

2022

Anatomical Diagrams and Dolls: Guidelines for Their Usage in Forensic Interviews and Courts of Law

Victor Vieth

Follow this and additional works at: <https://open.mitchellhamline.edu/mhlr>

 Part of the [Forensic Science and Technology Commons](#)

Recommended Citation

Vieth, Victor (2022) "Anatomical Diagrams and Dolls: Guidelines for Their Usage in Forensic Interviews and Courts of Law," *Mitchell Hamline Law Review*. Vol. 48 : Iss. 1 , Article 3.
Available at: <https://open.mitchellhamline.edu/mhlr/vol48/iss1/3>

This Article is brought to you for free and open access by the Law Reviews and Journals at Mitchell Hamline Open Access. It has been accepted for inclusion in Mitchell Hamline Law Review by an authorized administrator of Mitchell Hamline Open Access. For more information, please contact sean.felhofer@mitchellhamline.edu.
© Mitchell Hamline School of Law

**ANATOMICAL DIAGRAMS AND DOLLS:
GUIDELINES FOR THEIR USAGE IN FORENSIC
INTERVIEWS AND COURTS OF LAW¹**

Victor I. Vieth[‡]

I.	INTRODUCTION.....	84
II.	THE POSITION OF MAJOR FORENSIC INTERVIEW TRAINING PROGRAMS ON DIAGRAMS AND DOLLS	88
A.	<i>OJJDP Child Forensic Interviewing Best Practices Guide</i>	<i>88</i>
B.	<i>Forensic Interview Training Programs.....</i>	<i>89</i>
1.	<i>APSAC.....</i>	<i>89</i>
2.	<i>CornerHouse</i>	<i>91</i>
3.	<i>NCAC.....</i>	<i>91</i>
4.	<i>NICHD.....</i>	<i>92</i>
5.	<i>Childhood Trust.....</i>	<i>92</i>
6.	<i>ChildFirst.....</i>	<i>93</i>
7.	<i>RADAR.....</i>	<i>93</i>
8.	<i>Summary of Forensic Interview Training Programs and Media.....</i>	<i>94</i>
III.	USAGE OF DIAGRAMS AND DOLLS IN FORENSIC INTERVIEWS IN THE US.....	94
IV.	PUTTING THE DISCUSSION OF DIAGRAMS AND DOLLS IN THE CONTEXT OF RESEARCH ON BIAS	96
V.	DIAGRAMS, DOLLS AND EXTREME RHETORIC.....	99
VI.	POTENTIAL ADVANTAGES OF MEDIA TO ALLEGED VICTIMS.....	101
A.	<i>Children, Particularly Young Children, May be Better at Demonstrating an Event or Experience than Describing It.....</i>	<i>101</i>

¹This project was supported by Award #2019-CI-FX-K006 awarded by the Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, U.S. Department of Justice. The opinions, findings, and conclusions or recommendations expressed in this program are those of the author(s) and do not necessarily reflect those of the Department of Justice.

[‡]Director of Education & Research, Zero Abuse Project. The author is grateful to Caitlin Lindenhovius for her research assistance on this Article and to Mark Everson, Rita Farrell, Allison Foster, Rachel Johnson, and Shannon May for their review and comments on earlier drafts. Portions of this Article are adapted from a 2016 paper of diagrams and dolls drafted by the Gundersen National Child Protection Training Center (which subsequently merged into the Zero Abuse Project) and the ChildFirst forensic interview training programs. That paper can be accessed at: <https://www.zeroabuseproject.org/wp-content/uploads/2019/02/NCPTC-Anatomical-Dolls-and-Diagrams-position-paper.pdf> [<https://perma.cc/PWG8-MXAP>].

<i>B. Using Media Gives the Forensic Interviewer and More Importantly, the Child, Two Means of Communication—Verbal and Demonstrative</i>	101
<i>C. The Use of Media May Limit the Number of Leading Questions.....</i>	102
<i>D. Some Media May Provide “Cues” that Trigger a Child’s Memory</i>	102
<i>E. Media May Overcome the Reluctance of Children to Disclose Abuse.....</i>	103
<i>F. Even if a Child is Willing to Share an Experience of Abuse, It May Simply be Less Stressful to Show than to Tell.....</i>	104
VII. ADVANTAGES OF MEDIA TO THE ALLEGED OFFENDER.....	105
VIII. RESEARCH ON ANATOMICAL DOLLS	106
IX. ANATOMICAL DIAGRAM RESEARCH	111
<i>A. Diagrams May Significantly Reduce False Negatives and Enable More Children to Disclose Touches.....</i>	111
<i>B. Diagrams May Result in Additional Forensically Relevant Details</i>	114
<i>C. Forensically Relevant Details May Lead to Corroborating Evidence</i>	115
<i>D. Studies not Supportive of Diagrams.....</i>	116
X. CHILD FIRST PROPOSAL FOR FUTURE RESEARCH DESIGNS.....	119
XI. STATUTORY AND CASE LAW ON DIAGRAMS AND DOLLS	122
XII. GUIDELINES FOR COURTS.....	123
XIII. CONCLUSION	125

I. INTRODUCTION

A guest speaker at school discusses personal safety and the sensitive subject of child maltreatment, informing the group of second-graders that some secrets do not need to be kept.² Impacted by the lesson, a student

² For an overview of the potential utility of personal safety education in the protection of children, see David Finkelhor & J. Dziomba-Leatherman, *Victimization Prevention Programs: A National Survey of Children’s Exposures and Reaction*, 19 CHILD ABUSE & NEGLECT 129 (1995); David Finkelhor, *Prevention of Sexual Abuse Through Educational Programs Directed Toward Children*, 120 PEDIATRICS 640 (2007); Sandy K. Wuterle & Maureen C. Kenny, *Primary Prevention of Child Sexual Abuse: Child and Parent Focused Approaches*, in KEITH L. KAUFMAN, *THE PREVENTION OF SEXUAL VIOLENCE: A PRACTITIONER’S SOURCEBOOK* 107 (2010).

approaches his instructor and asks, “if my friend told me a really bad secret, should I tell?” After a handful of follow-up questions, the child shares that his best friend, Billy, told him that Billy’s father was touching his butt with his “private part.”

Having a reasonable suspicion that Billy is being sexually abused, the teacher makes a mandated report to social services.³ The case is screened in,⁴ and Billy is brought to a Children’s Advocacy Center (CAC)—one of hundreds of facilities accredited by the National Children’s Alliance⁵ to assess child maltreatment allegations.

Billy is questioned by a forensic interviewer, someone specially trained to speak with children about abuse, and the interview is audio and video-recorded. The interviewer spends time building rapport with Billy and practices getting the child to speak in a narrative style⁶ by asking for details about a neutral event from beginning to end. The interviewer also asks the child about family, people the child lives with, and things they may do with the family and other people in their lives.

The interviewer then transitions to the topic of concern by stating, “tell me about coming to talk with me today.”⁷ The child replies, “the social worker lady told me I had to talk to you.” The interviewer asks the child to “tell me everything the social worker lady told you.”⁸ The child simply says, “she told me I’m supposed to talk to you. I don’t know what about.”

³ For an overview of the mandated reporting system and possible outcomes of a report, see Theodore P. Cross, Betsy Goulet, Jesse J. Helton, Emily Lux & Tamara Fuller, *What Will Happen to This Child if I Report? Outcomes of Reporting Child Maltreatment, in MANDATORY REPORTING LAWS AND THE IDENTIFICATION OF SEVERE CHILD ABUSE AND NEGLECT* (Ben Matthews & Donald C. Bross eds., 2015).

⁴ When a child abuse report is made, the referral center conducts a screening to determine if the report is appropriate for a response from child protection services or law enforcement. *Id.* at 419–22.

⁵ For additional information, see NAT’L CHILDS.’ ALL., <https://www.nationalchildrensalliance.org/> [<https://perma.cc/LX9L-MA5X>].

⁶ A substantial body of research indicates that encouraging children to give detailed responses early in the interview (i.e., during the rapport-building phase) enhances their informative responses to open-ended prompts in the substantive portion of the interview. When interviewers encourage these narrative descriptions early on, children typically will begin to provide more details without interviewers having to resort to more direct or leading prompts. CHRIS NEWLIN, LINDA CORDISCO STEELE, ANDA CHAMBERLIN, JENNIFER ANDERSON, JULIE KENNISTON, AMY RUSSELL, HEATHER STEWART & VIOLA VAUGHAN-EDEN, OJJDP, CHILD FORENSIC INTERVIEWING: BEST PRACTICES 8 (Sept. 2015), <https://www.nationalcac.org/wp-content/uploads/2016/07/Child-Forensic-Interviewing-Best-Practices.pdf> [<https://perma.cc/HPN8-SHXL>].

⁷ Julie Stauffer, *A Look Inside the CornerHouse Forensic Interview Protocol™*, 32(2) APSAC ADVISOR 19, 22 (2020), <http://apsaclibrary.org/publications/2020%20Number%202/10562.pdf> [<https://perma.cc/GDU9-ESVX>].

⁸ The ChildFirst forensic interviewing protocol, among other models, allows for asking the child “what, if anything, someone may have said to them about the process.” Rita Farrell &

The interviewer then explores more about the child's family and what experiences are "OK" and "not OK"⁹—a broader conversation than being touched because children can be violated without being touched.¹⁰ In this context, the child tells the interviewer that he does things with his dad that are "not OK." When asked to explain further, the child shares that his dad "touches my butt with his dick." The child gives myriad details of this conduct, explaining that he is naked on his bed, and that his dad is also naked and gets on top of him from behind and "puts it in" until "the sticky stuff squirts all over my belly."

The interviewer is confused because it sounds as if the father's penis is in the child's anal opening (child specifically said "he puts it in"), but the semen ("sticky white stuff") appears to end up on the child's belly, which is flat against the bed. Accordingly, the interviewer uses anatomical diagrams (male and female figure drawings that include genitals) and asks the child to circle where on the diagram he is touched. The child circles the buttocks. When asked what he is touched with, the child points to, and then circles, the penis on one of the drawings. When asked where the "sticky white stuff goes," the boy circles the stomach.

The interviewer then asks the child to demonstrate the abuse by using two anatomical dolls—one representing the boy and the other the father. The child undresses the dolls and demonstrates the offender inserting his penis not in the child's anal opening but rather between his buttocks and then in between the boy's legs—thus clarifying why the ejaculate was ending up on the child's belly.

When the case comes to trial, the prosecutor files a motion to admit the recorded forensic interview into evidence under the residual "catch-all exception" to the hearsay rule.¹¹ Although the boy will have to testify in court, the prosecutor believes the verbal description, as well as the demonstration of the abuse, is powerful evidence that the jury should hear and see.

The defense attorney retains a Ph.D. child psychology professor from a local university. Although the psychologist is an accomplished academic and researcher, he has never conducted a forensic interview and has never participated in a multi-disciplinary response to an allegation of child abuse. At a pre-trial hearing, the defense expert states that the usage of diagrams

Victor Vieth, *ChildFirst@ Forensic Interview Training Programs*, 32(2) APSAC ADVISOR 56, 59 (2020), <http://apsalibrary.org/publications/2020%20Number%202/10566.pdf> [<https://perma.cc/V6QJ-QD28>].

