# The Art of Interviewing

The last two decades of research on child development have produced principles for eliciting meaningful information from children that can serve as common ground across the country. The following basic principles for eliciting reliable information, meaningful for custody planning, from children ages three or four to 11 or 12, are derived from the child development literature.

## Seven primary principles

**[1] Prepare children with age-appropriate explanations of the purpose of the interview, the child's role, and the functions of the professionals.**

Children's knowledge of the legal system is limited. They lack a context for understanding the purpose of the questions, consequences of their answers, and the role of the various professionals involved. They fill in the gaps with misunderstanding, anxiety, self-blame, and heightened or unrealistic fears that prevent open communication. For example, children's early conceptions of judges are based on visual perceptions (*e.g.*, "The judge sits in a high desk and talks and listens. I don't know why."). Even older children believe that judges are omniscient and liken a judge to a priest or a witch on the basis of the black robe.

You will need to educate and reassure children by ensuring they understand that the judge is in charge of decision making; that is, it is the judge's job to make sure that everything is fair and everyone stays safe; and it is the judge's job to make the best plan for the whole family after considering other information *in addition to input from children and parents.*

You will need to explain your job responsibilities, and then you can begin by asking, "Is there something you want to tell me? ...think I should know? ...something you want the judge to know?" "What were you told about coming to see me today?" Such questions create an opportunity for a spontaneous statement. Ask about important people/events/activities: "I'd like to get to know you better. Tell me about something important to you." Clarify that the inter-

# Young Children in Custody Disputes

BY KAREN J. SAYWITZ

view's purpose is to learn what the child believes is important in his or her life and family.

Sometimes children need to be told what will happen to the information they reveal. Explain that this is an opportunity to convey information to the person who will be making decisions, or that there may be limits on confidentiality, especially if transcripts are available. You can promise to do your best to maintain confidentiality ("I will only tell those people who need to know to keep your family safe and solve the problem."), but false promises can backfire. If children feel betrayed, they may become avoidant.

**[2] Match the demands of the interview with the child's stage of development.**

Problems arise when questions are asked in language too complex for young children to comprehend about concepts too abstract for them to understand. Children try to answer questions they do not fully understand, and adults misinterpret their meaning. For example, a child who comprehends simple sentences five to seven words in length should not be asked 20-word, compound questions with embedded clauses and double negatives. A child who does not know how to tell time, a skill taught in first grade, should not be asked what time he wants a visit to occur. A child who cannot multiply and does not understand the calendar year should not be asked to calculate how many times a month or week he or she wants to visit a relative.

## A few suggestions

Simplify grammar by using short utterances. To ask about the past, use simple tenses (-ed, was, did, has) (*e.g., "What happened?"*); avoid multi-word verbs (*might have been*). Simplify vocabulary by using one- to two-syllable words (*chair, bed*), rather than three- to four-syllable words (*furniture*) that tend to be more abstract. Use concrete terms that draw an easy-to-visualize picture. Replace one multisyllabic word with two monosyllabic words (*e.g.,* replace *identify* the person who hurt you... with *point to* the person who hurt you).

Be cautious with legal terms, especially those that have more than one meaning. Common assumptions by children under age ten in one of our studies included, "Court is a place to play basketball." "A hearing is something you do with your ears." "A minor is someone who digs coal." Avoid questions that call for abstract reasoning, hypothetical deductive logic ("If he went to work that night, how could he have been at your house?'), or conventional systems of measurement (feet, inches, pounds, years, months).

**[3] Begin by taking time to establish rapport and trust. Address anxieties; dispel unrealistic fears.**

There is no set list of topics to break the ice, but refrain from putting children on the spot (*e.g.,* school performance or family conflicts). Children are accustomed to interacting with adults they know well (*i.e.,* teachers or relatives), not strangers. Under the best of circumstances, children less than five to six years old can be reluctant to leave a loved one to accompany a stranger to an unfamiliar location for an unknown purpose. Let children know where significant others will be waiting. Tell them what will happen in the interview to eliminate unnecessary fears (*e.g.,* "We will be sitting in this room the whole time. It will be just the two of us together talking....."). What is obvious to adults must be spelled out for young children, often more than once.

To gain a child's trust convey that you will *respect* the child's opinions, perceptions, coping strategies; that you are motivated to do your best to *understand* fully, not manipulate, his or her perceptions or responses; that you are willing to *accept* however much or little information is offered; and that you will be *honest* in return. If a child is silent, avoid pressing your point. Try to understand the resistance. Ask "What is making it hard to talk right now?" Anything I can do to make it easier?" Or "People usually have good reasons for doing what they do. You must have a good reason for not talking, too. Can you help me understand?"

