

ARTICLES

Joint investigative interviews with children in Scotland

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Children are asked to participate in joint investigative interviews (JIIs) when they have been suspected of being victims or witnesses of crimes and investigators need to learn — from the children's own words — what happened. Information thus obtained from children in JIIs can play a significant role in civil and criminal decision making. It is, therefore, important that investigative interviewers employ techniques and practices designed to maximise the reliability of information elicited from children. In this article we briefly review key aspects of psychological research that have shaped scientific recommendations about how investigative interviews should be conducted, and provide results from preliminary studies of interviews conducted in Scotland. The findings are discussed in light of the newly released Scottish Executive (2011) guidelines for interviewers. We conclude by suggesting the most beneficial way forward in Scotland with regard to child interviewing practices is to utilise the National Institutes of Child Health and Human Development (NICHD) Protocol, and suggest that strong links between scientific researchers and practitioners (e.g., police, social work, fiscal service, children's reporters, and the judiciary) should be developed and maintained.

Introduction

The international consensus

It is crucially important for legal fact finders, decision makers, those tasked with the development of interviewer guidelines, as well as interviewers themselves, to understand the important contribution psychological science has made to our understanding of the issues surrounding child interviewing (for example, see *AJE v HM Advocate*, 2002 J.C. 215 (*sub nom E v HM Advocate*) 2002 S.L.T. 715). More than 20

years of accumulated psychological research has provided very clear evidence as to how investigative interviews should and should not be conducted. Research findings have been regularly reviewed in numerous books targeted at both practitioner and academic audiences and are widely available (for example see titles by Brainerd & Reyna, 2005; Eisen, Quas, & Goodman, 2002; Dent & Flin, 1992; Kuehnle & Connell, 2009; Lamb, Hershkowitz, Orbach, & Esplin, 2008; Lamb, La Rooy, Malloy & Katz, 2011; Milne & Bull, 1999; Poole & Lamb, 1998; Westcott, Davies, & Bull, 2002; Wilson & Powell, 2001). Readers will find that non-psychologists such as interview trainers, linguists, police officers, social workers, expert witnesses, and lawyers have also been contributing to and enriching this research base increasingly.

Given our extensive knowledge regarding the strengths and limitations of children's memory, suggestibility and false memory, and the importance of conducting developmentally appropriate interviews, it is not surprising that an international consensus about the best way to interview children has emerged. Psychological research has also influenced the development of many professional recommendations for interviewers worldwide (for example, American Professional Society on the Abuse of Children (APSAC), 1990, 1997; Home Office, 1992, 2002, 2007, 2011; Jones, 2003; Lamb, 1994; Lamb *et al*, 1998; Lamb, Orbach, Hershkowitz, Esplin, & Horowitz, 2007; Orbach, Hershkowitz, Lamb, Sternberg, Esplin *et al*, 2000; Poole & Lamb, 1998; Scottish Executive, 2003, 2011; Toth, 2011; Warren & McGough, 1996). Several key recommendations for interviewers about which there is strong agreement between professionals are detailed briefly below.

Ground rules

Researchers agree that interviewers should establish the "ground rules" before the substantive phase of the interview begins. Communication of the ground rules allows children to be made aware that they are in control of the interview, that they should not feel pressured to answer questions if they do not know the answers ("just say, I don't know"), and that they can ask interviewers to explain anything that they do not understand. The ground rules are therefore an important part of the pre-substantive phase of the interview because they are designed to remove implicit pressure on interviewees to guess if they are not really sure about what happened, and/or to acquiesce to interviewer suggestions by saying

“yes”. The ground rules are intended to reduce the effects of suggestibility and misleading questions (Mulder & Vrij, 1996, cited in Milne & Bull, 1999).