⁹ In the Rapport phase of the interview, the ChildFirst protocol would, depending on the age of the child, allow for the usage of diagrams to name body parts. *Id.* at 59.

¹⁰ This is another approach utilized in the ChildFirst forensic interview training model. During this phase of the interview "children have disclosed being scared at home, they have witnessed mommy being hit, and that there is a lot of yelling, and one child said, 'My tummy hurts when I don't have food so that's not OK.'" *Id.*

¹¹ For an overview of the state and federal residual exceptions to the hearsay rule, see JOHN E.B. MYERS, *MYERS ON EVIDENCE OF INTERPERSONAL VIOLENCE*, 794–829 (5th ed. 2011).

and dolls in the forensic interview “contaminated” the process and that this type of media is frowned upon in the field of forensic interviewing. The defense expert asserts that the usage of these tools renders all of the child’s statements unreliable.¹²

The prosecutor informs the judge that several leading forensic interviewing models encourage, or at least allow, the usage of media when the child needs these tools to communicate his or her experiences and that research is supportive of media when used appropriately. It is significant, the prosecutor asserts, that the diagrams and dolls were used for clarification of the child’s verbal statements and that the statements came before the usage of the tools.

The judge is unsure how to address this issue and asks each side for a thorough brief on the research supporting or critical of dolls and diagrams, a summary of the major interviewing models and their position on this topic, as well as any statutory or case law on the matter.

This hypothetical is rooted in an actual case¹³ and represents an issue confronting prosecutors, defense attorneys, and judges throughout the United States. Unfortunately, many attorneys and judges have not taken the time to fully understand the research on media and the potential biases that can influence interpretation. They may also not understand the various methods for using these tools in a forensic interview and how this variation determines whether diagrams and dolls are used appropriately or inappropriately.¹⁴

This Article assists attorneys and judges by providing an overview of the extensive research on dolls, the small body of research on diagrams, and the position on using these tools that have been taken by major forensic interview training programs in the United States. The Article concludes with a summary of case and statutory law along with proposed guidelines for courts in considering this issue.

¹² For an example of this type of argument from a defense expert, see *State v. Wheeler*, No. 117,687, 2019 Kan. App. Unpub. LEXIS 21, *1, *45 (Kan. Ct. App. 2019).

¹³ This is a case the author was involved in, although some facts are changed to highlight the issues discussed in this Article. The actual case did not go to trial. The significant details provided by the victim were utilized to get a confession from the suspect. In the end, the suspect confessed to sexually abusing eight children, pled guilty to these crimes, and was sentenced to prison.

¹⁴ There is significant research documenting the need to dramatically improve the undergraduate and graduate training of all child protection professionals, including judges. A number of universities throughout the United States are moving in that direction through a program called “Child Advocacy Studies” or CAST. Victor I. Vieth, Betsy Goulet, Michele Knox, Jennifer Parker, Lisa B. Johnson, Karla Steckler Tye & Theodore P. Cross, *Child Advocacy Studies (CAST): A National Movement to Improve the Undergraduate and Graduate Training of Child Protection Professionals*, 45 (4) MITCHELL HAMLINE L. REV. 1129 (2019). A survey of 2,240 judges found that barely fifty percent of them had received any child welfare training before hearing child dependency and neglect proceedings. CHILD. & FAM. RSCH. CTR., UNIV. OF ILL., URBANA-CHAMPAIGN, *View from the Bench: Obstacles to Safety & Permanency for Children in Foster Care* (July 2004).

II. THE POSITION OF MAJOR FORENSIC INTERVIEW TRAINING PROGRAMS ON DIAGRAMS AND DOLLS

All of the major forensic interview training programs in the United States agree that diagrams or dolls should not be used in every case, but each of the programs recognize they may have value in some instances.¹⁵ Most of the publications from these programs also recognize the limited research on some of these tools as well as the many nuances involved in when and how the tools are employed.¹⁶ Not one of the interviewing courses introduces diagrams until there are more open-ended invitations to discuss possible abuse, and none of the programs permits the usage of dolls until after a child has made a verbal disclosure of abuse.¹⁷

A. *OJJDP Child Forensic Interviewing Best Practices Guide*

In order to conduct a forensic interview in an accredited CAC in the United States, a forensic interviewer must have completed a forensic interview training program approved by the National Children's Alliance (NCA), the federally funded body that accredits CACs.¹⁸ In 2015, representatives of many of the leading NCA-approved forensic interviewing training programs in the United States collaborated on a document that summarizes best practices in forensic interviewing.¹⁹

The best practices guide was published by the US Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention (OJJDP). The guide was drafted by representatives of the American Professional Society on the Abuse of Children (APSAC), the National Children's Advocacy Center (NCAC), the National Institute of Child Health and Human Development (NICHD) protocol, CornerHouse Child Advocacy Center, ChildFirst, and Ohio's Childhood Trust. Although not a contributor to the OJJDP guide, the forensic interview training program known as RADAR also adopts the guide as representative of its views.²⁰

¹⁵ See *infra*, Sections II.A, II.B.

¹⁶ See NEWLIN ET AL., *supra* note 6, at 7.

¹⁷ See, e.g., ASPAC Taskforce, *Forensic Interviewing in Cases of Suspected Abuse*, THE AM. PRO. SOC'Y ON THE ABUSE OF CHILD., 14, 23 (2012), <https://depts.washington.edu/uwhatc/PDF/guidelines/Forensic%20Interviewing%20in%20Cases%20of%20Suspected%20Child%20Abuse.pdf> [https://perma.cc/584X-UE4G].

¹⁸ For a history of the CAC movement, see Nancy Chandler, *Children's Advocacy Centers: Making a Difference One Child at a Time*, 28 HAMLIN J. OF PUB. L. & POL'Y 315 (2006).

¹⁹ NEWLIN ET AL., *supra* note 6, at 8.

²⁰ Mark D. Everson, Scott Snider, Scott M. Rodriguez & Christopher T. Ragsdale, *Why RADAR? Why Now? An Overview of RADAR Child Interview Models*, 32(2) APSAC ADVISOR 36, 40 (2020), <http://apsaclibrary.org/publications/2020%20Number%202/10564.pdf> [https://perma.cc/RF4P-T98Q].

As noted by one summary of the OJJDP guide, “the overarching principles that guide all trainings today are more alike than different.”²¹ Citing the guide, another scholar notes that “significant cross-pollination has occurred among the developers of these interview structures” and that there are clear “commonalities.”²² With respect to anatomical dolls and diagrams, however, the OJJDP best practices guide reflects some of the nuances in the field:

The goal of a forensic interview is to have the child verbally describe his or her experience. A question remains, however, as to whether limiting children to verbal responses allows all children to fully recount their experiences, or whether media (e.g., paper, markers, anatomically detailed drawings or dolls) may be used during the interview to aid in descriptions. The use of media varies greatly by model and professional training. Decisions are most often made at the local level, and interviewer comfort and multidisciplinary team preferences may influence them. Ongoing research is necessary to shed further light on the influence of various types of media on children’s verbal descriptions of remembered events.²³

B. Forensic Interview Training Programs

Some of the forensic interview training programs that were signatories to the OJJDP Best Practices publication encourage the use of diagrams or dolls; others discourage their use, but all of them *allow* for the use of at least one form of media in limited circumstances. These similarities and dissimilarities are discussed below.

1. APSAC

The American Professional Society on the Abuse of Children (APSAC) “discourages the use of media such as anatomically detailed dolls or drawings unless and until an interviewer has tried and exhausted open-ended questioning techniques.”²⁴ Stating that, when media is used, “interviewers should utilize open-ended follow-up questioning to explore and try to elicit clarification and additional details.”²⁵ It is also recommended that these tools be used only by interviewers specifically trained to use

²¹ Patti Toth, *APSAC’s Approach to Child Forensic Interviews: Learning to Listen*, 32(2) APSAC ADVISOR 9, 12 (2020), <http://apsalibrary.org/publications/2020%20Number%202/10561.pdf> [<https://perma.cc/Z4B9-R5LK>].

²² Kathleen Coulborn Faller, *Forensic Interview Protocols: An Update on the Major Forensic Interview Structures*, 32(2) APSAC ADVISOR 4, 5 (2020), <http://apsalibrary.org/publications/2020%20Number%202/10560.pdf> [<https://perma.cc/Q3EB-Q5WM>].

²³ NEWLIN ET AL., *supra* note 6, at 7.

²⁴ Toth, *supra* note 21, at 15.

²⁵ *Id.*

diagrams or dolls.²⁶ However, the APSAC forensic interview training clinic does not provide this instruction.²⁷

In 1995, APSAC published guidelines entitled *The Use of Anatomical Dolls in Child Sexual Abuse Assessments*.²⁸ In 2012, APSAC published practice guidelines for forensic interviewers, which included a recitation of best practices for using anatomical dolls in a forensic interview.²⁹ This includes specific training in using dolls, utilizing the dolls only after a verbal statement of abuse from the child, and using the dolls “only if needed to assist the child in communicating details of what happened.”³⁰

In the 2012 forensic interviewing guidelines, APSAC acknowledged that there was “little research” on the efficacy of anatomical diagrams (what APSAC refers to as “body maps” or “anatomically-detailed drawings”) but urged “caution” in using these tools and suggested they be used primarily for clarification following a child’s disclosure of abuse or to obtain “additional details.”³¹ However, the guidelines also state that when “the level of suspicion is very high and other inquiries have not been productive, some interviewers may choose to use drawings to provide a visual aid that focuses the child on body parts.”³² The guidelines add that it is “critical to follow any disclosures elicited in this way with open-ended requests to elaborate in order to encourage the child to provide narrative responses that contain additional relevant details.”³³

In applying these guidelines, APSAC members are also instructed to adhere to the APSAC Code of Ethics, “which requires interviewers to conduct interviews ‘. . . in a manner consistent with the best interests of the child.’”³⁴ In applying this principle, APSAC contends that when “certain objectives or purposes compete, the APSAC member makes the best interests of the child the priority in evaluating alternatives.”³⁵ As will be discussed in the overview of specificity versus sensitivity bias, this ethical

²⁶ *Id.*

²⁷ *Id.*

²⁸ ASPAC Taskforce, *Practice Guidelines: The Use of Anatomical Dolls in Child Sexual Abuse Assessments*, THE AM. PRO. SOC’Y ON THE ABUSE OF CHILD. (1995), https://2a566822-8004-431f-b136-8b004d74bfc2.filesusr.com/ugd/4700a8_e70d997a77bf4334bef8b97c55cc82bf.pdf [https://perma.cc/J6GK-L3T4]. It is noteworthy that these guidelines focused on using the dolls only in sexual abuse cases. Today, CACs and forensic interviewers work with children maltreated in multiple ways and thus the dolls could be used in cases that do not involve sexual abuse.

²⁹ ASPAC Taskforce, *supra* note 17, at 23.

³⁰ *Id.*

³¹ *Id.* at 14–15.

³² *Id.* at 15.

³³ *Id.*

³⁴ Toth, *supra* note 21, at 10.

³⁵ *Id.*

principle may play an important role in deciding whether or not to use media in a given case with a particular child.