**[4] Establish ground rules and shared expectations; model the interview template.**

Numerous experimental studies have found that setting conversational ground rules in advance increases the reliability of children's responses. In one of our studies, we learned it is helpful to give children permission to tell you when they fail to comprehend your questions ("When you

# Talking Points

BY ANNE GRAFFAM WALKER

- Break long sentences into shorter ones, each with a main point.
- Choose easy to understand words ("said" rather than "indicated").
- Avoid legal jargon ("Did there come a time").
- Ask if the child understands some words. Definitions require a linguistic skill ("Tell me what you think a _____ is?"
- Ask simple, concrete questions that make use of a child's experience ("How old are you? So if someone said you are _____, is that the truth?" rather than "What is the difference between the truth and a lie?").
- Avoid questions of "belief." (Do you believe that to be true?)
- Avoid using the word "story." ("Tell me your story of how that happened.") A "story" can be a narrative account or a fiction, it is ambiguous and can be prejudicial.
- Use and repeat nouns rather than pronouns. ("Promise me that you will tell me the truth." rather than "Promise to tell the truth?").
- Avoid tag questions ("You did it, didn't you?" or "You do remember, don't you, when your dad asked you if you knew when your mom was picking you up?").
- Be clear about whether you are asking about something that happened in the past, the present, or will happen in the future.

don't understand my question, tell me 'I don't get it.' 'I don't know what you mean.' Ask me to tell you in new words."). We found it was important to give permission to admit lack of knowledge rather than to guess ("If you don't know an answer, tell me you don't know. Don't guess. Don't make up anything that's not true."). Emphasize truth telling: "If you know the answer, tell the answer," otherwise children can become overly cautious. During rapport building, create the expectation that the child will be doing most of the talking; you will do the listening. Give children at least 20 seconds to answer a query. Don't rush in with more questions. Listen carefully and let the child speak. Children need time to process the syntax and cognitive demands of the question.

**[5] Create an objective, nonjudgmental atmosphere where children's perceptions are explored and respected. Demonstrate a willingness to hear all sides, without pressuring children to state custodial preferences overtly.**

Studies suggest that overall, children tend to do better when parental conflict is minimized and a positive relationship is maintained with at least one, and preferably both, parents. Avoid creating a forum that forces children to reject one parent and side with the other, burdening children with guilt or anxiety, taxing their already divided loyalties. Recent studies underscore the dangers of interviewer bias and preschoolers' vulnerabilities to suggestion. Instead, provide opportunities for spontaneous statements. Explore alternatives and ambivalence. Let the child tell you what is important to him or her; then summarize in the child's own words to verify that you understand without agreement, debate, or taking sides. Avoid suggestive and leading questions that ask for verification of adult assumptions (...isn't that true)? Demonstrate objectivity by asking about moments of positive caretaking by both parents ("Tell me more about that time. It sounds like it was a very good memory. You had fun with your mom/dad that day.").

**[6] Use general open-ended, nonleading questions that call for multi-word responses to maximize accuracy and minimize distortion.**

Answers to open-ended questions are likely to be more reliable than a simple yes or no. The latter is often a young child's attempt to take a turn in conversation, responding to a question not fully understood. Try to use what, who, where, how questions; avoid multiple-choice questions. Help children elaborate on their initial statements with "Tell me more." "What happened next? I'm confused," or repeat the end of their comment with rising intonation. To ensure you understand the meaning of a yes or no response, ask follow-up questions that require children to explain their reasoning, such as "What makes you think so?" or "What made that happen?" Try to create a situation in which children's preferences are revealed naturally as you inquire about the child's perceptions of the important aspects of his or her life to be maintained in the plan (favorite extracurricular activities; availability of social support; perceptions of safety, supervision, medical and educational needs, etc.).

For example, when exploring the level of chaos or organization in each household, ask children to tell as much as they can remember about what happens from the time they get up until the time they get to school, in each household, even the little things they might not think are very important. If children take sides, ask what makes them think the way they do and listen with a matter-of-fact tone and open acceptance. Try to understand reasons for inconsistencies and different responses to facts from siblings or other sources ("What does your brother think about that?" What makes him think so?").