Practice interview

Interviewers should attempt to extend rapport in the pre-substantive phase of the interview with a “practice interview” (sometimes also referred to in academic writing as “narrative elaboration training” or “episodic memory training”). The practice interview should involve interviewers using open prompts to elicit detailed accounts of neutral specific experiences from interviewees. The purpose of this phase is to provide children with a chance to (a) practice remembering specific events; (b) focus on actual details rather than gist; (c) practice replying to open prompts; (d) maintain and build rapport; (e) experience success providing information; and (f) feel in control and that they should be doing most of the talking, while at the same time allow interviewers to (g) motivate children to provide full descriptions/disclose what really happened; (h) practice using open prompts; (i) practice talking about different events separately if required; and (j) better understand the cognitive abilities and communicative style of the children they are talking to (Roberts, Brubacher, Powell & Price, 2011; Sternberg, Lamb, Hershkowitz, Yudilevitch, Orbach, Esplin & Hovav, 1997).

Open ended prompts

Researchers agree that children ought to be allowed to describe the events in question in their own words, free from pressure and any suggestive influence. Interviewers are advised to use as many open prompts as possible because information obtained from open prompts comes from free recall memory and is more likely to be accurate as shown by scientific research (reviewed by Kuehnle & Connell, 2009; Lamb, Hershkowitz, Orbach & Esplin, 2008; Lamb, La Rooy, Malloy & Katz, 2011).

If children are specifically prompted for more details using specific focused questions (e.g., “why” and “how” questions and yes/no questions), recognition memory is used, and the probability of error rises (Kuehnle & Connell, 2009; Lamb, Hershkowitz, Orbach & Esplin, 2008; Lamb, La Rooy, Malloy & Katz, 2011). When very specific yes/no questions are asked, there is also a risk that children will make acquiescence errors, tending to agree or “go along” with what is being said by answering “yes” more often than “no”: this tendency increases at long recall delays (>1 month; Jones & Pipe, 2002) and is more problematic for

younger children (five years and younger) than older children.

Interviewers must therefore use as many open prompts that access free recall memory as possible and minimise the use of questions that draw on recognition memory: this is the recommendation of the interviewing guidelines provided by the Scottish Executive (2003, 2011). Recall of events elicited using open prompts are much more likely to be accurate than those elicited using focused questions.

The current situation

The difficulties we face today in the world of child forensic interviewing do not revolve around any disagreements about the above mentioned key research findings or research based recommendations for interviewers to follow. The greatest challenge we face is being able to set in place systems and procedures that result in high quality interviews being conducted by police and social work on a *day-to-day* basis.

In light of both advances in research over the previous decades and the publication of professional recommendations, it has been particularly disappointing to see that interview practices have not improved as much as had been anticipated based on the clarity of the research recommendations. Traditional training courses for interviewers designed to promote good practice have largely failed to produce interviewers who go on to follow recommended guidelines (e.g., Cederborg, La Rooy & Lamb, 2008; Cederborg, Orbach, Sternberg, & Lamb, 2000; Craig, Scheibe, Kircher, Raskin, & Dodd, 1999; Cyr, Lamb, Pelletier, Leduc, & Perron, 2006; Davies, Westcott, & Horan, 2000; Korkman, Santtila, & Sandnabba, 2005; Lamb, Hershkowitz, Sternberg, Esplin, *et al*, 1996; Lamb, Sternberg, & Esplin, 2000; Lamb, Sternberg, Orbach, Aldridge, Bowler, Pearson, & Esplin, 2006; Sternberg, Lamb, Davies, & Westcott, 2001; Thoresen, Lønnum, Melinder, Stridbeck, & Magnussen, 2006; Walker & Hunt, 1998; Walker & Warren, 1995).

This lack of improvement in interview quality is due to the fact that, while it is relatively easy to raise awareness of best practice principles, it is actually very hard to change interviewer behaviour and get interviewers to implement best practice in their work places. Research shows that the traditional “one off” intensive training courses change actual interviewing behavior very little (Aldridge, 1992; Aldridge & Cameron, 1999; Freeman & Morris, 1999; Stevenson, Leung, & Cheung, 1992; Warren,

Woodall, Thomas, Nunno, Keeney, Larson, & Stadfeld, 1999). It thus appears that, while it is relatively easy to describe good interviewing practice and “tell” interviewers what they should do, this does not translate into everyday practice.

