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on Child & Family Maltreatment*

**Exploring Alternative Explanations
During the Child Forensic Interview**

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In order to conduct defensible interviews and maximize the production of reliable information, interviewers should be impartial, objective and open-minded, and should genuinely consider and explore all reasonable explanations, in addition to suspected abuse, during the course of the forensic interview with the child.

In general, alternative explanations that should be considered in suspected sexual abuse cases include:

- 1. Nothing Happened*
- 2. Something happened, but it wasn't sexual abuse - no criminal sexual intent*
- 3. Child was sexually abused, but by someone else (SODDI)*

This workshop will discuss factors that the interviewer should make note of, and questions to ask and areas to explore during the interview in order to help evaluate the reasonableness of such alternative explanations.

Exploring alternatives during the interview

- Be willing to honestly consider whether allegation could be false, and/or whether the event may not have been physical or sexual abuse
- Use interview techniques that encourage narrative responses
 - Will result in more details that clarify nature of the contact and increase possibility of finding corroboration
 - Increases chance that child will use idiosyncratic words & descriptions that have 'ring of truth'
- Focus on a few specific *events*, when abuse is alleged to have happened on multiple occasions
- Ask "feeling" questions and others designed to alert you to the possibility of a later recantation
- Work as part of a team - it's not solely the interviewer's responsibility to investigate and verify or refute all alternatives
- Passing info from the interview along to other MDT members who will carry out additional investigation is part of exploring alternatives
- **Corroboration** of the child's allegations helps to defeat alternative explanations

Sources of Corroboration

- Suspect's access to child and opportunity to commit crime
- Search - Physical evidence
- One party consent covert recording
- Suspect statement(s)
- Medical exam
- Other witnesses
- Other statements of the child

ANTICIPATE DEFENSES/Consider alternative explanations

Think like a defense attorney

- Open mind - could the allegation possibly be false?
- Evaluate alternative explanations, and when possible, eliminate them
- Realize prior information may not be complete or correct - don't ASSUME
- What's the best defense they could come up with?

Categories: Alternative Explanations when Sexual Abuse is Suspected

1. *Nothing Happened*

- Deliberate Lie
- Fantasy
- Divorce/custody battle - coached child
- Brainwashed child (or one who was 'coerced' to agree with interviewer or wanted to please interviewer by agreeing with what was suggested)

2. *Something happened, but it wasn't sexual abuse* - no criminal sexual intent

- Accidental touch that was misinterpreted
- Innocent touch (hygiene, etc.)
- Suspect mistook child for an adult

3. *Child was sexually abused, but by someone else* (SODDI)

INTERVIEW CONSIDERATIONS FOR EACH CATEGORY

Nothing happened - the child is deliberately lying

- Usually child is older
- Requires a motive - some credible reason to lie
 - Retaliation
 - Dislike of suspect
 - Divert attention from actual offender
 - Get self out of trouble
 - Seeking attention

Areas to explore during your interview

- Actual chain of disclosure
 - Negative effects/lack of desired result
 - Observations of other witnesses about relationship
 - Child's mixed feelings
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Nothing happened - the child is fantasizing/imagining

- Usually raised with younger children
- Sexual knowledge is evident
- Where could this knowledge have come from?

Areas to explore during your interview

- Did child have access to sexual information?
- Is child's description similar to, or different than, content of supposed source of details?
- Focus on sensory details - how it felt, smelled, tasted, etc.

Nothing happened - Child has been coached by a parent to gain an advantage in a divorce/custody disputes

Factors to make note of:

- How did allegation originate?
- Who brought child to the interview?
- Were you allowed to interview the child alone?
- Did child sound "coached?"
 - Able to answer follow-up questions & provide details?OR
 - Limited ability to provide information/details?
 - Sounded memorized? (*never varied in the words used or the way the alleged abuse was described?*)
- What parent says & does, how they react to you and to the interview

Areas to explore during your interview

- Who was the first person the child told?
 - Who else knows (or was told)?
 - Ask child what happened before, and after, abusive event/conduct.
 - Initial reactions of alleged instigator ("*What did your mom say/do when she first found out?*")
 - How the child thinks their parent will react - "*What will you do after we get done here?*" OR "*What do you think your mom will feel/say after we get done here?*"
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Nothing happened - child was 'brainwashed' (or led to agree with suggestive questioning) by inept or unscrupulous interviewer(s)