2. *CornerHouse*

CornerHouse “supports the intentional and judicious use” of diagrams and dolls.³⁶ Similar to APSAC, CornerHouse contends that these tools should only be used by forensic interviewers specifically trained to do so and only with children who are “developmentally capable of using the tool.”³⁷ Introducing the tools necessitates “verbal clarification of their purpose and appropriate instruction regarding their use.”³⁸ With respect to diagrams, CornerHouse only uses male and female diagrams that are “consistent in appearance with the age/physical development and ethnicity of the person being interviewed.”³⁹ CornerHouse does not support using clothed diagrams or diagrams that do not have genitals.⁴⁰ This is because diagrams that “cover or omit particular body parts could result in potential misunderstanding or difficulty in identifying which part of the body is being referenced.”⁴¹

CornerHouse also permits the use of anatomical dolls during a forensic interview but restricts their use, allowing them “only after an individual has made a verbal disclosure during the forensic interview” and “only as a demonstration aid for the individual to show what happened.”⁴² Even when a child uses a doll to show what happened, the child is encouraged to verbally describe what they are showing.⁴³ In this way, the interviewer does not have to interpret what the child is showing because the child is explaining the demonstration themselves.⁴⁴

In summarizing its position, CornerHouse states that media is not “required, appropriate, or necessary in every interview.”⁴⁵ At the same time, CornerHouse contends that “verbal communication, exclusively, may not be most effective for every individual.”⁴⁶

3. *NCAC*

The NCAC has a position paper on anatomical diagrams (what it refers to as “human figure drawings” or “HFD”), which states:

³⁶ Stauffer, *supra* note 7, at 25.

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.* at 26.

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Id.* at 27.

⁴⁶ *Id.*

based on current research, HFDs should not be used as a matter of standard practice. However, when interviewing children with communication challenges, media, including HFDs and free drawings, may be necessary additional tools. For these cases, HFDs should be introduced only if the child has made a verbal disclosure of maltreatment, and other clarification options and approaches have been exhausted.⁴⁷

4. *NICHD*

The NICHD protocol, as utilized and taught in Utah, adopts the position of NCAC, which “does not recommend routine use.”⁴⁸ At the same time, NICHD concludes that

when a child has provided a narrative that is concerning for abuse, verbal prompts have been exhausted, and the location on the body is still unclear, the child can use a human figure drawing to indicate the part of the child’s or alleged suspect’s body for which the child’s label is unclear.⁴⁹

As will be discussed later in this Article, NICHD researchers have found that using diagrams can produce forensically relevant details⁵⁰ that may be critical in corroborating a child’s allegation of abuse.⁵¹

5. *Childhood Trust*

The Childhood Trust forensic interview training program relies on “research-based and practice informed techniques”⁵² and teaches the use of anatomical diagrams (what Childhood Trust calls “body maps”) “in cases where other verbal prompts have not focused the child and the allegation requires, at a minimum, a screening of the child’s experiences of touch.”⁵³

⁴⁷ National Children’s Advocacy Center, *Position Paper on Use of Human Figure Drawings in Forensic Interviews*, 2 (2015), <https://calio.org/wp-content/uploads/2015/11/position-paper-human-figure-drawings.pdf> [<https://perma.cc/6ZBQ-PPJP>].

⁴⁸ Heather Steward and David La Rooy, *NICHD: Where We’ve Been and Where We Are Now*, 32(2) APSAC ADVISOR 30, 33 (2020), <http://apsalibrary.org/publications/2020%20Number%202/10563.pdf> [<https://perma.cc/K2RS-JXH4>].

⁴⁹ *Id.*

⁵⁰ See e.g., J.M. Aldridge, Micheal E. Lamb, Kathleen J. Sternberg, Yael Orbach, Phillip W. Esplin & Lynn Bowler, *Using a Human Figure Drawing to Elicit Information from Alleged Victims of Child Sexual Abuse*, 72 J. OF CONSULTING AND CLINICAL PSYCH. 304 (2004).

⁵¹ Tonya Lippert, Theodore P. Cross, Lisa Jones & Wendy Walsh, *Suspect Confession of Child Sexual Abuse to Investigators*, 15(2) CHILD MALTREATMENT 161, 168 (2010).

⁵² Julie Kenniston, *The Evolution of the Childhood Trust Child Forensic Interview Training*, 32(2) APSAC ADVISOR 48, 48 (2020), <http://apsalibrary.org/publications/2020%20Number%202/10565.pdf> [<https://perma.cc/DNZA-HUF6>].

⁵³ *Id.* at 54.

Anatomical diagrams could also be used to clarify a child’s verbal disclosure “if the child’s words do not clearly indicate necessary information.”⁵⁴

Similar to the ChildFirst and CornerHouse models, Childhood trust only allows anatomical dolls to be used after a child’s verbal disclosure.⁵⁵ This is done “as a last resort when a narrative approach is not enough to understand what the child is trying to communicate.”⁵⁶

6. *ChildFirst*

With respect to anatomical dolls, ChildFirst supports their use: when appropriate and when used consistent with research and applicable guidelines. This means there needs to be a legitimate purpose for introducing the dolls, the child needs to be able to make a representational shift, and the tools need to be properly introduced and utilized. The dolls are only used as a demonstration aid and only after the child has verbally disclosed maltreatment.⁵⁷

With respect to anatomical diagrams, ChildFirst asserts they can be used in two ways:

First, with certain ages of children, used only after an open invitation, to see what the child calls different parts of a body. Second, at any age, the diagrams can be used for clarification purposes after a child has disclosed or communicated a touch or other activity concerning a body part.⁵⁸

The ChildFirst program employs a “decision tree” format adopted from the RADAR interviewing program in North Carolina.⁵⁹ Like CornerHouse, a child is asked what they know about being here today or what someone may have said to them about the process.⁶⁰ This may be followed up with a conversation about family relationships and experiences that are “OK” and “not OK.”⁶¹ Diagrams would only be used if there is an articulable reason based on where the interview is going and the child’s needs.⁶²

7. *RADAR*

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ Farrell et al., *supra* note 8, at 56, 61.

⁵⁸ *Id.*

⁵⁹ *Id.* at 58.

⁶⁰ *Id.* at 59.

⁶¹ *Id.*

⁶² *Id.*

RADAR stands for Recognizing Abuse Disclosures and Responding. This forensic interview training program was developed by Dr. Mark Everson and colleagues at the University of North Carolina-Chapel Hill and has been taught since 2009.⁶³ RADAR has three child interview models.⁶⁴ The “FirstCall Initial Investigative Interview” is designed for first responders to a case of child maltreatment.⁶⁵ The “RADAR JR. Child Forensic Interview” is designed for children 3.5 to 5.5 years,⁶⁶ and the “RADAR Child Forensic Interview” is designed for ages 5 through adolescence.⁶⁷ RADAR currently uses anatomical drawings in the pre-school version of the course but does not currently use dolls.⁶⁸

8. *Summary of Forensic Interview Training Programs and Media*

Although all of the nation’s major forensic interview training programs recognize that there may be instances where diagrams and dolls can, and even should, be used in a forensic interview, the fact that some courses encourage and others discourage their use may reflect what other researchers refer to as sensitivity or specificity bias—an issue explored later in this Article.⁶⁹

III. USAGE OF DIAGRAMS AND DOLLS IN FORENSIC INTERVIEWS IN THE US

In December of 2015, Dr. Allison Foster disseminated a national survey to frontline forensic interviews to get a sense of the current usage of dolls and diagrams and the reasons such tools are employed in forensic interviews. The survey was distributed through the listserv of the NCA as well as the contacts of a number of leading training programs.⁷⁰

In total, 597 interviewers responded to the survey. The distribution of the participants in each region of the country served by the NCA is as follows:

- Southern region 35.6%
- Midwest region: 32.5%

⁶³ Everson et al., *supra* note 20, at 36.

⁶⁴ *Id.*

⁶⁵ *Id.* at 45

⁶⁶ *Id.* at 43.

⁶⁷ *Id.* at 40.

⁶⁸ Email from Dr. Mark Everson, Dir., Program on Childhood Trauma and Maltreatment, Univ. of N.C. Chapel Hill, to Victor I. Vieth, Dir. of Educ. & Rsch., Zero Abuse Project (Nov. 29, 2020) (on file with author).

⁶⁹ See *supra* text accompanying notes 68–84.

⁷⁰ Allison Foster, Licensed Clinical Psychologist, Metro. Children’s Advoc. Ctr., Presentation at the Zero Abuse Project 2020 Summit: Contemporary Use of Human Figure Drawings and Dolls: Where Do We Go from Here? (Feb. 26–28, 2020).

- Northeast 11.9%
- Western region 13.7%⁷¹

The participants in the survey reported using the following forensic interview training programs:

- ChildFirst/Finding Words: 33%
- NCAC: 20.7%
- State protocol: 17.6%
- CornerHouse (new protocol): 5.4%
- CornerHouse (older, RATAC protocol): 4.3%
- Lyon's ten step adaptation of NICHD: 4%
- Other: 3.8%
- APSAC: 3.6%
- RADAR: 3.6%
- NICHD: 2.8%
- Cincinnati Childhood Trust: 0.7%
- One person said they were using First Witness (which is now using the ChildFirst protocol), one person said they were using Yuille's Step-Wise protocol, and one person said they did not know what protocol they were using.⁷²

When asked if anatomical diagrams were permissible for use in their forensic interviews, 91.5% said yes.⁷³ However, the type of diagrams used varied significantly. Standard diagrams depicting both genders were used by 45.5% of the respondents, 17.4% of respondents used standard diagrams but only of the gender of the child being interviewed,⁷⁴ and 41.5% used a standard set of diagrams depicting a child and an adult (the latter presumably representing a possible offender).⁷⁵ Some respondents did their

⁷¹ *Id.* The remaining 6.3% of survey participants were uncertain of which NCA regional CAC served their community. *Id.*

⁷² In a 2020 census of CACs, 47.2% of the 791 responding CACs said they were trained in ChildFirst, Finding Words or First Witness and were utilizing the ChildFirst forensic interview training protocol. The NCAC came in second with 42.7.2% of CACs being trained through this program. Training through other models included APSAC (11.8%), CornerHouse (11.1%), FBI (2.5%) and ChildHood Trust (1.6%). The numbers exceed 100% because many forensic interviewers are trained in more than one program. Since the response to the survey was 88.4%, it is a good representation of the training received by frontline forensic interviewers. NATIONAL CHILDREN'S ALLIANCE, 2020 NCA MEMBER CENSUS (2021).—; E-mail correspondence with Kaitlin Lounsbury, Program Evaluation Coordinator, National Children's Alliance, April 27, 2021.

⁷³ Foster, *supra* note 70.

⁷⁴ The numbers exceed 100% because the respondents were allowed to check "all that apply." Accordingly, the interviewers who used both gender diagrams might also use only one gender diagram if the circumstances warrant it.

⁷⁵ Foster, *supra* note 70.

own drawings, and 3.8% used standard anatomical diagrams without genitalia.⁷⁶ As we will see when discussing the limited research on diagrams, some studies have used diagrams without genitalia. This creates a number of questions as to the applicability of the research to actual forensic interviews in which very different tools are being used.

With respect to anatomical dolls, interviewers contending the dolls were a permissible option in their forensic interviews decreased to 69.1%.⁷⁷ Although most interviewers continue to use, or at least allow, the usage of dolls, the lower number is noteworthy since there is significantly more research on dolls than diagrams, and most of that research finds value in dolls used as demonstration aids.