For example, one study, conducted in England and Wales, was designed to examine the impact of research based interviewer guidelines released in the early 1990s in the so called “Memorandum of Good Practice” (Sternberg, Lamb, Davies, & Westcott, 2001). The study involved 119 interviews with children (33 males and 86 females) who had made allegations of abuse involving exposure, touching, or penetration. The interviews were conducted mainly by police officers who had completed an intensive five day training course on child interviewing. The result of the study showed that only six per cent of the prompts used by the interviewers were open, 57 per cent were directive (“Wh-”) questions, 32 per cent were option posing and yes/no questions, and five per cent were suggestive. Despite the importance of using open prompts and the emphasis on this type of prompt during training, only a very small number were used to elicit information in the interviews studied.

The situation in Scotland

More recently, a survey of child forensic interviewers in Scotland has also provided cause for concern (La Rooy, Lamb & Memon, 2011). In this study, 91 police interviewers throughout Scotland were surveyed about their perceptions of how well they adhered to the Scottish Executive (2003) guidelines. Most (85 per cent) interviewers indicated that they always, or almost always, explained the ground rules but most (87 per cent) never or rarely conducted practice interviews and, critically, open ended prompts were not widely used, with 20 per cent of the interviewers indicating that they never or rarely used them. These findings are of great concern because they suggest a lack of the most basic knowledge about recommended interviewing practices.

A research based solution

The NICHD Protocol is the best known and widely studied interviewer training system and is *freely available* (Lamb, Hershkowitz, Orbach, & Esplin, 2008; Lamb, La Rooy, Katz, & Malloy, 2011; Lamb, Orbach, Hershkowitz, Esplin & Horowitz, 2007). Research studies involving over 40,000 forensic interviews with children conducted since the protocol was introduced in 1996 demonstrate that use of the protocol dramatically improves the quality of

investigative interviewing. The protocol was informed by scientific research on child development, including linguistic capabilities, memory, suggestibility, forensic needs, interviewer behaviour, and the effects of stress and trauma. It was developed and tested by a team of researchers, interviewers, psychologists, police officers, and legal professionals. It has been validated by research in many countries, is mandated in parts of the USA, Canada and Israel, is taught or built into formal guidelines in Sweden, Norway, England and Wales, and Finland, and is currently being implemented in Korea, Japan, and Portugal.

Research over the last decade has shown that effective interviewer training can be achieved quickly and cost effectively, using the NICHD Protocol. This is because it allows interviewers to maximise the amount of information obtained from free recall memory (which is most likely to be accurate) by using open ended prompts, thus allowing interviewers to avoid the risky focused questions that are more likely to elicit inaccurate information. The overarching goal of effective training is to help interviewers understand and implement these research based professional recommendations. Awareness of the research base maximises the defensibility of the procedures that are used by forensic interviewers and increases interviewer confidence that they are using guidelines based on well researched scientific principles that are also being followed by many other interviewers.

In one of several demonstration studies, Sternberg, Lamb, Orbach, Esplin, and Mitchell (2001) trained American police officers to use the NICHD Protocol and compared their interviews with four to 12 year olds following training to comparable interviews they had conducted before training. Before the training, only 10 per cent of the prompts were open, 43 per cent were Wh- questions, 36 per cent were option posing and yes/no questions, and 11 per cent were suggestive questions (Sternberg *et al*, 2001). Following the training, 33 per cent of the prompts were open, 35 per cent were Wh-questions, 26 per cent were option posing and yes/no questions, and were six per cent suggestive questions (Sternberg *et al*, 2001). These data show the dramatic difference between the interviews conducted using and not using the protocol. It is also important to note that, when interviewers used many open prompts (33 per cent in this study), these prompts elicited *almost half* (47%) of all the information provided, clearly documenting the effectiveness of open ended prompts.

Subsequent research conducted in the UK has also confirmed that it is possible to use a large number of open prompts when interviewing children (Lamb, Orbach, Sternberg, Aldridge, Pearson, Stewart, Esplin, & Bowler, 2009).

