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Achieving best evidence manual

November 17, 2020 Sex crimes13 November 2020Sexual crimes09 November 2020Sexual crimes09 November 2020Enforced offences, Sex crimes03 2020. Sex crimes27 2020. 2020Sexual offences19 October 2020Sexual offences19 October 2020Sexual offences19 October 2020Sexual offences19 October 2020Sexual offences Brenda Robinson, child forensics expert, presents preliminary findings from her research into the practice and effectiveness of achieving the best evidence in child sexual abuse cases. This first part sets out guidelines and components for ABE interviews. Introduction ii. Brenda Robinson*1The Criminal Justice Act of 1991 found that the child's number one evidence could be presented at trial in video footage held by a police officer and a social worker, the conduct of which was first led by the Memorandum of Good Practice [2], which was later updated to Achieve Best Evidence [2]. In the late 1980s and early 1990s, Professor Ray Bull and his colleagues made expert recommendations; [4] There are a number of existing research findings, and the recommendations of the Cleveland Report [5] are the guidance offered in the memorandum. As a result, the memorandum (and subsequently the ABE) addressed a number of interview preparation issues, advised on fundamental issues and proposed using a four-phase approach to the interview, which includes the relationship between the child, the child's free narrative account, interrogation and closure. It has been around fifteen years since the memorandum was implemented, six years since the ABE revised the guidance. To what extent are the best evidence of alleged sexual abuse currently available in ABE interviews? There have certainly been many fascinating (and very extensive) developments and debates in the field of research, particularly children's memory, suggestive and recall capabilities. [6] At the same time, contributions from experts in the field of attachment and abuse-related trauma have provided a number of fascinating insights into the impact these can have on the developing child. [7] Both areas provide an extremely rich context within which children can discuss the reliability of evidence in alleged sexual abuse cases, as well as the knowledge and skills required by competent interviewers. Currently, however, the author suspects that there is a widening gap between the increasingly sophisticated content of scientific debate, and the reality of the practice on the ground. The article tries to encourage discussion of children's best evidence by taking on a number of issues. Firstly, the extent to which research on the reliability of children in cases of alleged sexual abuse? Secondly, is the guidance currently provided in the ABE relevant to such cases? Third, what does a competent ABE interview look like? Fourthly, to what extent do we see this competence in practice? Finally, to what extent and in what ways can the poor conduct of the interview affect the reliability of the child's testimony – especially in the case of alleged sexual abuse? The latter part will address the relevance of the research Research on the suggestiveness, memory and truth of children has been carried out with children who have not been sexually abused, mainly because such an investigation would involve profound methodological and ethical difficulties. Therefore, many authors have questioned the relevance or ecological validity of such research. [8] For example, much of the research on the veracity and deception of children has been conducted with un traumatized children under the age of 5, usually in neutral laboratory experiments where ordinary children are presented as students or told stories and asked to be remembered. After that, specific conclusions are sometimes generalized to present unreliable research results. For example, research results on preschool children may widen to cover all ages, and conclusions from experiments conducted under neutral conditions are common to fit child abuse cases. As Goodman and Clarke Stewart State:[9] Most research on children as eyewitnesses relied on situations that were very different from personal involvement and trauma from sexual abuse. Some researchers have tried to stage real events under experimental conditions in order to test children's eyewitness accounts. These range from witnesses to serial thefts to disputes between adults. [10] Further studies on real world events, which children focus on children's image, have also produced mixed results. Some people resist the proposals [11], while others conclude that young children, mainly preschoolers, are suggestive. [12] Other researchers designed their studies for naturally occurring stressful events to better approach real-life abuse. Children's memory of outstanding, meaningful events has proved good over a long period of time in the following studies: dental visit; [13] physical examination.[14] and vaccination. [15] Furthermore, several researchers have tried to study the effects of real-world trauma, as it is linked to the reliability of children's recall of the event. [16] However, these studies were limited to single traumas. Relevance of ABE in sexual abuse cases most of the above-mentioned research has been incorporated into the original memorandum on listening to children. However, the proposed approach [17] had to cover a wide range of situations, from, for example, a normal child who witnessed physical abuse to a suspected victim of longer-term sexual abuse by the key lock. It is proposed that the guidelines contained in the MEMORANDUM and the ABE should catch everything in nature. Indeed, Professor Ray Bull (author of the memorandum) quite clearly described the guidance as how to do the easy ones. [18] Neither the Memorandum nor the ABE contains specific guidance on listening to children who have been referred to and traumatised by sexual abuse. At the same time, research (and much anecdotal evidence) suggests that most of the interviews are not with the easy ones, but with children who claim sexual harassment. [19] It is suggested that hearing the latter requires theoretical knowledge, specific preparation skills, questioning techniques and style, which go far beyond the content of the current guidelines. Similarly, ABE contains