IV. PUTTING THE DISCUSSION OF DIAGRAMS AND DOLLS IN THE CONTEXT OF RESEARCH ON BIAS

Dr. Mark Everson and Jose Miguel Sandoval developed the Child Forensic Attitude Scale (CFAS), an instrument administered to 1,613 child abuse professionals over a six-year period.⁷⁸ Everson and Sandoval found that *all* professionals have different subjective biases that can play a role in evaluating various child sexual abuse case scenarios.⁷⁹ Indeed, depending on an individual's biases, one may be six to seven times less likely than their peers to view a case of child sexual abuse as credible.⁸⁰

Everson and Rodriguez identify two critical characteristics for correctly evaluating a case of child maltreatment—two characteristics that can also lead to concerning biases. *Sensitivity* measures a child abuse evaluator's ability to detect *true* cases of abuse, while minimizing the number of missed cases of maltreatment.⁸¹ *Specificity* measures an evaluator's ability to detect *false* cases of abuse and avoid substantiating a false allegation of abuse.⁸²

Although sensitivity and specificity are equally important indicators of decision accuracy, child abuse professionals differ widely in their views about the probability and consequences of false positive and false negative errors. Professionals who believe that preventing false positive errors should take priority over preventing false negative errors are said to have a specificity bias. Professionals who emphasize preventing false negative

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ Mark D. Everson & Miguel Sandoval, *Forensic Child Sexual Abuse Evaluations: Assessing Subjectivity and Bias in Professional Judgments*, 35 CHILD ABUSE & NEGLECT 287 (2011).

⁷⁹ *Id.*

⁸⁰ *Id.*

⁸¹ Mark D. Everson & Scott M. Rodriguez, *Why Forensic Balance Should Be Recognized as a Foundation Best Practice Standard—A Commentary on the State of Child Forensic Interviewing*, 32(2) APSAC ADVISOR 92 (2020), http://apsaclibrary.org/publications_search.php?search=forensic+balance&author=# [<https://perma.cc/PJ5Q-2TNA>].

⁸² *Id.*

errors at the expense of false positive errors are said to have a sensitivity bias.⁸³

Expanding on this imbalance and applying it to the practice of forensic interviewing, Everson and Rodriguez write:

The imbalance of specificity over sensitivity can be seen in the relative emphasis placed in interview design, instruction, and practice on preventing interviewer suggestions while virtually ignoring the effect of perpetrator ‘suggestion.’ The interviewer’s access to the child is most often limited to a single, one hour, videotaped interview. In contrast, the perpetrator may have 24/7 access to the child for years to manipulate, threaten, and intimidate the child into silence.⁸⁴

As a potential remedy to sensitivity and specificity bias, Everson and Sandoval suggest a “‘team’ approach to assessment that emphasizes diversity in professional position or discipline, gender, and experience level. . . .”⁸⁵

The sensitivity and specificity biases that exist among professionals evaluating cases of child maltreatment similarly exist among researchers who study the work of these frontline professionals. For example, researcher Tom Lyon expresses his “personal view” that dolls and diagrams should be used sparingly but notes, “I would stress that my view is based on limited knowledge, on value judgments, and primarily on the research that best applies: studies examining children’s true and false reports of genital touch.”⁸⁶

Lyon contends that differing views on the usage of dolls and diagrams is “attributable to unspoken value judgments and a lacking appreciation of the dynamics of sexual abuse disclosure.”⁸⁷ Although acknowledging that research supports limitations on the usage of media, Lyon concludes that the “risks have been exaggerated by some research, and reasonable minds still disagree about the potential utility of dolls and diagrams when non-direct questions fail to elicit disclosures.”⁸⁸

The primary bias or value judgments influencing an interpretation of doll and diagram usage pertains to our concern for avoiding false positives (a child falsely alleging abuse) or false negatives (a child falsely denying abuse). This bias, in one direction or another, can influence how researchers design and interpret their studies. In her review of the research,

⁸³ *Id.*

⁸⁴ *Id.* at 94.

⁸⁵ Everson & Sandoval, *supra* note 78, at 297.

⁸⁶ Thomas D. Lyon, *Twenty-five Years of Interviewing Research and Practice: Dolls, Diagrams, and the Dynamics of Abuse Disclosure*, APSAC ADVISOR 14, 18 (Winter/Spring 2012), http://apsaibrary.org/publications_search.php?search=Twenty-five+years&author=# [https://perma.cc/K7KU-SYP8] [hereinafter Lyon, *Twenty-five Years*].

⁸⁷ *Id.* at 14.

⁸⁸ *Id.*

Kathleen Coulborn Faller notes as much, concluding that “research paradigms and interpretation of findings vary somewhat depending upon whether the researcher sees the dolls as a potentially useful medium for communicating with children or a potentially dangerous source of false positive findings.”⁸⁹

In 1996, for example, research by Steward found that “anatomically detailed cues . . . increased completeness of reporting of total body and genital touch” in children three to six years old.⁹⁰ In commenting on these findings, Poole and Dickinson note that anatomical aids in the Steward study “boosted the percentage of children who accurately reported genital touch from 18% to 69% but the rate of false reports of genital touching also increased from 0-5%.”⁹¹ Although both the Steward and Poole quotes are correct statements, they may reflect a value judgment of which is more important—overcoming false denials or avoiding false positives?

As perhaps a clearer indication of potential bias, consider the following statement from Bruck and colleagues in one of the more recent studies on anatomical or body diagrams (BDs):

(A)t this time there is not a requisite amount of research to show that BDs safely increase accurate disclosures; therefore the use of BDs to elicit abuse disclosures is not yet an evidence-based practice.⁹²

When this quote is read closely, the researchers are conceding that there is research to support the use of diagrams, just not the “requisite amount.”⁹³ They are also conceding that the diagrams increase accurate disclosures of genital touch but assert this is not done “safely” because their use is associated with an increase in false positives. This conclusion is misleading, however, because this same research found marked differences between six- to eight-year-olds, four- to five-year-olds, and three-year-olds in terms of their ability to use the diagrams “safely.”⁹⁴ Stated differently, professionals with sensitivity, as opposed to specificity, bias might examine

⁸⁹ KATHLEEN COULBORN FALLER, INTERVIEWING CHILDREN ABOUT SEXUAL ABUSE: CONTROVERSIES AND BEST PRACTICE 115 (2007) [hereinafter FALLER, INTERVIEWING CHILDREN].

⁹⁰ Margaret S. Steward & David S. Steward, *Interviewing Young Children About Body Touch and Handling*, 61 MONOGRAPHS OF THE SOC'Y FOR RSCH. IN CHILD DEV. v, v-vi (1996).

⁹¹ Debra A. Poole & Jason Dickinson, *Evidence Supporting Restrictions on Uses of Body Diagrams in Forensic Interviews*, 35 CHILD ABUSE & NEGLECT 659, 660 (2011) (emphasis added) [hereinafter Poole & Dickinson, *Evidence Supporting Restrictions*].

⁹² Maggie Bruck, Kristen Kelley & Debra Ann Poole, *Children's Reports of Body Touching in Medical Examinations: The Benefits and Risks of Using Body Diagrams*, 22 PSYCH., PUB. L. & POL'Y 1, 9 (2016) [hereinafter Bruck et al., *Children's Reports of Body Touching*].

⁹³ *See id.* The researchers do not define “requisite amount” and thus the phrase is subject to interpretation. *See id.*

⁹⁴ *See infra* notes 160-67, 189-94, and accompanying text.

the Bruck study (as well as other research) and conclude there is an “evidence base” for using diagrams in at least some scenarios.

The challenge, of course, is to be concerned about both false positives and false negatives and to constantly strive to reduce both possibilities. Just as Everson and Sandoval suggest the value of teams of professionals with different perspectives in reducing bias in the evaluation of abuse cases, researchers should work with professionals with different views and perspectives on the use of media. In this way, we are more likely to design research reflecting a concern for both false positives and false negatives, and to analyze the data through a more neutral lens.

The potential for sensitivity and specificity bias in the design and interpretation of research on anatomical diagrams and dolls, as well as in the use of these tools in forensic interviews, is an essential factor to consider when reading studies on this topic or when applying the research in the field.

V. DIAGRAMS, DOLLS AND EXTREME RHETORIC

In recent years, several researchers have challenged the utility of both anatomical dolls and diagrams in a forensic interview. Although some researchers have recommended caution or limitation on the usage of media,⁹⁵ others have boldly called for a “moratorium” on the usage of these tools⁹⁶ and have said those who use dolls or diagrams are engaging in conduct “eerily similar” to “ancient divination techniques.”⁹⁷

Harsh language against the use of media is nothing new. In 1994, Everson and Boat recognized “legitimate concerns” about the use of anatomical dolls but found “surprising” the “extreme reactions” in the literature.⁹⁸ Everson and Boat noted the critics of dolls called them “dirty,”

⁹⁵ See Lyon, *Twenty-five Years*, *supra* note 86, at 14, 18. Reflecting on the research on diagrams and dolls, Professor Tom Lyon writes “My personal view is that they should be used only as a last resort and avoided altogether with children under 4 years of age.” *Id.* at 18. In 2015, the NCAC published a position paper on “human figure drawings” stating the “NCAC does not prohibit the use of HFDs, but also does not recommend their use as common practice.” National Children’s Advocacy Center, *Position Paper on the Use of Human Figure Drawings in Forensic Interviews* 1 (Mar. 2017), <https://calio.org/wp-content/uploads/2015/11/position-paper-human-figure-drawings.pdf> [<https://perma.cc/3GT2-F6KF>]. The NCAC also noted that “when interviewing children with communication challenges, media, including HFDs and free drawings, may be necessary additional tools.” *Id.* at 2.

⁹⁶ Poole & Dickinson, *Evidence Supporting Restrictions*, *supra* note 91, at 659, 668 (“... these findings suggest that policy makers should place a moratorium on the practice of introducing body diagrams early in interviews.”).

⁹⁷ Debra Ann Poole & Maggie Bruck, *Divining Testimony? The Impact of Interviewing Props on Children’s Reports of Touching*, 32 DEVELOPMENTAL REV. 165, 166 (2012) [hereinafter Poole & Bruck, *Divining Testimony*].

⁹⁸ Mark D. Everson & Barbara Boat, *Putting the Anatomical Doll Controversy in Perspective: An Examination of the Major Uses and Criticisms of the Dolls in Child Sexual Abuse Evaluations*, 18 CHILD ABUSE & NEGLECT 113, 114 (1994).

“ugly,” “anatomically bizarre,” and “monstrosities.”⁹⁹ Professionals using the dolls were called “incompetent” and even “guilty of medical malpractice and unethical conduct.”¹⁰⁰

The strong, even extreme, rhetoric against dolls and diagrams, much less the disparagement of the forensic interviewers who utilize these aids, is neither professional nor supported by actual research. Indeed, some of the research cited against the use of media contains findings or language arguably supportive of their usage.¹⁰¹

Although there are studies highlighting potential problems with the use of interviewing aids, the research has multiple weaknesses. Researchers designed studies using interviewing aids that bear little resemblance to the tools used in actual interviews, and researchers sometimes employ them in a manner markedly different from how they are used in the field.¹⁰² The research also fails to recognize the multiple purposes for the interviewing aids¹⁰³ and fails to place the usage of dolls or diagrams in the context of the entire interview, much less the entire investigation.¹⁰⁴

While there is no dispute that dolls and diagrams can be used

⁹⁹ *Id.* at 114 (citing E. Tylden, 2 *The Lancet* 1017 (1987)).

