



CENTER PIECE

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Electronic Recordings of Investigative Child Abuse Interviews

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Introduction

Interviews of alleged child abuse victims and witnesses are often the primary source of information on possible criminal activities.² Therefore, it is critical that investigative interviews conducted with children are completely and accurately documented to effectively capture the child's statements regarding any abuse allegations, events witnessed or denials of witnessing or experiencing traumatic events. This article will examine the benefits and drawbacks of electronically recording investigative interviews, review legislation and case law regarding electronic recordings of interviews and make recommendations on documenting child abuse interviews.

Documenting the Interview

Numerous published forensic interview protocols, interview practice guidelines and best practices advocate for detailed documentation of statements obtained from children about experiencing abuse or witnessing violence by investigative interviewers.³ Furthermore, these protocols frequently recommend that documentation of an interview include the child's exact verbal statements,⁴ the emotions and behaviors exhibited by the child during the course of the interview,⁵ and the questions posed by the interviewer.⁶ Behavioral interactions of the interviewer are also important to capture to avoid challenges that the interviewer manipulated the child's verbal reports through his or her own body language or nonverbal cues during the interview.⁷

In order to comprehensively attend to the child's verbal reports as well as any behavioral or emotional displays, some practitioners recommend one investigative professional conduct the interview while another professional take notes as an observer, if the interview is documented solely in writing.⁸ In addition, many practitioners recommend that multiple forms of interview documentation be minimized to reduce the potential for conflicting reports based on misunderstandings, inaccuracies or omissions.⁹ However, while the American Professional Society on the Abuse of Children (APSAC) acknowledges that not all investigative or legal professionals agree on one single method for documenting investigative interviews, the professional organization advocates for electronic recordings as "the most comprehensive and accurate method of documentation."¹⁰

Some commentators additionally argue that precise and complete memorialization of a child abuse interview is a constitutionally mandated due process issue.¹¹ When forensic interviews are erroneously perceived as a prosecutorial tool orchestrated for the sole purpose of use during a criminal trial, defense advocates can effectively argue that prosecutors are creating evidence and then deliberately hiding the product or failing to maintain and turn over potentially exculpatory evidence.¹² Furthermore, absent accurate documentation of an interview of an alleged child victim in its entirety, commentators argue that there are no means to evaluate the reliability of the child's account of his or her abuse or the degree to which the interviewer may have contaminated the child's statements.¹³

Literature Review Regarding Electronically Recording Interviews

In 1999, *The National Child Advocate* published a point and counter-point discussion on the benefits and drawbacks of videotaping child interviews.¹⁴ Morgan and Brickman asserted that videotaping interviews with child victims would be beneficial for several reasons. Video recordings of children's statements may be used to reduce children's court appearances, thereby reducing anxiety, stress and re-traumatization of children.¹⁵ The recording may be played for an offender and his or her attorney prior to trial to encourage a plea, or played in preliminary hearings in lieu of a child's testimony as admissible hearsay evidence in many jurisdictions.¹⁶ The authors also assert that video recordings of children's statements eliminate the need for note-taking, as the recordings fully capture not only the conversation between interviewers and children, but also effectively preserve the children's emotional and behavioral responses for the jury or other investigative team members not present during the interview.¹⁷

Video recordings of interviews are also beneficial for trial purposes when the initial interview of an alleged child victim is captured on tape, as the investigative interview is frequently conducted months or even years before the child may have to testify in court.¹⁸ Children who experience growth spurts in the intervening time may appear less vulnerable to the jury, and possibly more complicit or compliant in their victimization.¹⁹ Playing the interview that demonstrates the child's own reports of his victimization for the jury may emphasize the fact that the child was defenseless to the alleged perpetrator's molestation.²⁰