Using the same standardised and structured approach with all children has other more practical advantages, too. Importantly, it levels the playing field, giving all children who are interviewed the same opportunity to disclose or not disclose alleged abuse. Personal interviewer biases and weaknesses can be minimised. Forensic interviewers sometimes also lack awareness of their own interviewing practices so a standardised format aids in efforts to maintain desirable interview standards.

Study 1: analysis of interviews conducted in the previous decade according to the Scottish Executive (2003) guidelines

In this section we analyse a small sample of interviews conducted over the decade since the release of the Scottish Executive (2003) guidelines. We believe that it is an important time to reflect on the previous decade now that new Scottish Executive (2011) guidelines have recently been released. Awareness of problems encountered in the previous decade (see also La Rooy & Halley, 2010; La Rooy, Lamb & Memon, 2011) may help anticipate problems that could arise in the decade to come.

The interviews used in this analysis were conducted between November 2003 and February 2011 and subsequently referred to the first author for quality assessment by lawyers seeking expert evaluations. The interviews were used as evidence in criminal and civil cases involving alleged sexual abuse between April 2010 and April 2012. In all, the sample comprised 37 interviews conducted with 25 children throughout Scotland. The interviewees were between four and 13 years of age, and there were 19 females and six males. The interviewers recorded what was said in the interviews through a process of scribing whereby they attempted to write down “verbatim” exactly what was said by both the interviewer and child. No information was available regarding the individual training that interviewers had received but it is likely that most, if not all, had participated in week long training programmes designed to raise awareness of the guidelines. It is less likely that the interviewers received regular ongoing support and feedback during their career about the quality of the interviews that they were conducting. The project was reviewed and approved by the School of Social and Health Science Research Ethics Committee

at Abertay University Dundee in advance of data collection.

Given the recommendations provided in the Scottish Executive (2003) guidelines, the interviews were specifically examined to determine (1) the frequency with which the ‘ground rules’ were laid out; (2) whether practice interviews were conducted; and (3) the numbers and types of interviewer prompts that were used in the interviews. From a psychological perspective, it is noteworthy that these recommendations are as appropriate today as there were when they were first recommended in the Scottish Executive (2003) guidelines.

1. Ground rules

To examine the frequency and use of the ground rules, a tick box checklist was completed for each interview. Each ground rule was scored as being present when it was communicated. It can be seen in Table 1 that *in fewer than half* of the interviews examined did interviewers communicate to the children that it was important to tell the truth. Other important ground rules, such as those designed to minimise pressure on interviewees to provide information about events in question when they really “don’t know”, were similarly not communicated.

Table 1 — The percentage of each ground rule used by interviewers in the joint investigative interviews (N=37).

Ground rule	Percentage
“It is important to tell the truth”	43
“Demonstrate truth and lies”	30
“If you don t understand me say so”	24
“Don t guess, say, ‘I don t know’”	22
“Correct me if I make a mistake”	3

2. Practice interview

None of the interviews contained any kind of practice interview.

3. Numbers and types of interviewer prompts

For the purpose of the current interview analysis, the interviews were also examined to determine the percentages of each of the above types of interviewer prompt or question used by the interviewers following procedures identical to those used by Orbach *et al* (2000), Sternberg *et al* (2001), and in many other scientific studies. Only interviewer utterances in the substantive phase of the interview were included in the analysis. That is, the questions asked in the pre-substantive phase (rapport building and ground rules) and the closure phase were not included.

The different prompt and question types were defined as follows:

(1) *Open ended prompts*: These are considered to be the best type of prompt to use with children because they prompt free recall responses. Such prompts do not restrict the children's responses. For example, "Tell me everything that happened" is an open prompt. Prompts that include details disclosed by the child such as, "You mentioned X. Tell me everything about X", are also considered to be open ended prompts. It is important to realise that open ended prompts, by definition, are interviewer utterances that can be responded to by using *more than just one or two words*. Children's responses to open ended prompts become longer and more detailed as they get older.

