally accurate under neutral conditions.
- Suggestive interviewing can distort memory.
- Interview methods directly affect the reliability of children's statements.



How Should Children Be Interviewed?

- Evidence-based protocols (e.g., NICHD protocol) that meet Daubert standards.
- Open-ended prompts that lead to free-recall narratives yield more accurate information.



Initial Stages of the Interview

- Screening developmental level ensures questions are legally appropriate.
- Rapport building increases accuracy.
- Ground rules reduce guessing and compliance.
- Narrative practice improves recall.



Substantive Stage

Elicits the child's account of the alleged event.

- Non-suggestive topic introduction allows the child to identify the subject without interviewer prompting. (Earhart et al., 2018; Brown & Lamb, 2018)
- Open-ended prompts that elicit free-recall narratives.
- Use of suggestive questioning during this stage is a basis for expert criticism.



Clarification

- Clarification must never introduce new information.
- Cued invitations reflect the child's own words:

*"You mentioned he touched you.
Tell me more."*

- Focused 'WH' questions support recall without suggestion.



Interview Closure

- Ask if there is anything else that the child wants to share.
- Return to neutral topics.
- Provide simple explanation of next steps.
- Improper closure can shape later disclosure.



Testing Alternate Hypotheses

"The single most important precaution an interviewer can take is to test an alternative hypothesis in the course of conducting an interview with a child."

(Ceci et al., 2016)



Interviewer Bias

- Seeks out information or assigns more weight to statements that support their belief of what happened.
- Frames interview questions using suggestive techniques.
- Does not consider alternative explanations for the allegations.



Question Types That May Produce Inaccurate Information

- Provide information about the allegation that the child hasn't mentioned.
- Implies a desired response.
- Offers limited alternative response options.
- Repetition until the child provides the wanted information.

Caretaker Interviews

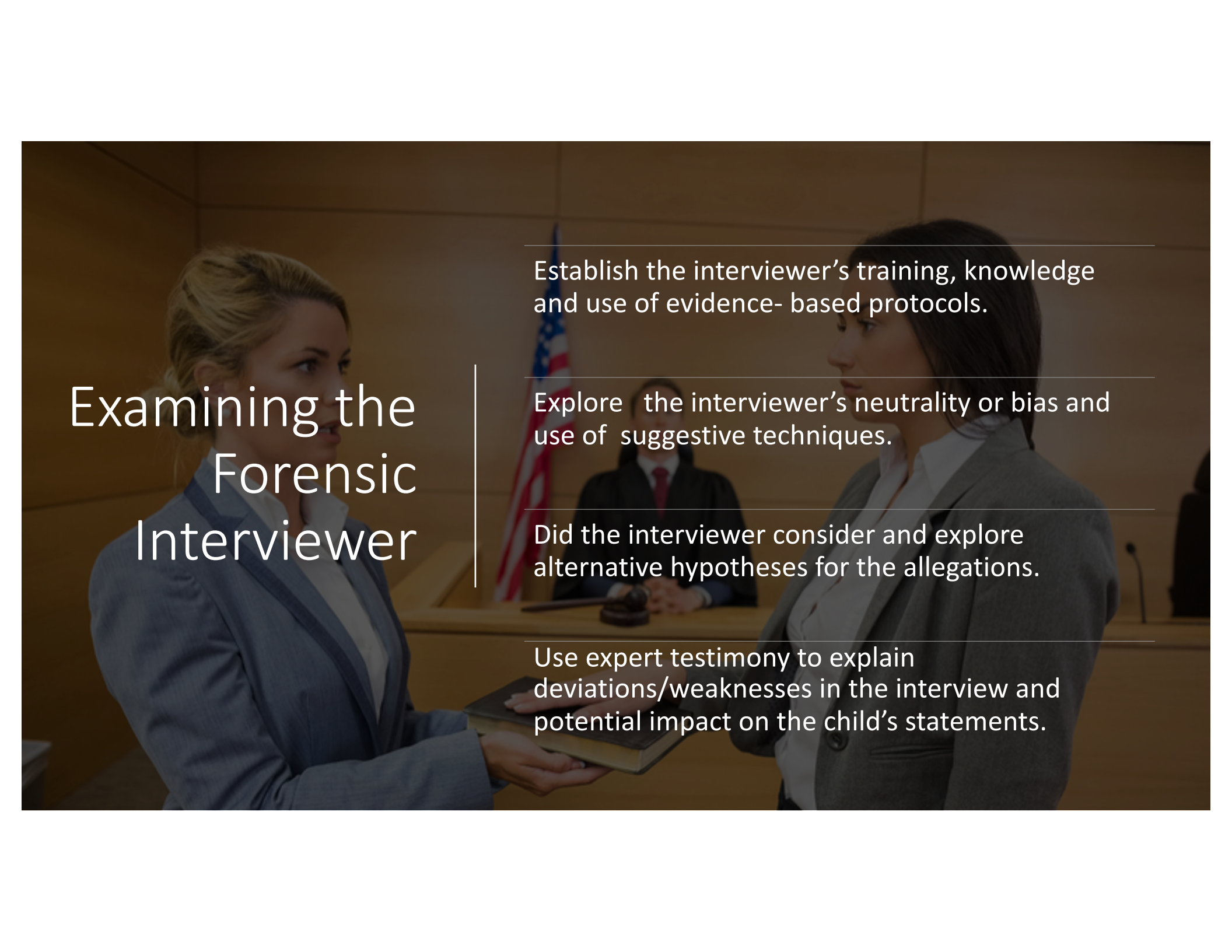
- We don't expect caretakers to know how to question children.
- Caretakers frequently ask leading questions when questioning their children about abuse.
- Erroneous statements made in response to questions by caretakers may be repeated in forensic interviews.



Jurors' Perceptions of Child Interviews

- Jurors often overestimate children's credibility.
- Jurors consider interviews more carefully when an expert explains evidence-based interviewing.
- Jurors render more guilty verdicts when the interview is of high quality.





Examining the Forensic Interviewer

Establish the interviewer's training, knowledge and use of evidence-based protocols.

Explore the interviewer's neutrality or bias and use of suggestive techniques.

Did the interviewer consider and explore alternative hypotheses for the allegations.

Use expert testimony to explain deviations/weaknesses in the interview and potential impact on the child's statements.

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