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### KIDS IN COURT

*by Jay C. Howell*

Professionals who regularly work with child victims and witnesses understand and appreciate the difficulty that children face when they are interviewed and questioned at various stages of a criminal investigation and prosecution. If our goal is to effectively investigate and prosecute crimes committed against children, we will need to better understand the true communication skills of children.

Every day young children are questioned by a variety of adult professionals in an effort to determine if the child has been a victim of child abuse and other crimes. These interviews take place in homes, schools, police stations, offices of social service workers, the interview rooms of child protection teams, and, finally, in depositions and court testimony. Unfortunately, there is a continuing obstacle placed between the adults and the child victim. Simply stated, it is the lack of understanding among adults of the communication skills and needs of younger children.

One of the most important protections afforded children is our investigative and judicial systems to detect, prosecute, and ultimately protect our youngest citizens. Unfortunately, these systems are still struggling with difficulties in interviewing and examining child victims and witnesses who are the subject of allegations of abandonment, neglect, and abuse.

The examples of this communications chasm are rampant. A six-year-old child is asked to "identify" the "perpetrator." Child witnesses are quizzed endlessly concerning the specific timing of events that occurred months or even years in the past. Investigating officials open their interview with a potential child victim by asking, "What happened?" or "Do you know why you are here?". The criminal justice system employs a communication system overloaded with words like "incident," "allegation," and "perpetrator."

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Questions often begin, "What, if anything, . . ." Pompousness and legalese characterize the questioning that has been traditionally accepted for deposition and courtroom testimony.

The inability of the criminal justice system to effectively communicate especially with young children is an ongoing problem. In a recent trial in Florida in 1996, a five-year-old alleged victim of sexual assault was asked by the judge, "Do you know where you were living the last time when David was at your house?" During the same trial, a four-year-old victim was asked by the judge, "What do you do - you don't go to school or anything yet, do you?"

Interviews with current child protection professionals, Guardian Ad Litem who represent children in court, and other professionals associated with the criminal and juvenile justice systems indicate that the interviewing and questioning of children is regularly being conducted without proper regard to the child's developmental level. From the time the child is initially identified as a potential victim or witness, the child is subjected to continual questioning and interrogation within our legal system. The police, child protection workers, members of child protection teams, therapists, attorneys, and judges often question children about traumatic incidents which they have experienced. These interrogations are often characterized by the use of two-part sentences, complicated words, and thought and language constructions which are too sophisticated for young children. As a result, our legal system is simply not able to accurately communicate with our youngest witnesses. This is a problem that continues to interfere with our efforts to protect victims of child abuse and neglect.

The simple reality is that young children use a different form of communication than adults and do not readily adapt to the stilted, over-formalized, left-handed, compounded, and convoluted system of communication that often characterizes our justice system. The answer to this dilemma is actually very simple. What is needed is a change in the statutes and evidentiary codes of our states to require that the

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judge insist that communication with young witnesses be done in a manner which is understandable to the witness.

A change in the statutes allowing our judges to ensure that children are questioned in a form which is appropriate to their age and understanding will not only correct the difficulties in communication faced by children in depositions and court testimony, but will also result in the training and education of a host of child protection professionals who regularly interview children in and out of the courtroom setting. This is an essential step that must be taken if we are to advance the protection afforded to our youngest citizens.

Anne Graffam Walker, Ph.D., a linguist and an expert on communicating with children, has authored an important new text which further explains this issue. The [Handbook on Questioning Children](#), published by the American Bar Association Center on Children and the Law is an excellent resource for understanding the problem and attacking it. It is available through the ABA Center on Children and the Law, 750 North Lake Shore Drive, Chicago, Illinois 60611-4497.

Though this proposed legislation is endorsed by the Florida Parent Teacher Association, the Florida Victim Witness Network, the Florida Council of Sexual Abuse Services, and the Florida Academy of Trial Lawyers, the proposed bill has yet to receive sponsorship in the Florida House or the Senate for the upcoming legislative session. We welcome any assistance which will help us enact this important legislation for children.