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Furthermore, it is not uncommon for child witnesses to forget their initial statements and level of detail they provided to criminal or child abuse investigators.²¹ Common trial preparation practice enables witnesses to refresh their recollection of their initial statements to investigators by reviewing their own written statements.²² Young children who did not provide an initial written statement, or witnesses who cannot read, are not afforded this assistance; therefore, permitting young witnesses to watch their own pre-recorded statements refreshes their recollection of the abusive events they may have suffered and facilitates accurate and detailed courtroom testimony.²³ There is, however, a question as to whether a young child is developmentally capable of understanding the purpose of viewing the videotape. Although an adult witness may understand the purpose is to refresh his memory as to prior statements he may be asked about, the child may view the tape as a demonstration of the expected response to various questions. The tape may unwittingly coach the child into giving a seemingly "rehearsed" answer. The Utah Supreme Court has admonished prosecutors not to prepare a child abuse victim for court in "such a way that it is likely the child is only parroting what others have said about the relevant facts."²⁴

In contrast to Morgan & Brickman's assertions that video recordings of investigative child abuse interviews are helpful, Stern argues that there are more drawbacks than benefits for electronic documentation of these interviews.²⁵ Stern cautions professionals about the technological problems which may arise when electronically recording interviews and avers once a child's statement is recorded, it becomes over-emphasized in the investigative and prosecutorial procedures.²⁶ If there are technical problems in the recording of the interview, such as inaudible or electronically

distorted questions or statements, inadequate lighting or imprecise camera placement, Stern argues the integrity of the interview is compromised.²⁷ This is even more problematic if the child makes multiple informal, yet equally reliable, statements outside the formal interview process to multiple people, including statements to family members, school personnel or friends.²⁸ The one-time recorded formal interview with a child places undue emphasis on the single recorded interview in spite of the common acceptance in the child abuse field that children may only partially disclose their abuse experiences in a formal investigative interview, and implies that children's statements are inherently unreliable.²⁹

Stern additionally expresses concerns that resources should focus on improving interviewers' skills and techniques and not on expensive electronic recording equipment.³⁰ Ancillary arguments against videotaping child abuse interviews include possible suggestive interactions between the interviewer and child that occur off camera and are subsequently not documented or disclosed; possible utilization of electronic equipment as part of the child's victimization that may be unknown to the interviewer and therefore negatively impact the child's ability to report abuse in a recorded interview; and concerns about the need to refresh a child's recollection of abuse prior to his or her testimony in court.³¹

Unfortunately, when decisions are made to not electronically record investigative child abuse interviews based solely or primarily on legal implications that may arise from the production of an interview recording, credence is given to assertions that "forensic interview[s] are] conducted for the purpose of creating evidence that will be admissible at trial, either as a recording of the interview or as testimony of the interviewer about what transpired during the interview."³² The purpose of coordinated multidisciplinary investigations is to meet the needs of children who are alleged victims of abuse, including provision of mental health and medical services, crisis intervention and support services and violence intervention.³³ While coordinated interventions and multidisciplinary child abuse interviews are services provided for child protection workers, law enforcement investigators and prosecution professionals, this is by no means their sole, or even their primary, purpose. Furthermore, forensic interviews, and the resultant documentation, are but one step in the extensive investigative process. A child abuse investigation should not begin and end with a forensic interview. Collateral interviews should be conducted by law enforcement and child protective investigators with possible witnesses, any suspected additional victims, outcry witnesses and others who may be able to corroborate any part of the child's report or provide insight as to the child's emotional and behavioral changes, if any, since the alleged abuse.³⁴

Additional criticisms of electronically recording child abuse interviews identify the lack of training and expertise of professionals conducting the interviews and the possibility for misuse or exploitation of the recordings.³⁵ While both concerns are very real, and could potentially result in serious emotional harm to the child and significantly affect the integrity of the investigation, both issues may be avoided in advance. Adequate training of multidisciplinary team members should be a goal for all multidisciplinary teams and child advocacy centers to ensure all team members have the skills and knowledgebase to independently conduct and provide peer feedback on forensic interviews.³⁶ Investigators who are not trained or are not able to demonstrate mastery of interviewing alleged child victims should not have responsibility for doing so. Furthermore, development and implementation of protective measures for the electronic recording, such as orders of protection, copyright protections and protocols for the release and dissemination of electronic recordings, will provide safeguards for and control of the record, and protect the privacy of the child.³⁷