¹⁰⁰ Everson & Boat, *supra* note 98, at 114 (citing R.A. GARDNER, TRUE AND FALSE ACCUSATIONS OF CHILD SEXUAL ABUSE (1992)).

¹⁰¹ In their study urging a moratorium on diagram usage, at least early in the interview, Poole and Dickinson also note the diagrams were “beneficial” in that they “elicited more touch disclosures than open-ended questions alone.” Poole & Dickinson, *Evidence Supporting Restrictions*, *supra* note 91, at 659, 668. In a recent study concluding that diagrams are “not yet an evidence based practice,” the researchers nonetheless found that the diagrams were associated with significant reductions in false negatives in anal and genital touch for six to eight-year-olds without any false positives for anal touch and a small rate for genital touch. Bruck et. al, *Children’s Reports of Body Touching*, *supra* note 92, at 1.

¹⁰² Several researchers, for example, have been critical of anatomical doll designs that use the tools on children too young to employ them and who introduce the dolls with leading, misleading, presumptive, and speculative questions and then, to further complicate the matter, introduce doctor toys into the research. See Kathleen Coulborn Faller, *Anatomical Dolls: Their Use in Assessment of Children Who May Have been Sexually Abused*, 14(3) J. CHILD SEXUAL ABUSE 1, 7 (2005) [hereinafter Faller, *Anatomical Dolls*]. Since using the dolls in this way contradicts all accepted usage of the dolls, it is hard to see the relevance of the research unless it is simply to show the dolls could be used improperly. *Id.*

¹⁰³ See generally Heather A. Hlavka, Sara D. Olinger & Jodi Lashley, *The Use of Anatomical Dolls as a Demonstration Aid in Child Sexual Abuse Interviews: A Study of Forensic Interviewers’ Perceptions*, 19 J. CHILD SEXUAL ABUSE 519, 535 (2010).

¹⁰⁴ Michael Lamb and colleagues correctly caution us that “our narrowed focus on forensic interviews should not lead” us to “ignore the importance of the overall investigation and the need to see the interview as but one (important) part of the process.” MICHAEL LAMB, IRIT HERSHKOWITZ, YAEL ORBACH & PHILLIP W. ESPLIN, TELL ME WHAT HAPPENED: STRUCTURED INVESTIGATIVE INTERVIEWS OF CHILD VICTIMS AND WITNESSES 269 (Wiley-Blackwell ed., 2008).

inappropriately,¹⁰⁵ there is a paucity of evidence to conclude the appropriate usage of dolls and diagrams does not aid in assessing the maltreatment of children and protecting against false accusations. Although there is a small body of research on the use of anatomical diagrams,¹⁰⁶ there are more than 100 studies on the usage of anatomical dolls, and *most* of this research supports their usage.¹⁰⁷

Given that all the major forensic interviewing models allow for some usage of media, that most frontline professionals find there are appropriate usages, and that there is support in the research for the usage of media, extreme rhetoric such as that described above suggests at least some possibility of specificity bias creeping into the critiques of these tools.

VI. POTENTIAL ADVANTAGES OF MEDIA TO ALLEGED VICTIMS

In her treatise, *Interviewing Children About Sexual Abuse*, Dr. Kathleen Coulborn Faller of the University of Michigan notes six “empirically and practically sound advantages of using media.”¹⁰⁸ These six advantages are outlined below.

A. *Children, Particularly Young Children, May be Better at Demonstrating an Event or Experience than Describing It*¹⁰⁹

As any parent can attest, children’s play often communicates their experiences more richly than their words. Although gestures, behaviors, or demonstrations can never be used exclusively in a forensic context,¹¹⁰ they may be one means in which a child communicates his or her experiences.

B. *Using Media Gives the Forensic Interviewer and More Importantly, the Child, Two Means of Communication—Verbal and Demonstrative*¹¹¹

¹⁰⁵ See, e.g., Barbara Boat & Mark Everson, *Concerning Practices of Interviewers When Using Anatomical Dolls in Child Protective Services Investigations*, 1 CHILD MALTREATMENT 96 (1996).

¹⁰⁶ FALLER, INTERVIEWING CHILDREN, *supra* note 89, at 129 (“Less has been written about the use of anatomical drawings in interviewing children thought to have been sexually abused than about anatomical dolls.”).

¹⁰⁷ Faller, *Anatomical Dolls*, *supra* note 102, at 2.

¹⁰⁸ FALLER, INTERVIEWING CHILDREN, *supra* note 89, at 111.

¹⁰⁹ *Id.*

¹¹⁰ Deirdre A. Brown, Margaret-Ellen Pipe, C. Lewis & Michael E. Lamb, *Supportive or Suggestive: Do Human Figure Drawings Help 5 to 7 Year-old Children Report Touch?*, 75 J. CONSULTING & CLINICAL PSYCH. 33, 40 (2007) (“Clearly, when children are asked about touches, with or without drawings, their responses must be probed using open-ended questioning so that the nature of the contact can be clarified. Without verbal elaboration, reports of touches using a body map may be inaccurate at least in part because children locate them imprecisely.”).

¹¹¹ FALLER, INTERVIEWING CHILDREN, *supra* note 89, at 111.

Generally, adults use multiple forms of communication when conversing. When, for example, someone asks us for directions we may not only verbalize our instruction, but we may point, gesture, or draw a map. When a doctor explains an operation to a patient, he or she may use a replica heart or other part of the body to explain what will be done during the procedure. In court, adult witnesses are routinely allowed to use demonstrative aids when communicating with a judge or jury.¹¹² If we, as adults, find tools helpful in communicating our thoughts, why would we assume a child, who may need them more, would not benefit from using multiple forms of communication to share their experiences or knowledge?

C. The Use of Media May Limit the Number of Leading Questions

Rather than ask a series of potentially direct questions in search of details, the interviewer can simply use a tool, such as a doll, to have a child demonstrate their experience. As noted by Everson and Boat, “the use of anatomical dolls may prevent almost as many errors as their use may promote.”¹¹³ Apply this concept to the case study at the beginning of this Article. In that case, the child clearly verbalized and gave extensive details of sexual abuse by his father. However, it was unclear how the semen was on the child’s belly flat against the bed when the child was stating the suspect’s penis was “in” the boy’s butt. In clarifying with the dolls, the child was able to demonstrate the penis was in the child’s butt cheeks and, later, in between his legs. Without the dolls, the interviewer would likely have had to ask multiple direct, potentially suggestive questions to discover these details critical to determining the level of charges to be brought.

D. Some Media May Provide “Cues” that Trigger a Child’s Memory¹¹⁴

A child demonstrating with anatomical dolls may note that, unlike the doll’s undergarments, their grandfather’s underwear has hearts on it.¹¹⁵ In one study of children assessed for sexual abuse, children interviewed with anatomical dolls were three times more likely to give a detailed description

¹¹² Just as adults are allowed to use demonstrative aids, courts have also allowed child witnesses to use anatomical dolls, diagrams and drawings. See JOHN E.B. MYERS, MYERS ON EVIDENCE OF INTERPERSONAL VIOLENCE 200–204 (5th ed. 2011).

¹¹³ Everson & Boat, *supra* note 98, at 114.

¹¹⁴ See FALLER, INTERVIEWING CHILDREN, *supra* note 89, at 111; Karen L. Thierry, Michael E. Lamb, Yael Orbach, & Margaret-Ellen Pipe, *Developmental Differences in the Function and Use of Anatomical Dolls During Interviews with Alleged Sexual Abuse Victims*, 73(6) J. CONSULTING & CLINICAL PSYCH. 1125, 1133 (2005).

¹¹⁵ This is an example provided in: Everson & Boat, *supra* note 98, at 114.

of abuse and twice as likely to name a suspect than children interviewed without dolls.¹¹⁶

*E. Media May Overcome the Reluctance of Children to Disclose Abuse*¹¹⁷

Although some media critics have suggested that sexually abused children have little difficulty sharing their experiences,¹¹⁸ research finds that 60-80% of child abuse victims fail to disclose until adulthood.¹¹⁹ Even with corroborating evidence, many children do not disclose abuse.¹²⁰ In a review of sixteen studies involving children three and older, who were identified as being sexually abused as a result of having a sexually transmitted disease, Tom Lyon concluded that only 42% of these children disclosed such abuse during an initial forensic interview.¹²¹

Media may assist children in overcoming a fear of disclosure in multiple ways. Faller notes, for example, “[s]ome children take literally an instruction by the offender or others not to tell what happened and do not interpret this

¹¹⁶ J.M. Leventhal, J. Hamilton, S. Rekedal, A. Tebano-Micci & C. Eyster, *Use of Anatomically Correct Dolls Used in Interviewing Young Children Suspected of Having Been Sexually Abused*, 84(5) PEDIATRICS 900 (1989).

¹¹⁷ FALLER, INTERVIEWING CHILDREN, *supra* note 89, at 111.

¹¹⁸ In a North Carolina case, Professor Maggie Bruck, a critic of dolls and diagrams, testified as follows:

Question: “Would it be fair to say that one of the least favorite subjects, ah, to talk about, whether it’s with their own parents or, ah, stranger would be anything that occurred to them of a sexual nature?”

Answer: “Oh, I don’t agree with you, Mr. Hart. I think that children, in fact, love to talk about those kind of things especially among themselves. . . .”

Question: “Tell me, Doctor, from your experience how great a time would a child have going and telling her friends and neighbors and other people about having someone stick his finger up their butt, how much glee would be involved in that?”

Answer: “You know, I don’t know, Mr. Hart, but if they get a good laugh from their friends and if it could be something that would make them a really important kid and that their friends could all jump in and say is that what happened to you, I’ve got an even better one, it would be a really great topic of conversation.”

ROSS CHEIT, *THE WITCH HUNT NARRATIVE: POLITICS, PSYCHOLOGY, AND THE SEXUAL ABUSE OF CHILDREN* 181 (2014).

¹¹⁹ Ramona Alaggia, *An Ecological Analysis of Child Sexual Abuse Disclosure: Considerations for Child and Adolescent Mental Health*, 19(1) J. THE CANADIAN ACAD. CHILD & ADOLESCENT PSYCH. 32-39 (2010).

¹²⁰ See Thomas D. Lyon, *False Denials: Overcoming Methodological Biases in Abuse Disclosure Research*, in CHILD SEXUAL ABUSE: DISCLOSURE, DELAY, AND DENIAL 41-62 (Margaret-Ellen Pipe et al. eds., 2007).

¹²¹ *Id.*

instruction as preventing them from showing or writing responses.”¹²² One weakness of research that is critical of media is that the researchers fail to fully consider the reluctance of children to disclose abuse.¹²³

*F. Even if a Child is Willing to Share an Experience of Abuse, It May Simply be Less Stressful to Show than to Tell*¹²⁴

Child abuse is a traumatic experience that can impact a boy or girl physically, emotionally, and spiritually.¹²⁵ This is compounded by the fact that most maltreated children are victimized in multiple ways.¹²⁶ As a result of trauma, a child’s ability and willingness to share information can be impaired.¹²⁷ It may be painful for a child to verbalize all the details of their abuse or neglect, and he or she may feel more comfortable showing what happened. If, for example, an older child told an interviewer, “I can’t talk about it, but I can show you,” would it be ethical for a forensic interviewer to deny the child this opportunity?¹²⁸ What if a child demonstrates his or her need to show by touching or abusing their own bodies during the interview?