little advice on the nature of the specific forensic preparation required in cases relating to alleged sexual abuse and how this can be turned into questions during the interview. Interviewers encourage those who are most open to what may or may not have happened to the child,[20] but do not receive specific advice on how this can lead to practice. Generating open-minded hypotheses (in preparation for interviews) can be a particularly useful tool for exploring all the possibilities of allegations, such as the child lying; that he has been coached; that the claim does not relate to the named person, but to another person, or that the child speaks honestly. Such a wide range of hypotheses should form the basis for questions in the relevant part of the hearing, so that the child has the opportunity to answer in a friendly environment, rather than hearing such questions for the first time in cross-examination in subsequent criminal proceedings. Poole and Lamb [21] expressly state that the tribunal hearing should be hypothesis testing rather than hypothesis confirmation, while retaining a child-centred approach. For example, instead of asking the rather recititious – Are you sure it's not you that's all this?, interviewers need to maintain neutrality by disconnecting themselves from the question – You know, some people say that you've done this. What would you tell them? Interviewers should also take into account questions relating to the standards of proof required for the alleged offence and possible protection against individual offences in preparation. Review of the relevant ABE interview Before the interview ABE guidance requires interviewers to participate in multidisciplinary planning; planning; there are a number of factors in the preparation for the interview; decide whether a psychological or psychiatric evaluation of the child is necessary before a preliminary hearing and consider how the content, structure and rules of the hearing are explained to the child. [22] The interview guidance includes a four-phase structure and basic issues. In particular, particular emphasis will be placed on the importance of triggering the child's free narrative account of the alleged offences. Planning and preparationThe Abe is very basic, the ABE requires interviewers to meet and consider a number of factors before interviewing the child. They range from specific, but there are a number of factors that each child, family, and background, for example - the child's age, race, culture, and language use; religion; gender and sexuality; special needs; cognitive, memory and language abilities of the child; current emotional state and behaviour; relations with family members; sexual education and sexual knowledge of the child; family routines, the use of discipline and the presence of recentstrast. [23] Interviewers should avoid discussing relevant issues and should not lead the child on these issues. At the same time, the ABE advises that interviewers should never stop a child who is free to recall significant events. A full written record of the dispute shall be written. [24] The ABE also recommends that interviewers' assessments be taken into account for any child and concludes that this may happen the day before the interview. It recommends that the following factors be considered – the preferred address mode for the child; his or her speaking skills at an official hearing, an explanation of the reason for the hearing; the basic rules and the possibility of answering open questions; cognitive, social and emotional development of the child; the child's use of language and understanding concepts such as time and age; whether the child has a special need or mental health problem and whether the child is entitled to consent to the hearing and medical examination. [25] Furthermore, the ABE states that interviewers should also take steps to prepare the child for the interview. [26] After the author's communication with Professor Graham Davies (lead author of the ABE) in 2000, interviewers are also directed to consider the variables of abuse trauma before the interview, which appear as additional factors to be considered in the revised guidelines. [27] These are: the detailed nature of the child's attachment to his or her parents; the age and level of development of the child at the beginning of the abuse; its duration and frequency; whether different forms of abuse exist together; the relationship between the child and the abuser(s); the type of abusive act(s) and the existence of multiple abusers; A physical violence and aggression used; whether the child has been coerced into reciprocally having sex; the existence of adult or peer support; whether the child was able to determine or not; the parental response to the disclosure or allegation and the nature of previous interventions. While it is not clear in the ABE, it is suggested that a well-ed child with a safe connection who is subjected to one-off sexual abuse by a stranger can speak more freely and spontaneously during the interview than a child who has been subjected to longer-term sexual abuse by a key attachment personality. The consideration of the number of additional factors that may or may not be present in the case (and the way in which they interact, if any) is intended to help interviewers develop appropriate strategies and questioning techniques where appropriate. These four different levels (i.e. planning broader questions; preparing interviewers strategies, questions and content; general assessment of the child and preparing the child for the interview) seem to indicate that interviewers need several hours of planning and preparation. In addition, planning is specifically formulated as a necessary element of ABE interviews – thorough planning is essential for a successful investigation and interview. [28] Below we will examine the extent to which this occurs in practice. Phase one of the interview: Rapport ABE suggests that the interview should start with the relationship – that is, by discussing a neutral topic to relax and settle the child. An additional benefit to an interview rhythm can be established if the child does most of the talking and the interviewer does most of the listening. Indeed, Poole and Lamb advise that the long list of questions at this initial stage can teach children