The advantage of electronic recordings as a means to decrease the number of investigative child abuse interviews, and to reduce court appearances for children, is well-documented by investigative professionals.³⁸ Repetitive investigative interviews, requiring children to repeat their experiences of abuse, increase trauma that children experience due to their abuse.³⁹ Other advantages of electronic recordings of child abuse interviews include courtroom utilization of the recordings, such as witness corroboration, witness impeachment if the child recants in court and utilization as a statement in lieu of the child's testimony in some grand jury, civil or family proceedings, as jurisdictional rules permit.⁴⁰

Additional advantages for electronically recording interviews of alleged child victims and witnesses stem from desires to assist the interviewers themselves. Research demonstrates interviewer recall of children's statements deteriorates over time.⁴¹ Interview content recall may be necessary for interviewers to develop a written report of an interview or to provide hearsay testimony in criminal or civil proceedings relating to the alleged abuse event. While interviewers were able to recall most of the general discussion that occurred in interviews with children, they forgot more than a third of the details the children provided and more than eighty percent of the specific questions they posed to children with whom they spoke.⁴² Furthermore, generally-accepted practice dictates that, to the extent possible, child abuse interviewers utilize open-ended and free-recall questions rather than closed or forced-choice inquiries.⁴³ When asked to identify the types of questions interviewers utilized with children, most trained interviewers indicated they posed mostly open-ended questions.⁴⁴ However, in actuality, more than eighty percent of the questions were "specific or closed-ended" and nearly twenty percent were leading.⁴⁵

Electronic recordings of interviews may also be used to improve interviewer techniques and skills, train interviewers, social workers and investigative and prosecutorial professionals to conduct legally defensible interviews with children and ensure interview practices comply with generally accepted protocols and methodologies.⁴⁶ An interviewer's supervisor may confidentially review an individual's recorded interviews for professional development, and other multidisciplinary team members may review the recording in a peer-review format to ensure children in their community receive quality interview services, to share knowledge and skills with others and to demonstrate consistency and transparency of community practices.⁴⁷ Interviewers may also conduct self-evaluations by reviewing their own interview recordings to enhance their interviewing skills. An electronically recorded interview provides professionals immediate feedback on their interviewing styles and competencies and helps them identify their strengths and limitations when soliciting information from alleged child victims.⁴⁸

Therapeutic advantages of recorded interviews include utilization with non-offending caregivers to help the caregiver believe and support the alleged child victim.⁴⁹ When non-offending parents and trusted adults believe and support children, the children are more likely to be successful in their recovery from the abuse; children who are not supported by their caregivers are at increased risk for serious psychological disturbances due to their victimization.⁵⁰ The recorded interview may also be used in the individual therapeutic setting with children to assist them in processing their abuse experiences and in the family therapy process to facilitate communication between non-offending parents and children and to address safety and protection issues within the family.⁵¹

Statutory and Judicial Support for Electronic Recordings of Investigative Interviews

To date, fourteen states have legislation specific to electronic recordings of investigative interviews with child victims of abuse. Arizona legislation requires that child sexual abuse interviews conducted by child protective service workers be video or audio taped when a child is abused in an out-of-home placement.⁵² Alaska permits video or audio recordings of child abuse interviews by a trained and competent interviewer and mandates videotaping child sexual abuse interviews if the alleged perpetrator is a parent or caregiver, unless it is not feasible to videotape the interview or if the process will be traumatic for the child.⁵³ Similarly, Colorado allows audio or videotaping of child abuse interviews, and "strongly encourage[s]" child sexual abuse interviews be videotaped.⁵⁴ Idaho requires all investigative interviews of alleged child abuse victims conducted by law enforcement or child protection investigators be audio or video recorded absent any good cause not to record the interview.⁵⁵ Michigan law permits the video recording of a statement of an

alleged victim of child abuse, but requires that video recorded interviews be conducted in accordance with jurisdictional protocols.⁵⁶