¹²² FALLER, INTERVIEWING CHILDREN, *supra* note 89, at 111.

¹²³ Lyon, *Twenty-five Years*, *supra* note 86, at 14, 17-18.

¹²⁴ FALLER, INTERVIEWING CHILDREN, *supra* note 89, at 111.

¹²⁵ Vincent J. Felitti & Robert F. Anda, *The Relationship of Adverse Childhood Experiences to Adult Medical Disease, Psychiatric Disorders and Sexual Behavior: Implications for Healthcare*, in THE IMPACT OF EARLY LIFE TRAUMA ON HEALTH AND DISEASE: THE HIDDEN EPIDEMIC 77, 78 (Ruthe A. Lanius, Eric Vermentten & Clare Painet eds., 2010); Donald F. Walker, Jennifer B. Reese, John P. Hughes & Melissa J. Troskie, *Addressing Religious and Spiritual Issues in Trauma-Focused Cognitive Behavior Therapy with Children and Adolescents*, 41 PROF. PSYCH. RSCH. & PRAC. 174, 174 (2010). *See generally* Victor I. Vieth, Mark D. Everson, Viola Vaughan-Eden, Suzanna Tiapula, Shauna Galloway-Williams & Carrie Nettles, *Keeping Faith: The Potential Role of a Chaplain to Address the Spiritual Needs of Maltreated Children and Advise Child Abuse Multi-Disciplinary Teams*, 14(2) LIBERTY L. REV. 351 (2020) (describing an overview of potential approaches child protection professional can take in addressing the spiritual impact of child); Victor I. Vieth & Pete Singer, *Wounded Souls: The Need for Child Protection Professionals and Faith Leaders to Recognize and Respond to the Spiritual Impact of Child Abuse*, 45 MITCHELL HAMLINE L. REV. 1213 (2019) (discussing the research on the spiritual impact of child abuse as well as studies finding that spirituality can be a source of resilience that buffers the physical and emotional impact of maltreatment).

¹²⁶ David Finkelhor, Richard K. Omrod & Heather A. Turner, *Poly-Victimization: A Neglected Component in Child Victimization*, 31 J. CHILD ABUSE & NEGLECT 7, 19 (2007) (noting that “Poly-victims, children with a large number of different kinds of victimization in a single year, make up a substantial proportion of any group of children who would be identified by screening for an individual victimization type...”).

See also Heather A. Turner, David Finkelhor & Richard Omrod, *Poly-Victimization in a National Sample of Children and Youth*, 38(3) AM. J. PREVENTIVE MED. 323 (2010);

¹²⁷ NEWLIN ET AL., *supra* note 6, at 5.

¹²⁸ *See* APSAC, APSAC CODE OF ETHICS 1-3 (1997), https://2a566822-8004-431f-b136-8b004d74bfc2.filesusr.com/ugd/4700a8_6a46ba45db5a4794b06497c98d9c4281.pdf [<https://perma.cc/GGL5-7K6Q>]. The APSAC Code of Ethics obligated forensic interviewers to conduct interviews “in a manner consistent with the best interests of the child.” *Id.* at 2.

In one case discussed in the literature, a five-year-old girl explained the sexual abuse by putting her hands down her pants to demonstrate the touching. As an alternative, the interviewer offered the girl to show the abuse on an anatomical doll, which she accepted.¹²⁹ When a child articulates verbally or through their conduct the need or at least desire to demonstrate their experience of abuse, simple compassion calls for the use of media.

VII. ADVANTAGES OF MEDIA TO THE ALLEGED OFFENDER

Although rarely discussed in the academic literature, frontline professionals have found that media, particularly anatomical dolls, may benefit a suspect in at least three ways.

First, in instances in which a child may have been coached, it is likely to have been verbal coaching. Accordingly, asking a child to show the alleged abuse with dolls “may help clarify concerns about programming.”¹³⁰ In a 2012 study, Faller and colleagues found that anatomical dolls “yielded the highest percentage of recantations” in sexual abuse cases receiving an extended evaluation.¹³¹

Second, the literature includes documented cases in which an interviewer asks a child to clarify a verbal description of a touch, and the child demonstrates the contact was not sexual in nature. In one case, for example, it appeared the child was verbally describing a touch to her breasts but clarified using the dolls that the touch was to her underarm.¹³²

Third, even when dolls support an accusation that a child has been sexually abused, they help clarify the exact nature of the sexual touch and ensure a suspect is charged only with his or her actual crimes (e.g., sexual touching versus penetration). The case study at the beginning of this Article is based on an actual case in which the child appeared to be describing anal penetration, but when the dolls were employed, the child demonstrated the perpetrator’s penis as going between the child’s legs from behind but not in the anal opening.¹³³

The perpetrator confessed to abusing the boy in exactly this way and pled guilty to the offense. Without the dolls, the government may have charged the defendant with sexual penetration as opposed to sexual touching.

¹²⁹ Hlavka et al., *supra* note 103, at 535.

¹³⁰ Faller, *Anatomical Dolls*, *supra* note 102, at 9.

¹³¹ Kathleen Coulborn Faller, Marguerite Grabarek, Debra Nelson-Gardell & Javonda Williams, *Techniques Employed by Forensic Interviewers Conducting Extended Assessments: Results from a Multi-Site Study*, 20 J. AGGRESSION, MALTREATMENT & TRAUMA 237, 246 (2012) [hereinafter Faller et al., *Techniques*].

¹³² Hlavka et al., *supra* note 103, at 535.

¹³³ Lori S. Holmes, *Using Anatomical Dolls in Child Sexual Abuse Forensic Interviews*, 13 UPDATE 2, 3 (2000). This was a case the author handled as a prosecutor.

VIII. RESEARCH ON ANATOMICAL DOLLS

According to “classical psychoanalytic theory,” many professionals concluded that children are “prone to sexual fantasies.”¹³⁴ Indeed, the belief that children fantasize about sexual abuse dominated the field of psychology for decades.¹³⁵ This fear also led to the “speculation that anatomically detailed dolls stimulate reporting of such fantasies rather than actual memories.”¹³⁶ The actual research, however, does not support these fears.

In a 1994 review of the literature on anatomical dolls, Everson and Boat conclude:

Evaluators can be confident in their continued, informed use of anatomical dolls in sexual abuse evaluations. Neither a review of the relevant empirical data nor an examination of the major criticisms leads to the conclusion that anatomical dolls are unsuitable for use, while clinical and research experience suggest that they are a valuable interview tool.¹³⁷

At the same time, Everson and Boat noted that dolls could be used inappropriately, particularly by poorly trained interviewers, and that “any critique of the dolls must take into account the specific function or role the dolls serve in a particular evaluation and the skills of the individual interviewer.”¹³⁸

In both her 2005 and 2007 reviews of anatomical doll research, Faller concludes, “[m]ost analogue studies find that use of anatomical dolls results in more information and more accurate information than relying on verbal communication alone.”¹³⁹

Goodman and colleagues conducted studies of children receiving an examination involving a “voiding cystourethrogram fluoroscopy”

¹³⁴ Karen J. Saywitz, Gail S. Goodman, Elisa Nicholas & Susan F. Moan, *Children's Memories of a Physical Examination Involving Genital Touch: Implications for Reports of Child Sexual Abuse*, 59 J. CONSULTING & CLINICAL PSYCH. 682, 683 (1991).

¹³⁵ ANNA SALTER, PREDATORS: PEDOPHILES, RAPISTS, AND OTHER SEX OFFENDERS 57 (1st ed. 2003). The history of psychology in the past one hundred years has been filled with theories that deny sexual abuse occurs, that discount the responsibility of the offender, that blame the mother and/or child when it does occur, and that minimize the impact. It constitutes a sorry chapter in the history of psychology, but it is not only shameful—it is also puzzling. Hostility toward child victims and adult women leaks through the literature like poison. *Id.*

¹³⁶ Saywitz et al., *supra* note 134, at 683 (citing Alayne Yates & Lenore Terr, *Anatomically Correct Dolls—Should They be Used as the Basis for Expert Testimony?*, 27 J. CHILD & ADOLESCENT PSYCHIATRY 254–57 (1988)).

¹³⁷ Everson & Boat, *supra* note 98, at 114.

¹³⁸ *Id.* at 126.

¹³⁹ FALLER, INTERVIEWING CHILDREN, *supra* note 89, at 116.

(VCUG).¹⁴⁰ As noted by one scholar, since “VCUG is an intrusive, painful, and humiliating procedure, it is a very good analogue study for sexual abuse.”¹⁴¹ In free recall (“Tell me everything you remember”), only 20% of the children reported the painful procedure, but when dolls were employed, this number increased to 70%.¹⁴²

Saywitz and colleagues studied 72 five- and seven-year-old girls who had received a medical check-up.¹⁴³ Half the children had an anal and vaginal examination as part of the check-up, and the other half had a scoliosis exam. The children were interviewed one week or one month later using free recall questions about the visit to the doctor. They were also asked to demonstrate the examination with anatomical dolls and were then asked a series of direct questions using the dolls (e.g., “Did the doctor touch you there?” pointing to the doll’s vagina).¹⁴⁴ The researchers found a number of benefits to the use of dolls, including:

- *Dolls dramatically increased the amount of accurate information.* Specifically, “when asked to demonstrate as well as tell what happened, children reported approximately twice as much correct information as in free recall.”¹⁴⁵

- *Although the children made some errors with the dolls, “none of the errors involved demonstration of sexually explicit behaviors.”*¹⁴⁶ Most of the errors that were made (57%) were not attributable to the use of the dolls but rather the introduction of toy instruments.¹⁴⁷

- *The use of dolls and direct questions dramatically increased the disclosure of anal or genital touches.* In free recall, only 22% of the girls disclosed vaginal touch and only 11% reported anal touch. When direct questions with the use of dolls were employed, these numbers climbed to 86% and 69%, respectively.¹⁴⁸

- *False reports of genital or anal touch were rare and, with one exception, were not elaborated on when follow-up questions were asked.* One child in the non-genital condition “falsely affirmed vaginal

¹⁴⁰ See Gail S. Goodman, Jodi A. Quas, Jennifer M. Batterman-Faunce, M.M. Riddlesberger & Jerald Kuhn, *Children’s Reactions to and Memory for a Stressful Event: Influences of Age, Anatomical Dolls, Knowledge, and Parental Attachment*, 1(2) APPLIED DEVELOPMENTAL SCI. 54, 57-74 (1997); Gail S. Goodman, Jodi A. Quas, Jennifer M. Batterman-Faunce, M. M. Riddleberger & Jerald Kuhn, *Predictors of Accurate and Inaccurate Memories of Traumatic Events Experienced in Childhood*, 3 CONSCIOUSNESS & COGNITION 269, 275-76 (1994).

¹⁴¹ FALLER, INTERVIEWING CHILDREN, *supra* note 89, at 120.

¹⁴² *Id.*

¹⁴³ Saywitz et al., *supra* note 134, at 683.