- For any of these, find out as much as possible about who previously spoke with child about the allegations and how the child was questioned & everything that was said to him/her prior to your interview
 - Use best-practice open-ended interview techniques
 - Use excellent documentation, via video recording if at all possible
 - '**Brainwashing**' due to poor interviewing is commonly raised when there are multiple suspected child victims, usually pre-schoolers
 - If your case involves the potential for multiple victims:
 - Mobilize previously agreed plan for high profile cases (*consult your county protocol*)
 - Utilize multiple interviewers who don't consult w/each other during the course of interviewing (*reporting to one supervisor*)
 - Institute immediate and good communication w/parents
 - Avoid cross-contamination
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Something happened, but it wasn't sexual abuse:

- "Accidental" touching of child's genital area
- Misinterpretation of innocent or appropriate contact
- Thought child was an adult sex partner

Thus, *no criminal sexual intent*

Areas to explore during your interview

- Elicit descriptions that are as detailed as possible - invite narratives:
 - Where it took place
 - What suspect said while it was taking place
 - Possibly ask the child to demonstrate the touching (not on themselves or you, but carefully)
- Ask questions to determine if the suspect wanted secrecy

- "Where were you when it happened?"
 - "Was the door open or closed?" (locked or not?)
 - "Was someone else around?"
 - "What did _____ say right after?"
 - "Did _____ want other people to know about what happened? How do you know?"
 - Multiple episodes?
 - Differences between child and defendant (age, height, weight, etc.), and between adult's & child's environments
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Child was sexually abused but Someone Else Did It (SODDI)

Areas to explore during your interview

- Elicit as much identifying detail from child as possible - *"Tell me what he looked like, from the top of his head to the bottom of his feet."* / *"Tell me everything you saw & heard."*
- Did a male suspect ejaculate, and if so, where might there be some forensic evidence of seminal fluid?
- Get as much detail about location & timing so investigators can determine all those who may, or may not, have had access to the child & opportunity to commit the crime(s)
- Has someone else ever done something like this to child before?
- Does child think suspect has done something like this with someone else? If 'yes,' how come?

Specific Ways & Preparation to Defend Your Interview on the Stand

1. Describe & emphasize applicable strengths of your training
 - Research support for your interviewing approach/protocol
 - Expertise of instructors
 - Length of training
 - Content of training
 - Required to conduct (and observe) practice interviews with feedback, if applicable
 - Written test, if applicable
2. Describe & emphasize your regular participation in peer review (if applicable)
3. Make sure your interview was done consistent with what you were taught
 - As necessary, cite qualifiers re: uniqueness of each interview
4. Explain common sense reasons for deviating from your chosen protocol (when you did)
5. List & point out all the ways you tried to reduce & *minimize suggestibility* and to *maximize reliability* of information elicited during the interview
 - Neutral environment
 - Non-authoritarian approach/equalized power
 - Told child "I wasn't there and I don't know what happened"
 - Used simple (developmentally appropriate) language/vocabulary
 - Asked for elaboration and clarification throughout interview
 - Explained ground rules/instructions and had child demonstrate understanding (practice) of key instructions; if applicable, reinforced these throughout the interview
 - Impressed on child seriousness/importance of the interview
 - i. Promise to tell truth
 - ii. Other indicators
 - Did not foster "play" atmosphere

- Engaged in narrative practice to maximize free recall answers
- Used non-suggestive open-ended transition question(s)
- Did not introduce media that has the potential to increase production of inaccurate info (or if did so, waited until late in the interview after verbal narratives exhausted)
- Point out use of open-ended questioning techniques
- Point out use of "pairing" open-ended follow-ups with direct or focused questions
- **Point out all narrative responses and the details they contain that were not in any way previously suggested by the interviewer**
- Point out every time child disagreed with you, corrected you, or produced new information in reply to a focused, direct or forced choice question
- Point out how you kept an open mind and explored alternatives
 - i. Explored (or heard) child's feelings about the suspect or descriptions of their relationship with suspect - to consider if there was a motive to lie; caring about/loving the suspect makes false allegation much less likely
 - ii. Explored context to consider if innocent or accidental touch was misinterpreted; perhaps child described secrecy
- Point out how, when you needed to use cues in your questions, they did not suggest the answer(s) you expected (or the ones you actually got)
- Don't put entire burden on child and his/her interview - point out other evidence/corroboration which establishes reliability of information elicited during your interview (or help the prosecutor be able to do so)
- Be smart if asked about the research generally or a specific research article:
 - i. Ask to see and be able to read any article you are being questioned about
 - ii. Do not claim to be an expert on the research unless you truly are