Any government employee or agent of the state is required to document, either by videotape, audiotape or a written record, all interviews of alleged child abuse victims in Minnesota, and prosecutors' offices in all counties must establish individual protocols for videotaping child abuse interviews.⁵⁷ In addition, Minnesota child protection investigators or their agents must produce an audio-video recording of each interview conducted with an alleged child victim or child witness of sexual abuse whenever possible.⁵⁸ Mississippi permits child advocacy centers to videotape forensic interviews of children alleging child abuse "in a child friendly environment ... to prevent further trauma to [children] in the investigation and prosecution of child physical and sexual abuse cases."⁵⁹ Furthermore, Montana permits the production of a video recording of a child abuse interview, with special protections for the videotape and privacy of the alleged child victims.⁶⁰ County attorneys in Nebraska are required to establish investigative protocols for coordinating videotaped forensic interviews at a child advocacy center of children who are alleged victims of serious physical abuse or neglect or sexual abuse, or who have "witnessed a violent crime, been removed from a clandestine drug lab, or been recovered from a kidnapping."⁶¹

Children who are alleged victims of sexual abuse, serious physical abuse, neglect or abandonment, or who may have witnessed criminal acts in New Hampshire are to be fully interviewed on videotape if possible; an audio recording of the interview is acceptable if the interview cannot be videotaped in its entirety.⁶² In a Family Court Article 10 child protective proceeding in New York State, the court is afforded the discretion of ordering a videotaped interview in its entirety if expert testimony is sought regarding the sexual abuse of a child.⁶³ Distinct from an investigative interview, this evaluation is conducted by a "validator" and must be requested by a respondent or a child's attorney.⁶⁴ The judge must balance the need for this evaluation for court preparation purposes against the potential harm to the alleged child victim.⁶⁵

Tennessee encourages coordinated investigations of child abuse or neglect to minimize investigative child abuse interviews, and instructs investigative team members to refer to audio or video recordings of previously conducted interviews "to avoid additional questioning of the child."⁶⁶ An investigative interview conducted with an alleged child physical or sexual abuse victim in Texas must be audio or videotaped unless good cause exists for not taping, such as the age of the child or the severity of the alleged abuse.⁶⁷ Investigative interviews of a suspected child victim of sexual or serious physical abuse in Utah will be recorded visually and aurally unless the child refuses to be recorded, in which case the child's refusal will be documented.⁶⁸

Twenty states have legislation that addresses the admissibility of electronically recorded, pre-trial interview statements as evidence in criminal child abuse proceedings.⁶⁹ In addition, twenty-seven states have carved out a variety of hearsay exceptions specific to alleged child abuse victims in criminal, family and dependency courts, consequently permitting the admission of children's out-of-court statements as evidence when provided by the investigative interviewer.⁷⁰

In New York State, there have been some legislative attempts to enact laws pertaining to investigative child abuse interviews. Repeatedly sponsored by Assemblyman Vito Lopez, legislation relating to audio recordings of interviews of child abuse victims by child protective workers has been regularly proposed since the 1995-96 legislative session.⁷¹ Also sponsored by Assemblyman Lopez is a bill to amend New York State Executive Law § 642-a that proposes audio or video taping of all interviews of alleged child victims of abuse or neglect as early as possible in the investigative process to reduce trauma of child witnesses.⁷² To date, each of these proposed bills have died in committee.