¹⁴⁴ *Id.* at 684.

¹⁴⁵ *Id.* at 685.

¹⁴⁶ *Id.*

¹⁴⁷ *Id.*

¹⁴⁸ *Id.* at 686-87.

touch,” and two children “falsely affirmed anal touch.”¹⁴⁹ As would be done in a quality forensic interview, the researchers asked follow-up questions (“How did the doctor do that?”, “What did the doctor touch you with?”, “How did it feel?”, “Did it hurt?”). Two of the children “were unable to provide any detail” in response to these questions.¹⁵⁰ The child who falsely affirmed an anal touch could only provide two details (“it tickled” and “the doctor used a long stick”).¹⁵¹ From these findings, Saywitz and colleagues concluded: “Our results suggest that although there is a risk of increased error with doll-aide direct questions, there is an even greater risk that not asking about vaginal and anal touch leaves the majority of such touch unreported.”¹⁵²

There are also analogue studies that find dolls of limited value or even counterproductive. However, these studies have multiple shortcomings. For instance, Maggie Bruck and colleagues conducted two studies involving private part touching.¹⁵³ In each study, pre-school children were given a medical examination involving light touching of the genitals and buttocks. The researchers employed a number of leading and misleading questions about touches with the use of anatomical dolls. Although the researchers found high rates of inaccurate information, the studies contained three fundamental errors.

First, since the researchers used leading and misleading questions,¹⁵⁴ it is unclear if the inaccurate information is the result of the use of dolls or the bad interviewing techniques employed by the researchers. Indeed, with at least one of the studies, the researchers acknowledged the “suggestive nature” of the interviews, which involved “several features known to elicit high rates of false reports in 3-year-olds irrespective of the topic.”¹⁵⁵

Second, the studies were done on three- or four-year-old children who may not have been able to make the representational shift of understanding

¹⁴⁹ *Id.* at 687.

¹⁵⁰ *Id.*

¹⁵¹ *Id.*

¹⁵² *Id.* at 690.

¹⁵³ See generally Maggie Bruck, Stephen Ceci & Emmett Francoeur, *Children's Use of Anatomically Detailed Dolls to Report Genital Touching in a Medical Examination*, 6(1) J. APPLIED EXPERIMENTAL PSYCH. 74-83 (2000); Maggie Bruck, Stephen Ceci, Emmett Francoeur & Ashley Renick, *Anatomically Detailed Dolls Do Not Facilitate Preschoolers' Reports of a Pediatric Examination Involving Genital Touching*, 1(2) J. EXPERIMENTAL PSYCH. 95-109 (1995) [hereinafter Bruck et al., *Preschooler's Reports*].

¹⁵⁴ Mark D. Everson & Barbara W. Boat, *Anatomical Dolls in Child Sexual Abuse Assessments: A Call for Forensically Relevant Research*, 11 APPLIED COGNITIVE PSYCH. 55, 65 (1997) [hereinafter Everson & Boat, *Anatomical Dolls*] (concerning Bruck's 1995 study, Everson and Boat counted “at least four different types of leading questions”).

¹⁵⁵ Bruck et al., *Preschoolers' Reports*, *supra* note 153, at 105.

that a doll represents their body.¹⁵⁶ Guidelines for using dolls in actual forensic interviews require the interviewer to first assess whether the child can make this representational shift.¹⁵⁷ Since that was not done in these studies, the research may simply confirm recommended practice for the use of the dolls.¹⁵⁸

Third, and most concerning, the scoring in the studies has been criticized in the literature¹⁵⁹ and may raise concerns about researcher specificity bias.¹⁶⁰ For example, the researchers initially coded as a correct response any demonstration of touching of the genitals—which meant that 71% of the children replied correctly. However, the researchers then departed from this original design to include as correct answers only those instances in which a child demonstrated a mere touch as opposed to rubbing or insertion to the correct private part.¹⁶¹ This re-coding reduced the correct answers to 38%.¹⁶²

There are field studies finding children do not provide more information with the use of dolls than without and that open-ended

¹⁵⁶ FALLER, INTERVIEWING CHILDREN, *supra* note 89, at 120. Although noting the results of these studies are inconsistent with other research, including other studies on pre-school children, Faller notes the results may partly “derive from the young age of the children.” *Id.*; Everson & Boat, *Anatomical Dolls*, *supra* note 154, at 65. Everson and Boat note similar concerns about the Bruck 1995 study, noting, “many of the children in the sample may have been under the age and developmental level at which one can productively conduct a formal forensic interview.” *Id.*

¹⁵⁷ Jennifer Anderson, Julie Ellefson, Jodi Lashley, Anne Lukas Miller, Sara Olinger, Amy Russell, Julie Stauffer & Judy Weigman, *The CornerHouse Forensic Interview Protocol: RATAAC*, 12 T.M. COOLEY J. PRACT. & CLINICAL L. 193, 311 (2010). Although the RATAAC protocol is no longer being taught by CornerHouse, the concept of assessing whether or not the child can make a representational shift is still part of the process. Specifically, CornerHouse contends media should only be used with children “who are developmentally capable of using the tool” and that “responsible use” of media “requires understanding by both the interviewer and the individual of how a tool is used, the reason for its use, and parameters of recommended use.” Stauffer, *supra* note 7, at 25.

¹⁵⁸ Everson & Boat, *Anatomical Dolls*, *supra* note 154, at 65. Commenting on the 1995 Bruck study, Everson and Boat note the “interview format did not represent realistic, appropriate forensic standards, and the interval between target event and interview was unrealistically short.” *Id.*

¹⁵⁹ *Id.* at 64–65. Everson and Boat contend that the “scoring system” used in Bruck’s 1995 study “may have demanded an unrealistic level of precision for such young children, given that the children may not have been able to see exactly where and how the doctor touched them, especially if they had been lying in a prone position during that part of the exam.” *Id.*

¹⁶⁰ CHEIT, *supra* note 118. Professor Ross Cheit has raised considerable concerns about researcher bias and the application of this research to actual cases and argues some researchers are “suggesting child suggestibility” by selecting some and ignoring other data or facts.

¹⁶¹ FALLER, INTERVIEWING CHILDREN, *supra* note 89, at 120.

¹⁶² *Id.*

questions were the primary determinant of additional information.¹⁶³ However, at least one commentator urged the field to be cautious in using these studies to conclude there is no value in using dolls, since the studies did not control “whether, when, or how the dolls were used.”¹⁶⁴ Moreover, given that the dolls were primarily used after an attempt to elicit information verbally, it would not be expected that the dolls would produce more information as opposed to detail, clarification, and corroborating evidence.¹⁶⁵

In a 2012 study of extended forensic evaluations of sexual abuse, Faller and colleagues found that anatomical dolls were the least frequently used interviewing technique. However, when they were employed, they had the highest rate of producing “confirming information,” which the researchers defined as yielding a “new report of information,” an “enhanced report of information,” or a “repeat of previous information.”¹⁶⁶

In summarizing all the analogue and field studies on dolls, Kathleen Coulborn Faller writes:

The assertion that anatomical dolls cause nonabused children to state they have been abused is not supported by the existing research. Anatomical doll research on whether the dolls assist children in providing information about abuse is somewhat mixed, but generally supports their utility.¹⁶⁷

In a 2011 summary of the doll research, Professor John Myers concludes:

In the hands of well-trained interviewers, dolls are a useful adjunct to the interview process. Dolls can stimulate memory, allow children to demonstrate what they have difficulty putting into words, and confirm that the interviewer correctly understands the child’s vocabulary and meaning for various terms. At the same time, dolls—like all props—can be misused.¹⁶⁸

Even those critical of dolls have, in some of their writings,

¹⁶³ Thierry et al., *supra* note 114, at 1125; Michael Lamb, Irit Hershkowitz, Kathleen Sternberg, Barbara Boat & Mark Everson, *Investigative Interviews of Alleged Sexual Abuse Victims with and Without Anatomical Dolls*, 20 CHILD ABUSE & NEGLECT 1251, 1257 (1996).

¹⁶⁴ FALLER, INTERVIEWING CHILDREN, *supra* note 89, at 124.

¹⁶⁵ *Id.*

¹⁶⁶ Faller et al., *Techniques*, *supra* note 131, at 243, 246.

¹⁶⁷ FALLER, INTERVIEWING CHILDREN, *supra* note 89, at 128.

¹⁶⁸ MYERS, *supra* note 11, at 87 (citing Diedre A. Brown, *The Use of Supplementary Techniques in Forensic Interviews with Children*, in CHILDREN’S TESTIMONY: A HANDBOOK OF PSYCHOLOGICAL RESEARCH AND FORENSIC PRACTICE (Michael Lamb, David J. La Rooy, Carmit Katz & Lindsay C. Malloy eds., 2d ed. 2011)).

acknowledged the utility of dolls *if they are properly used*. Commenting on Steward's research finding value in the use of dolls, Bruck and Ceci write:

If all doll-centered interviews were conducted with the same degree of control and structure as those in the present study, and if all child witnesses could be shielded from suggestions by adults who have access to them prior to and during the interview, the Steward et al's findings would demonstrate that one could have great confidence in the effectiveness of anatomical dolls.¹⁶⁹

IX. ANATOMICAL DIAGRAM RESEARCH

There are several studies that highlight value in the use of diagrams. This value includes a significant reduction in false negatives and an increase in forensically relevant details which, in turn, can result in corroborating evidence.

A. Diagrams May Significantly Reduce False Negatives and Enable More Children to Disclose Touches

In a study published in 2016, Bruck and colleagues conducted interviews with and without anatomical diagrams on children who received a medical examination involving both genital and anal touch.¹⁷⁰ Five to fourteen days after the exam, the children were interviewed in a medical clinic, a laboratory, or a "public but quiet place" near the child's residence.¹⁷¹ Unlike other studies, the researchers used the sort of diagrams commonly used in forensic interviews—unclothed drawings depicting both the buttocks and genitals.¹⁷²

In free recall questioning of six- to eight-year-olds, Bruck found that none of the children falsely reported a genital or anal touch (false positives). However, there was a large percentage of false negatives (children who were touched but failed to disclose). Approximately 65% of the children failed to disclose an anal touch, and 60% failed to disclose a genital touch.¹⁷³ When diagrams were used, however, these numbers dropped significantly, with as little as 32% of the children maintaining a false negative about anal touch and only 12% of the children maintaining a false negative about genital touch.¹⁷⁴ The diagrams did not result in any

¹⁶⁹ Maggie Bruck & Stephen J. Ceci, *Issues in the Scientific Validation of Interviews with Young Children*, 61 MONOGRAPHS SOC'Y FOR RSCH. CHILD DEV. 204, 209 (1996).

¹⁷⁰ Bruck et al., *Children's Reports of Body Touching*, *supra* note 92, at 1.

¹⁷¹ *Id.* at 4.

¹⁷² *Id.*

¹⁷³ *Id.* at 6.