that the interviewer does most of the talking and that the task is to provide short answers. [29] Furthermore, the ABE could not be clearer about the role of interviewer at the beginning of the interview: It is important to encourage the child to speak freely at the rapport stage through the widespread use of open-end questions; questions to which the child may answer with a yes or no or similarly short answer should be avoided. [30] Interestingly, sternberg and his author's research [31] found that where the initial open-end relationship building existed, the volume and quality of the child's subsequent answers to crime-related questions improved much. After the discussion of the relationship, the interviewer may continue with the requirements at the end of the relationship period, i.e. an explanation of the basic rules, a truth and lie test (or ceremony) and the reason for the interview. The ABE advises that general you know the difference between truth and lies[32] and it is also clear that the selected examples the intent to deceive. Again, competent interviewers customize and connect the selected examples to the content of the rapport discussion. Words like imagine, let's pretend and little story should be avoided as they suggest fantasy or play. [33] The interviewer then has to bridge the Rapport phase with the free narrative, using the purpose of the interview. Words like that, why do you think you're here today? suitable for older children, but younger people may need a more specific cueing (not yet leading) target statement. Second phase of the interview: Free narrative Memorandum and ABE describe this section as the heart and core of the interview and the child should be encouraged to provide a free account of relevant events that are as free as possible from the influence of the interviewer. Very careful (and previously planned) open issues in order to be quick and maintain your child's free recall. The ABE explicitly states that interviewers at this point only have to ask the most common questions of indefinite time: At this stage, the role of interviewer is the role of the mediator, not the role of the interrogator... The free narrative phase should never be curtailed by asking questions too soon. Every effort shall be made to obtain spontaneous information from the child and free of the influence of the interviewer. [34] At the risk of stating the obvious, it is the interviewer's job to trigger and maintain as many free narratives as possible when the child mentions an alleged sex crime. Simple calls like so tell me everything about that – have you been from start to finish?, or so what happened can often be used to make a big impact. If the child claims that the offences took place at different times, the interviewer should encourage a free narrative about one of them in the interests of clarity. A lack of (seemingly frequent) attention to such a technique can in some cases contribute to inconsistencies in the child's account, and this issue will be discussed in more detail below. The ABE guidelines also stress the need to provide the fullest and most comprehensive possible account in the child's own words. The detailed content of such a free account can have important implications for assessing your child's trustworthiness at a later date. Although the ABE is not included, some features are associated with real accounts, such as: description of interactions; reproduction of the conversation; unexpected complications; the specificities of the content; unusual details; unnecessary details; precisely reported; misunderstood details; related external associations; subjective mental states (feelings of disgust or fear) and attribution of the offender's mental state (description of emotions, cognitions and motivations). Some authors suggest that the more such factors are intertwined in the same sentence or the more likely it is that the child is telling the truth. [35] Furthermore, advises: The child should not be interrupted at this stage to ask for further details or clarify ambiguity; this can be done at the interrogation stage. [36] Stage Three of the interview: The purpose of the interrogation phase is to clarify what the child said in his free narrative account. This is where the issues that deal with evidentiary matters, the contextual and peripheral detail of each alleged crime, and clarification (of body parts or times for example) It is important, however, that the content of such issues should relate to the child's age and level of development. Children under the age of eight or nine find it difficult to establish dates, dates. Days of the week [37] and errors can be used to question the overall reliability of the child's court bill. All alleged offences should also be investigated at this stage and specific questions should be asked to the child that meet the evidence requirements for the offence(s) and which deal with any defence of the offence(s). Even here, the interviewer must select open-end questions (those ranging from where, what, who and when to replace multiple directive questions whenever possible. [38] Phase Four of the Interview: CloseA is a further summary of the most important points of evidence taken by the child at this point, as well as a return to more neutral topics so that the child has a recovery period. There are a number of issues that need to be addressed that are not related to the alleged offences, and interviewers should be minded about which issues should be on the videotape and which can be safely resolved with the child after the tape has been turned off. , University of Sussex, overseen by Professor Jennifer Temkin and Jane Fortin2 The Memorandum of Good Practice video recorded interviews with child witnesses prosecuting. The Ministry of The Interior and the Ministry of Health,1992.3 The best evidence for achieving prosecution: A guide to vulnerable or intimidated witnesses, including children. The Crown Prosecution Service, 2001.4 For example, Dr. David Jones, Dr. Eileen Vizard and Dr. John Yuille.5 Report on the investigation into child abuse in Cleveland. HMSO, 1987.6 See, for example, H.L. Westcott, G.M. Davies and R.H.C. Bull (eds) Child Witness. Psychological research and forensic manual. Wiley, 2002.7 For example, A.N. 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