There is also some judicial support in New York State to electronically record interviews with alleged child victims of abuse, albeit somewhat dated. In a 1990 Westchester County Family Court case, a father was accused of sexually abusing his three-year-old daughter.⁷³ In reviewing the facts of the case, the Family Court held that the father abused his daughter, based on credible testimony from the social worker, the validator and the child's foster mother.⁷⁴ In referencing the interviews conducted by the validator, the Court noted, "She denied using leading questions during her interviews of the child"⁷⁵ although it did not give any indication that this was an issue at question in the case at bar. However, in concluding its opinion, Judge Spitz implored the Legislature

"to enact a statute setting forth guidelines for ... interviews, which should include the automatic videotaping of all interviews. This procedure would enable the respondent to examine the procedures utilized in the interviews, and preempt the use of leading and suggestive questions by the [interviewer]. Another beneficial result would be that the videotaped ... interview would reduce the need for second evaluations regularly requested by respondents."⁷⁶



The Westchester County Family Court decision relied in part on the 1990 U.S. Supreme Court Case of *Idabo v. Wright*, a criminal case wherein a mother was convicted of two counts of lewd conduct with her daughters, ages 5½ and 2½.⁷⁷ A pediatrician conducted a medical examination on both children and found evidence consistent with sexual abuse, providing testimony to that effect in court.⁷⁸ The mother appealed her conviction, which the Supreme Court of Idaho subsequently overturned on grounds that the pediatrician's hearsay testimony regarding the youngest child's statements were admitted in violation of the Confrontation Clause.⁷⁹ The U.S. Supreme Court upheld Idaho's high court decision, noting that the trustworthiness of the out-of-court statements could never be assessed because the pediatrician did not fully and accurately preserve the contents of his interview with the alleged child victim.⁸⁰ The physician failed to retain a drawing generated during the interview, did not note the child's behavioral or emotional displays during the interview and merely summarized the contents of the interview, thereby failing to provide a specific and detailed description of his interactions with the alleged victim.⁸¹ While not unequivocally compelling electronic recordings of child sexual abuse interviews, the U.S. Supreme Court acknowledged that procedural guidelines that promote recording interviews "may well enhance the reliability" of children's statements about their alleged victimization.⁸²

Conclusion

The combined benefits of electronically recording investigative interviews with alleged child abuse victims and child witnesses to violent crime outweigh the challenges and shortcomings that arise with the practice. The procedure of recording these important interviews, when conducted in conjunction with a comprehensive multidisciplinary investigation to assess the health, safety and welfare of children who may have experienced trauma, negates challenges about suggestive interview practices, repudiates the argument that prosecutorial objectives drive interviews, provides valuable documentation for subsequent treatment and support services for abused children and their families and facilitates supervision and peer review for interview skill development. A well-conducted recorded interview preserves the child's statement and allows for a more complete investigation of all aspects of the child's statements, thereby benefiting not only the child, but also serving to protect the community from additional abuses.

End Notes

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² Am. Prof. Soc'y on the Abuse of Children, *Investigative Interviewing in Cases of Alleged Child Abuse*, PRACTICE GUIDELINES, 2002, at

1 [hereinafter APSAC].

³ See, e.g., INVESTIGATION AND PROSECUTION OF CHILD ABUSE 42 (American Prosecutors Research Institute ed., 3rd ed., 2004) [hereinafter APRI]; Jack S. Annon, *Recommended Guidelines for Interviewing Children in Cases of Alleged Sexual Abuse*. 6 ISSUES IN CHILD ABUSE ACCUSATIONS (1994), available at http://www.ipt-forensics.com/journal/volume6/j6_3_2.htm; APSAC, *supra* note 2, at 3; Home Office, MEMORANDUM OF GOOD PRACTICE ON VIDEORECORDED INTERVIEWS WITH CHILD WITNESSES FOR CRIMINAL PROCEEDINGS, London, 1992 [hereinafter *Memorandum*]; New York State Children's Justice Task Force, FORENSIC INTERVIEWING BEST PRACTICES 12 (2004) [hereinafter NYS Task Force]; Erin Sorenson, Bette Bottoms and Alison Perona, HANDBOOK ON INTAKE AND FORENSIC INTERVIEWING IN THE CHILDREN'S ADVOCACY CENTER SETTING 21-22 (1997) [hereinafter Sorenson].

⁴ APSAC, *supra* note 2, at 3; Sorenson, *supra* note 3, at 21.

⁵ NYS Task Force, *supra* note 3, at 12; Sorenson, *supra* note 3, at 21.