Avoid suggestive techniques (*e.g.*, subtly reinforcing comments in line with interviewer expectations while ignoring or disapproving of other comments). Avoid inviting children to speculate or pretend. Avoid utterances that are perceived as coercive (*e.g.*, "You cannot play until we

- **Explain why you are asking the same questions over again. Children may think they gave the "wrong" answer the first time.**
- **Be alert to children's very literal answers (Did you have your clothes on? Might get a "no" answer. Did you have your pajamas on? might get a "yes.").**
- **Don't expect children under age 9 or 10 to give reliable estimates of time, speed, distance, size, height, weight, color, or other relational concepts, including kinship.**
- **Do not ask for "just a yes or a no." Children may assume that "I don't know" or "I don't remember" is not permitted.**

**Anne Graffam Walker,** Ph.D., is a forensic linguist in Falls Church, Virginia

finish."). Avoid negative terms ("He hurt you, *didn't he*? Or "*Didn't* he hurt you?") and suppositional questions (*e.g.*, "When he hurt you, was he mad?").

**[7] Finally, gather information on a wide range of topics that contribute to decision making, rather than condense the task to a question of where the child prefers to live. If it is necessary to ask for a preference directly, wait until the end when less intrusive approaches are exhausted.**

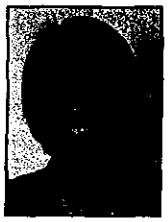
Resist overvaluing the results of any one conversation; seek out evidence of patterns over time. Sometimes more than one interview is necessary. Remember that a single interview is only one snapshot in time and may not reflect the child's past, future, or ongoing thoughts and feelings. A younger child's response may reflect what happened a few minutes ago in the waiting room rather than an enduring belief. An older child's response may be a distortion designed to protect the most vulnerable parent rather than a genuine preference. If the child volunteers a preference, explore the context. What does the child believe life would be like living with each parent? Be cautious about disabusing children of false impressions.

When children mention an event (*e.g.*, an act of discipline or caretaking), ask them to describe it ("Tell me what happened?"). Then, help the child elaborate on the specific actions ("What did he do with his hands?"), the context (*i.e.*, "What happened right before? Right after?"), the emotional states of participants ("What made you think he was mad? What did he do or say to make you think so?"), who else knows about the event, what do they think about it, and how did they learn about it ("How did Aunt Mary learn what happened?"). Try to establish patterns of behavior ("Has this happened at other times? Tell me about another time.").

Topics to broach can include children's perceptions of relationships with parents, siblings, friends, or relatives; favorite activities; and descriptions of daily routines in each household (*e.g.*, bathing, mealtimes, play dates, transportation, chores). Explore (a) what happens when children need help ("What would you do if you were lost? ...fell off your bike? ...felt ill? ...couldn't understand your homework?"), (b) level of supervision in each household ("Do you ever stay home alone?" "When your mom or dad is not there, who takes care of you?"), (c) conflict resolution ("How do people in your family solve problems when they do not agree?"), (d) discipline ("What happens when children in your family do not follow the rules? ...do something they are not supposed to do?" "What makes your mom/dad happy/sad/upset? What makes you happy/sad/upset?"), (e) schoolwork and communication with teachers ("Where do you do homework? Who helps you when you need help? How does your mom/dad help?"), (f) safety rules ("What are the rules in your family for keeping children safe?"), and (g) fears and worries ("What could go wrong or make a child not safe?"). Remember to keep the interview balanced by exploring as many incidents of positive caretaking as negative to reduce feelings of trepidation and guilt over revealing family secrets or parental flaws.

## Conclusion

The literature abounds with admonitions not to ignore children's voices on key decisions about their welfare, and extolling the benefits of children's perceiving their views have been heard. At the same time, we are warned not to let children's stated preferences determine outcomes since children do not always know what is best, and the burden of responsibility for the outcome can have long-lasting detrimental effects. Given that guidelines for weighing children's voices are not clear or consistent, the core principles of child interviewing described above are derived from developmental research that might serve as common ground. This approach is one of developmental sensitivity, preparation, patience, respect, empathy, objectivity, and flexibility. It is an opportunity to gather meaningful information for custody planning and may even reduce children's distress, promoting adjustment by creating a plan more readily acceptable to children because it maintains relationships and activities important to the child. **FA**



**Karen J. Saywitz,** Ph.D., is a professor in the Department of Pediatrics at UCLA School of Medicine, Center for Healthier Children, Families and Communities and Associate Director of UCLA TIES for Adoption. She is an international expert on children involved in the legal system and has authored numerous articles on their needs, capabilities and limitations, including a benchbook for California judges. She has served on the faculty of the National Judicial College, and her work has been cited by the U.S. Supreme Court and numerous U.S. appellate courts.