(2) *Directive or "Wh-" questions*: These types of questions refocus the child's attention on details that the child has already mentioned and provide a category for requesting additional information (for example, "What *time* did that happen?") This type of question can normally be answered using only a few words.

(3) *Option posing and yes/no questions*: These focus the child's attention on details that the child has not previously mentioned, asking the child to select an interviewer given option, or to answer by saying Yes or "No". This type of question can normally be answered using one word or only a few words.

(4) *Suggestive questions*: These are questions stated in such a way that the interviewer strongly communicates what response is expected or *assume details that have not already been provided by the child*. Interviewers are universally advised not to use suggestive questions. Suggestive questions are also problematic because they may ask for details about events that did not happen or are not well remembered.

Table 2 shows that the interviewers in this sample used very few of the recommended open ended prompts (eight per cent). This finding is in accordance with the results of other studies discussed above and elsewhere showing that even after interviewers have been trained in accordance with internationally recognised best practice guidelines, they do not use of open prompts sufficiently. Table 2 also shows that 36 per cent of the interviewer questions used were focused questions (option posing and yes/no) and that interviewers also asked a large number of suggestive questions (17 per cent) which is of great concern.

Table 2 — The percentage of interviewer prompts and questions used in the substantive phase of the joint investigative interviews (N=37).

Interviewer utterance	Percentage
Open ended prompts	8
Directives (wh. questions)	39
Option posing and yes/no	36
Suggestive	17

Study 2: preliminary results from current research on interviewer training in Scotland

The *Child Witnesses Scotland Project* has begun to address concerns shared by researchers and practitioners alike (Gabbert & La Rooy, 2012; La Rooy & Halley, 2010; La Rooy, Lamb & Memon, 2011), and those we have highlighted in the above analysis of interviews conducted in Scotland. One informative project is currently being undertaken by A Nicol as part of her PhD research at the University of Abertay Dundee. Working in close collaboration with interviewer trainers from Grampian Police and the North East Scotland Child Protection Committee, researchers provide input into the existing JII training that *heavily emphasises* a structured approach to interviewing *consistent with* the recommendations of the NICHD protocol. This initiative is entirely consistent with the recommendations of the Scottish Executive (2003) guidelines that also advocated a "structured approach" to interviewing: "Current research indicates that interviewers find a *highly structured interview protocol* easiest to use and most effective" (p.46; see also appendix A of the Scottish Executive, 2003, guidelines for a sample interview protocol).

This study has involved 25 police and social workers undergoing their weeklong JII training. The project was reviewed and approved by the School of Social and Health Science Research Ethics Committee at Abertay University Dundee in advance of data collection. The initial promising results show that, during training exercises in which interviewers question actors posing as abused children, 29 per cent of the prompts were open. This is very encouraging because it suggests that the interviewers involved are approaching international standards of best practice. Importantly, the structured approach also reduced the use of poor interviewing practices: the number of inappropriate suggestive questions asked was only two per cent, which is excellent (see Table 3 below). Future research is aimed at examining whether these positive interviewing behaviours observed during training are also evident when

the trainees later conduct real forensic interviews.

Table 3 — The percentage of interviewer prompts and questions used in the substantive phase of the training interviews with actors (N=37).

Interviewer utterance	Percentage
Open ended prompts	29
Directives (wh. questions)	27
Option posing & yes/no	42
Suggestive	2

Conclusions

The current analysis of JII interviews provides important insights into the quality of the investigative interviews that have been conducted with children in Scotland over the last 10 years. Consistent with previous research and professional experience in Scotland (La Rooy & Halley, 2010; La Rooy, Lamb & Memon, 2011), as well as the results of numerous studies conducted both in the UK and worldwide, interviewers who are not trained to use a structured interview protocol (such as the NICHD Protocol) and who do not receive ongoing support and feedback about the quality of their interviews find it hard to comply with professional recommendations. This is a very concerning state of affairs given the current research evidence base about how to conduct appropriate interviews.