⁶ State of Michigan, Governor's Task Force on Children's Justice and Department of Human Services, FORENSIC INTERVIEWING PROTOCOL 4 (2003), available at http://www.michigan.gov/documents/FIA-Pub779_13054_7.pdf; [hereinafter MI Protocol]; Sorenson, *supra* note 3, at 21.

⁷ NYS Task Force, *supra* note 3, at 13.

⁸ See, e.g., APRI, *supra* note 3, at 42; NYS Task Force, *supra* note 3, at 11.

⁹ Sorenson, *supra* note 3, at 21.

¹⁰ APSAC, *supra* note 2, at 3. APSAC is a national organization with a goal of improving investigative and prosecutorial responses to child abuse and violence within families. See <http://www.apsac.org/mc/page.do>.

¹¹ See Lucy McGough, *Good Enough for Government Work: The Constitutional Duty to Preserve Forensic Interviews of Child Victims*. 65 LAW AND CONTEMPORARY PROBLEMS 179, 180 (2002).

¹² *Id.*, at 198.

¹³ *Id.*, at 204.

¹⁴ See J.T. Morgan & J. Brickman, *Videotaping Child Victim Interviews: Eight Reasons Why it Works*. 2 THE NATIONAL CHILD ADVOCATE 1, 6 (1999); Paul Stern, *Routine Videotaping of Child Interviews Can Create as Many Problems as it Seeks to Solve*. 2 THE NATIONAL CHILD ADVOCATE 1, 8 (1999).

¹⁵ Morgan & Brickman, *supra* note 14, at 1.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*, at 1 & 6.

¹⁹ *Id.*, at 1.

²⁰ *Id.*

²¹ *Id.*

²² *Id.*, at 6.

²³ *Id.*

²⁴ *State v. Fulton*, 742 P.2d 1208, 1218 n.15 (Utah 1987).

²⁵ Stern, *supra* note 14, at 1.

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*, at 8.

³¹ *Id.*

³² McGough, *supra* note 11, at 181.

³³ BEST PRACTICES FOR ESTABLISHING A CHILDREN'S ADVOCACY CENTER PROGRAM 5. (Nancy Chandler ed., National Children's Alliance, 3rd ed., 2000) [hereinafter NCA]

³⁴ Victor I. Vieth, *When a Child Stands Alone: The Search for Corroborating Evidence*. 12 APRI UPDATE (Nat'l District Attorneys Ass'n National Ctr. for Prosecution of Child Abuse, Alexandria, Va., 1999). Available at http://www.ndaa.org/publications/newsletters/apri_update_vol_12_no_6_1999.html. See also Donna Pence & Charles Wilson, TEAM INVESTIGATION OF CHILD SEXUAL ABUSE: AN UNEASY ALLIANCE 87-99 (1994).

³⁵ Kathleen Coulborn Faller, INTERVIEWING CHILDREN ABOUT SEXUAL ABUSE: CONTROVERSIES AND BEST PRACTICE 62 (2007); NCA, *supra* note 33, at 49.

³⁶ Wendy Bourg, Raymond Broderick, Robin Flagor, Donna Meeks Kelly, Diane Lang Ervin, Judy Butler, A CHILD INTERVIEWER'S GUIDEBOOK 12 (1999).

³⁷ NCA, *supra* note 33, at 49.

³⁸ See, e.g., APRI, *supra* note 3, at 443; NCA, *supra* note 33, at 47-48.

³⁹ Frank E. Vandervort, *Videotaping Investigative Interviews of Children in Cases of Child Sexual Abuse: One Community's Approach*. 96 J. CRIM. L. & CRIMINOLOGY 1353, 1389 (2006).

⁴⁰ APRI, *supra* note 3, at 443; NCA, *supra* note 33, at 48-49.

⁴¹ Amye R. Warren & Cara E. Woodall, *The Reliability of Hearsay Testimony: How Well Do Interviewers Recall Their Interviews With Children?* 5 PSYCHOLOGY, PUBLIC POLICY, AND LAW 355, 365 (1999). See also Maggie Bruck, Stephen J. Ceci & Emmett Francoeur, *The Accuracy of Mothers' Memories of Conversations with Their Preschool Children*. 5 JOURNAL OF EXPERIMENTAL PSYCHOLOGY: APPLIED 89-106 (1999).

⁴² Warren & Woodall, *supra* note 41, at 365.

⁴³ Faller, *supra* note 35, at 92. See also APSAC, *supra* note 3, at 7-8.

⁴⁴ Warren & Woodall, *supra* note 41, at 365.

⁴⁵ *Id.*, at 365-66.

⁴⁶ APRI, *supra* note 3, at 444. See also MCLS §§ 600.2163a(9) & 712A.17b(8) (2008) (permitting the utilization of a child's videorecorded statement to train other investigators in the jurisdiction-specific forensic interview protocol).

⁴⁷ Faller, *supra* note 35, at 61; Kam-Fong Monit Cheung, *Developing the Interview Protocol for Video-Recorded Child Sexual Abuse Investigations: A Training Experience with Police Officers, Social Workers, and Clinical Psychologists in Hong Kong*. 21 CHILD ABUSE & NEGLECT 273, 278 (1997).

⁴⁸ Cheung, *supra* note 47, at 278.
⁴⁹ APRI, *supra* note 3, at 443; NCA, *supra* note 33, at 49.
⁵⁰ Carol A. Howard. *Factors Influencing a Mother's Response to Her Child's Disclosure of Incest*. 24 PROFESSIONAL PSYCHOLOGY: RESEARCH AND PRACTICE 176, 176 (1993).
⁵¹ NCA, *supra* note 33, at 49.
⁵² A.A.C. § R6-5-5516(C) (2007).
⁵³ Alaska Stat. § 47.17.033(d)-(e) (2008).
⁵⁴ C.R.S. 19-3-308.5(1)(a) (2007).
⁵⁵ Idaho Code § 16-1618 (2008).
⁵⁶ MCLS § 600.2163a(7) (2008). *See also* MCLS § 712A.17b (2008).
⁵⁷ Minn. Stat. § 626.561 (2007).
⁵⁸ Minn. Stat. § 626.556, subd. 10(j) (2007).
⁵⁹ Miss. Code Ann. § 43-15-51(3)(b)(ii) (2008).
⁶⁰ *See* Mont. Code Anno., § 41-3-202 (2008); Mont. Code Anno., § 41-3-205 (2008); Mont. Code Anno., § 46-15-403 (2007).
⁶¹ R.R.S. Neb. § 28-728(3) (2008).
⁶² RSA 169-C:38(IV)-(V) (2008).
⁶³ NY CLS Family Ct Act § 1038(c) (2008).
⁶⁴ *Id.*
⁶⁵ *Id.*
⁶⁶ Tenn. Code Ann. § 37-1-405(b)(2) (2008). *See also* Tenn. Code Ann. § 37-1-607(b)(3)(B) (2008).
⁶⁷ Tex. Fam. Code § 261.302(e) (2008).
⁶⁸ Utah Code Ann. § 62A-4a-414 (2008). *See also* Utah Code Ann. § 62A-4a-202.3(7) (2008).
⁶⁹ Code of Ala. § 15-25-32; Ariz. Rev. Stat. Ann. §