There was little evidence in the interviews we analyzed that the ground rules were uniformly presented, or indeed presented at all. Researchers have known for a long time, for example, that explaining to children before an interview that it is OK to say “don’t know” reduces the number of incorrect answers to misleading questions by more than half but has little effect on responses to other questions (for example, Moston, 1987, cited in Poole & Lamb, 1998; Mulder & Vrij, 1996, cited in Milne & Bull, 1999, p.147). This is an important consideration because forensic interviewers sometimes ask misleading questions and it is difficult to understand why such a simple, well founded recommendation is not commonly implemented. Perhaps interviewers who are not trained with the NICHD Protocol may find it difficult to remember and apply all individual interview requirements.

It is particularly disconcerting that the recent Scottish Executive (2011) guidelines do not appear to recommend the use of ground rules at the outset of the interview, however. They state in para.97 that, “... there is substantial information in research and literature to indicate that

“ground rules” are most effective when dispersed across the interview at salient/relevant junctures ...”. The actual research in question is not cited, and the authors of the present article are not aware of any such evidence. In addition, when referring to the use of ground rules, para.97 of the Scottish Executive (2011) guidelines states that: “There are strong suggestions that the litany approach is, in fact, *counter-productive* and unnecessary (see Berliner and Conte, 1995; Saywitz and Faller, 2006)” (emphasis added). However, the research by Berliner and Conte (1995) involved a study of retrospective interviews with children and families about their experiences in the legal system — it did not explore the usefulness of the ground rules. Further, the Saywitz and Faller (2006) item does not appear to be a scientific study and Saywitz (22/04/2012) herself confirmed in a personal email communication with D La Rooy that: “From my research *I could not say the instructions or ground rules are counter productive*” (emphasis added). In all, the current Scottish Executive (2011) recommendations regarding the “ground rules” are not supported by research and this places interviewers and children at a disadvantage from the outset of any interview conducted.

Consistent with responses to a recent survey revealing that 87 per cent of interviewers said they did not conduct practice interviews (La Rooy, Lamb & Memon, 2011), the current findings also show that practice interviews are not conducted by interviewers in Scotland. This is very disappointing because there is evidence that children benefit from practice responding to open ended prompts before they are “cognitively” prepared to disclose abuse. Even interviewees who appear willing to disclose may only be able to do so if they have received proper “training” about what will be required of them in the substantive phase of the interview. It is important for children to be emotionally prepared to disclose abuse in a supportive and sensitive environment, but interviewers must also provide children with the skills they need to be able to access their free-recall memory efficiently in response to open-ended prompts.

Interviewers sometimes feel foolish asking children to discuss non-substantive events in detail because the discussion is unrelated to the “real” reason why the interview is taking place or fear that the additional time required for the practice interview risks exhausting the child’s limited mental resources and attention span. These concerns are not borne out by the research thus far: children who are given the

opportunity to practice provide more — not less — information (Sternberg, Lamb, Hershkowitz, Yudilevitch, Orbach, Esplin, & Hovav, 1997). Conducting a practice interview is not foolish nor does it deplete children's mental resources.

We were not surprised that so few open-ended prompts were used in the interviews we analysed. Ongoing feedback and support for interviewers has not been the norm in Scotland. Thus, interviewers are able to conduct many interviews without ever knowing if they are following best practice recommendations. Research shows that, without feedback, standards inevitably slip. Further, the lack of training in the use of the research based NICHD Protocol is also likely to place interviewers at a significant disadvantage. The failure to conduct a practice interview makes the minimal use of open-prompts more likely because, without "practice", they are not as effective at eliciting information, and thus may seem, no more or less effective than closed or focused questions.

The results of the research currently being conducted examining the use of actors in training has produced evidence that interviewers can be encouraged to use more open ended prompts and fewer suggestive questions when their attention is drawn to the example protocol listed in appendix A of the Scottish Executive (2003) guidelines. Researchers are currently examining whether these initial promising results are confirmed by studies of real interviews in the field.

It is, however, troubling that the latest Scottish Executive (2011) guidelines omit the appendix which included a sample protocol while still apparently advocating a structured approach to interviewing. Research on the NICHD Protocol was first published over a decade ago (Orbach *et al*, 2000; Sternberg *et al*, 2001) and a "modified version" of this structured protocol was printed in Appendix A of the Scottish Executive (2003) guidelines, although the provenance of the material was not specified. The 2003 guidelines thus echo elements of what was at the time cutting edge "game changing" research, which has now become the international "gold standard" for forensic interviews of children. The new guidelines do not include a structured interview protocol and make only passing reference to the supporting literature published in the last decade. This is worrying because it will be difficult for trainers to explain best training methods when they are not explicitly mentioned in the revised guidelines. Research conducted in the UK shows that interviewers

trained to use the protocol conduct interviews of superior quality (Lamb *et al*, 2009).

It is very common for there to be some initial resistance by interviewers, managers, and the developers of professional guidelines to the desirability of the NICHD Protocol but, research shows that there are clear benefits in terms of the speed of learning and the improved quality of information obtained. Moreover, using the same standardised approach with all children has other advantages: it levels the playing field, giving every child who is interviewed the same opportunity to disclose or not disclose alleged abuse. The impact of personal biases (e.g., underestimating children's capabilities) or the overemphasis on certain case characteristics, are minimised. Forensic interviewers may also lack awareness of their interviewing practices. The articulation of a standardised format makes it easier for the interviewers to compare their performance against a standard and thus continue gaining skills (Stewart, Katz & La Rooy, 2011).

A major improvement to capability in Scotland will be the mandatory electronic recording of interviews. It is difficult to believe that, until now, interviews have not been recorded as they have been in most other countries for decades. In Scotland, "transcripts" of interviews are recorded as handwritten contemporaneous notes which means that interviewers are not only expected to conduct highly detailed investigative interviews but also to write down everything that is said! Anyone who has ever tried to keep a verbatim record of a conversation knows how impossible it is to do so accurately. Indeed, Lamb, Orbach, Sternberg, Hershkowitz and Horowitz (2000) compared the handwritten notes of forensic interviewers who had many years experience at taking verbatim notes with electronic recordings made of the same interviews. The results showed that more than half (57 per cent) of the interviewer utterances (questions and prompts) were not recorded in the verbatim notes by the interviewers. A quarter of details reported by the interviewees were similarly unrecorded in the handwritten verbatim notes. Moreover, there were changes in the ways that details were recorded and they were often attributed, incorrectly, to "safe" rather than (accurately) "risky" interviewer prompts. This suggests that interviews with children alleging abuse in Scotland may have hitherto been recorded rather inaccurately. If such a conclusion is properly founded, it must give cause for concern to all who are concerned about justice and the welfare of our children.

Learning from our experience: the way forward

There are entirely obvious cost implications of “going it alone”, experimenting with untested approaches, and mindfully determining NOT to avail child interviewees in Scotland of the best known and researched method of providing them with a voice. We had hoped that the mistakes of the past would not be repeated and that the new Scottish Guidelines (2011) would remedy past problems.

We strongly suggest that, with the requirement of DVD recording of JII’s, for the reasons set out in this paper and in the present financial climate, there is an urgent need to implement the most effective, and cost effective, method for conducting JII’s. We recommend the use of the NICHD Protocol in joint investigative interviewer training in Scotland. The alternative is to continue with the current inadequate guidelines, with the inevitable costs being borne by the children whose interests we seek to protect.

Forensic interviewers should produce DVD recorded JIIs of sufficient quality that they can be used, when necessary, as the evidence in chief of a child witness in criminal proceedings (see s.271M, Criminal Procedure (Scotland) Act 1995). In terms of s.271I of the Criminal Procedure (Scotland) Act 1995, cross examination in criminal proceedings can be conducted by taking the evidence on commission. In Scotland, therefore, we have had the potential for some years now to remove the child completely from personally experiencing (whether by CCTV link or otherwise) the trauma of giving evidence in a criminal trial. In our view, the tallest hurdle to vault is still the poor quality of the conduct of JIIs. We urge the most direct scientifically validated route to improvement, in the interests of children and of justice.

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