13-4251; Ariz. Rev. Stat. Ann. § 13-4252; Colo. Rev. Stat. § 19-3-308.5; Haw. R. Evid. 804(b)(6); Ind. Code § 35-37-4-6; Iowa Code § 915.38(3); Kan. Stat. Ann. § 22-3433; La. Children's Code art. 324 et seq. La. Rev. Stat. § 15:440.5; Mich. Stat. Ann. § 600.2163a; Minn. Stat. Ann. § 595.02(3); Mo. Rev. Stat. § 492.304; N.Y. Crim. Proc. Law § 190.30 (grand jury only); N.Y. Crim. Proc. Law § 190.32 (grand jury only); N.Y. Crim. Proc. Law § 190.25 (grand jury only); N.D. Cent. Code § 31-04-04.1; R.I. Gen. Laws § 11-37-13.1 (grand jury only); S.D. Codified Laws § 19-16-39; Tenn. Code Ann. § 24-7-117; Tex. Code Crim. P. Ann. § 38.071; Utah R. Crim. Proc. 15.5; Va. Code Ann. § 63.2-1523; Wis. Stat. Ann. § 908.08.
⁷⁰ Code of Ala. § 12-15-65 (dependency hearings only); A.C.A. § 16-41-101; A.R.E. 804; Cal Evid Code § 1253; Cal Evid Code § 1360; C.R.S. 13-25-129; 11 Del. C. § 3513; Fla. Stat. § 90.803; O.C.G.A. § 24-3-16; 725 ILCS 5/115-10; 725 ILCS 5/115-13; 735 ILCS 5/8-2601; 750 ILCS 5/606; Md. CRIMINAL PROCEDURE Code Ann. § 11-304; ALM GL ch. 233, § 81; ALM GL ch. 233, § 82; ALM GL ch. 233, § 83; MCR 3.972; Minn. Stat. § 595.02; Minn. Stat. § 260C.165; Miss. Code Ann. § 13-1-403; Miss. R. Evid. Rule 803; § 491.075 R.S.Mo.; Nev. Rev. Stat. Ann. § 51.385; N.J. R. Evid. 803; NY CLS Family Ct Act § 1046 (family court proceedings only); Ohio Evid. R. 807; ORS § 40.460; 42 Pa.C.S. § 5985.1; 42 Pa.C.S. § 5986; S.C. Code Ann. § 17-

23-175; S.C. Code Ann. § 19-1-180; S.D. Codified Laws § 19-16-39; Tenn. R. Evid. Rule 803 (civil actions only); Tex. Code Crim. Proc. art. 38.071; Tex. Code Crim. Proc. art. 38.072; Utah Code Ann. § 76-5-411; Va. Code Ann. § 63.2-1522; V.R.E. Rule 804; Rev. Code Wash. (ARCW) § 9A.44.120.
⁷¹ *See* A01351, 2007-2008 Regular Sessions (2007); A.3887 of the 2005-06 legislative session; A.2288 of the 2003-04 legislative session; A.1230 of the 2001-02 legislative session; A.2633 of the 1999-00 legislative session; A.1861 of the 1997-98 legislative session; A.2165 of the 1995-96 legislative session.
⁷² 2007 Legis. Bill Hist. NY A.B. 4094. Also introduced as A4581 in the 2005/06 Session; A2371 in the 2003/04 Session; A1352 in the 2001/02 Session; A1873 in the 1997/98 Session; A6780 (Vann) in the 1991/92 Session.
⁷³ *In re Linda S.*, 148 Misc. 2d 169 (N.Y. Fam. Ct., Westchester Co., 1990).
⁷⁴ *Id.*, at 175.
⁷⁵ *Id.*, at 171.
⁷⁶ 148 Misc. 2d at 175-176.
⁷⁷ *Idabo v. Wright*, 497 U.S. 805 (1990).
⁷⁸ *Id.*, at 809.
⁷⁹ *Id.*, at 812.
⁸⁰ *Id.*, at 813.
⁸¹ *Id.*, at 811.
⁸² *Id.*, at 819.

For More Information

The National Child Protection Training Center (NCPTC) at Winona State University is a training program of the National Association to Prevent Sexual Abuse of Children (NAPSAC). NCPTC provides training, technical assistance and publications to child protection professionals throughout the United States. In addition, NCPTC assists undergraduate and graduate programs seeking to improve the education provided to future child protection professionals. In partnership with CornerHouse, NCPTC also assists in the development and maintenance of forensic interview training programs utilizing the RATA[®] forensic interviewing protocol. For further information, contact NCPTC at **507-457-2890** or visit our website at **www.ncptc.org**. For further information about NAPSAC, call **651-340-0537** or visit our website at **www.napsac.us**.