¹⁷⁴ *Id.* at 6-9.

false reports of anal touching.¹⁷⁵ Although there was an increase in false reports of genital touching (9.4%), this rate was identical to false reports involving more direct questions that did not involve the use of diagrams.¹⁷⁶ Although this study provides strong support for the use of diagrams with children six to eight years of age, the results for younger children were more mixed—a limitation discussed later in this Article.¹⁷⁷

In another 2016 study, Dickinson and Poole found diagrams “more effectively elicited information from children who had not previously disclosed”—a finding they note is consistent with two medical analog studies, which “also obtained more disclosures with diagram-assisted interviewing.”¹⁷⁸ The Dickinson and Poole analog study involved 287 children ages four to eight who were informed that a “Mr. Science-Germ Detective” was not allowed to touch the skin of children during their experiments.¹⁷⁹ However, Mr. Science twice attempted to touch the child (e.g., to brush off water or shake a hand) and then commented, “Oh, I think I just broke a rule. What did I do?”¹⁸⁰

Six days later, a researcher called the parents of the children and asked if the child had disclosed an actual or attempted touch.¹⁸¹ Among children who previously disclosed, the disclosure rates in the “forensic interview” were comparable whether or not a diagram was utilized.¹⁸² However, among children who had *not* previously disclosed the inappropriate touch, the disclosure rate in interviews was significantly higher when diagrams were used.¹⁸³ The table below highlights these differences in disclosure rates:¹⁸⁴

Age group	Without diagrams	With diagrams
Younger children (4-5)	36.7%	59.3%
Older children (6-8)	54.2%	96.2%
Overall	44.4%	77.4%

¹⁷⁵ *Id.*

¹⁷⁶ *Id.*

¹⁷⁷ See *infra* notes 188–93 and accompanying text.

¹⁷⁸ Jason J. Dickinson & Debra Ann Poole, *The Influence of Disclosure History and Body Diagrams on Children’s Reports of Inappropriate Touching: Evidence from a New Analog Paradigm*, 41 LAW AND HUM. BEHAV. 1, 10 (2017) [hereinafter Dickinson & Poole, *The Influence of Disclosure History*]. Even so, the researchers conclude it is “premature to conclude that diagrams outperform unassisted interviews including the presubstantive phases (ground rules and a practice narrative) known to increase children’s informativeness.” *Id.*

¹⁷⁹ *Id.* at 3–4.

¹⁸⁰ *Id.* at 4.

¹⁸¹ *Id.*

¹⁸² See *id.* at 7–9.

¹⁸³ *Id.* at 9.

¹⁸⁴ *Id.* at 10.

Equally important, the researchers found that introducing diagrams early in the interview “did not increase false reports” in the children interviewed.¹⁸⁵ In fact, there was a slightly higher false disclosure rate among younger children interviewed without the diagrams (26.8%) than among children interviewed with the diagrams (22.4%).¹⁸⁶ Among older children, there was a significantly higher false disclosure rate among the children not interviewed with diagrams (31.1%) as opposed to those interviewed with diagrams (12%).¹⁸⁷ Accuracy declined when diagrams were not used initially in the interviews with older children but were utilized later in the interview to “probe for additional disclosures.”¹⁸⁸ The forensic interviewing models described in this Article would not support using diagrams to “probe for additional disclosures” but rather to clarify or seek additional details about disclosures already made.

In 2007, Brown et al. published a study involving a staged event in which children were dressed as pirates and touched by a photographer seven times.¹⁸⁹ Utilizing the NICHD protocol, the children were then interviewed about touches.¹⁹⁰ Only four of seventy-nine children reported touch in response to these questions, and half of them were erroneous.¹⁹¹ When, however, an anatomical diagram was used, *a majority of the children reported touches.*¹⁹² Although there were some errors, the errors were primarily *false denials of touching.*¹⁹³ When the children were asked to elaborate on a false genital touch, only one child “elaborated in a way that maintained concern.”¹⁹⁴

In 2010, Teoh et al. made similar findings. Calling the anatomical diagrams “human figure drawings” or “HFDs,” the researchers concluded: “[u]se of the HFDs was associated with reports of new touches not mentioned before and elaborations regarding the body parts reportedly touched. The HFDs especially helped clarify reports by the oldest rather

¹⁸⁵ *Id.*

¹⁸⁶ *Id.* at 9.

¹⁸⁷ *Id.*

¹⁸⁸ *Id.*

¹⁸⁹ Brown et al., *supra* note 110, at 35. The seven touches were: tickling feet before putting on boots, wiggling a child’s right ear before putting an earring on, squeezing a wrist to check that a wristband was on properly, patting the child on the left side of their waist to indicate where to hang a sword, putting an arm around a child’s shoulder, and patting a child on the shoulder at the end of an event. *Id.*

¹⁹⁰ *Id.* at 35–36.

¹⁹¹ *Id.* at 36.

¹⁹² *Id.* at 37 (“[A] majority of children reported new information when the drawings were presented, even though this followed exhaustive verbal interviews.”).

¹⁹³ *Id.* at 40. As in previous studies, erroneous responses to the direct questions predominantly reflected false denials of experienced touches rather than false reports of touches that did not occur.

¹⁹⁴ *Id.* “Thus, taking account of elaborative information, only 2% of the sample (1 child) reporting touch elaborated in a way that maintained concern. . . .” *Id.*

than the youngest children.”¹⁹⁵

In 2012, Otgaar et al. conducted a study involving the measurement of ten body parts (e.g., waistline) of children four to five and nine to ten years of age.¹⁹⁶ After the children failed to disclose additional information using an NICHD protocol, the children were then interviewed with clothed or unclothed human figure drawings.¹⁹⁷ The researchers found:

- Human figure drawings resulted in more correct information.¹⁹⁸
- Human figure drawings resulted in errors but *not forensically relevant errors*.¹⁹⁹
- *Unclothed* human figure drawings resulted in more correct disclosure of touches.²⁰⁰

As to why the unclothed diagrams may have increased correct information about touches, the researchers concluded:

It seems that an unclothed HFD provides more retrieval cues for younger children than a clothed HFD. It is probably that on a clothed HFD, body parts are more difficult to identify for younger children than on an unclothed HFD or that younger children find it more difficult to picture an image of themselves with the aid of a clothed HFD.²⁰¹

B. Diagrams May Result in Additional Forensically Relevant Details

In 2004, Aldridge et al. published a study in which a gender-neutral anatomical diagram was used in NICHD interviews after the children, ages four to thirteen, had verbally disclosed abuse. The use of the diagrams produced 27% of the “forensically relevant details” for children four to seven years of age and 18% of the forensically relevant data for the children as a whole.²⁰²

¹⁹⁵ Yee-San Teoh, Pei-Jung Yang, Michael E. Lamb & Anneli S. Larsson, *Do Human Figure Diagrams Help Alleged Victims of Sexual Abuse Provide Elaborate and Clear Accounts of Physical Contact with Alleged Perpetrators?*, 24 APPLIED COGNITIVE PSYCH. 287, 298 (2010).

¹⁹⁶ Henry Otgaar, Robert Horselenberg, Ris van Kampen & Karina Lalleman, *Clothed and Unclothed Human Figure Drawings Lead to More Correct and Incorrect Reports in Touch of Children*, 18 PSYCH., CRIME & L. 641, 643 (2012).

¹⁹⁷ *Id.* at 645.

¹⁹⁸ *Id.* at .

¹⁹⁹ *Id.* at 650.

²⁰⁰ *Id.* at 649.

²⁰¹ *Id.*

²⁰² Aldridge et al., *supra* note 50.

C. Forensically Relevant Details May Lead to Corroborating Evidence

In the Aldridge study discussed above, the “forensically relevant details” obtained through the use of diagrams were not evaluated for accuracy. However, a multi-disciplinary team following best practices would seek to corroborate most, if not all, of these details.²⁰³ When corroborating evidence of this kind is obtained, research finds it has a “big effect” on both charging decisions and suspect confessions.²⁰⁴ Specifically, corroborating evidence “more than doubled the confession rate.”²⁰⁵

Based on these findings, the researchers concluded: “the finding that the odds of confession were over twice as great with a corroborating witness shows the value of the special methods for collecting this type of evidence that experts like Lanning and Vieth teach.”²⁰⁶

To the extent that diagrams increase the rate of disclosures, research finds there will be a corresponding and dramatic increase in suspect confessions. As noted by Lippert and colleagues: “[t]he fact that the odds of suspect confession were 3½ times greater when children disclosed highlights the value of skilled forensic interviewers and appropriate supports and settings to help children who are sexually abused to disclose their abuse.”²⁰⁷

Conversely, when disclosures or details of abuse cannot be corroborated or are even refuted, cases are less likely to result in confessions or charges. Criminal justice expert Ken Lanning notes, “[a]s a general principle, valid cases tend to get better and false cases tend to get worse with investigation.”²⁰⁸ Similar patterns hold true in civil child protection cases, with research finding that “the amount of evidence of maltreatment is the most important predictor of whether a case is substantiated.”²⁰⁹

²⁰³ See, e.g., Victor I. Vieth, *When the Child Has Spoken: Corroborating the Forensic Interview*, 2(5) CENTERPIECE 1 (2010) <https://www.zeroabuseproject.org/wp-content/uploads/2019/02/472d771e-centerpiece-vol-2-issue-5.pdf> [<https://perma.cc/MM92-G4RF>].

²⁰⁴ Tonya Lippert, Theodore P. Cross, Lisa Jones & Wendy Walsh, *Suspect Confession of Child Sexual Abuse to Investigators*, 15(2) CHILD MALTREATMENT 161, 168 (2010).

²⁰⁵ *Id.*

²⁰⁶ *Id.*

²⁰⁷ *Id.*

²⁰⁸ Kenneth V. Lanning, *Criminal Investigation of Sexual Victimization of Children*, in THE APSAC HANDBOOK ON CHILD MALTREATMENT 329, 340 (John E. B. Myers, Lucy Berliner, John Briere, C. Terry Hendrix, Carole Jenny & Theresa A. Reid eds., 2d ed. 2002).

²⁰⁹ Theodore P. Cross, Betsy Goulet, Jesse J. Helton, Emily Lux & Tamara Fuller, *What Will Happen to This Child If I Report? Outcomes of Reporting Child Maltreatment*, in MANDATORY REPORTING LAWS AND THE IDENTIFICATION OF SEVERE CHILD ABUSE AND NEGLECT 417, 434 (Ben Mathews & Donald C. Bross eds., 2015).

D. Studies not Supportive of Diagrams

Although the 2016 Bruck study found diagrams were associated with significantly lower false negatives without an accompanying increase in false positives among six- to eight-year-olds,²¹⁰ the results for younger children were less conclusive. With respect to children three- to five-years-old, the diagrams were also associated with a significant decrease in false negatives but also a false positive rate as high as 17% for anal touch and 35% for genital touch.²¹¹ These numbers, though, are skewed by combining three-year-old children with children as old as five. As noted by other scholars, there are “distinct differences” between a three- and five-year-old.²¹² Indeed, some of the comments in the Bruck et al. study make it clear that false positives were much more likely in three-year-old than five-year-old children.²¹³

More importantly, Bruck and colleagues admittedly failed to employ “follow-up questions that help investigators disregard erroneous points that are not convincingly described” and conceded this “should be a focus of future research.”²¹⁴ In order to charge someone with sexual abuse, the prosecutor needs much more than a child pointing to a diagram—the multidisciplinary team (MDT) needs details establishing the location of the offense, the identity of the perpetrator, and information establishing whether the genital touch was for sexual or aggressive purposes (as opposed to a medical exam, bath, etc.).²¹⁵ The fact that the researchers did not seek such elaborations limits the applicability of the study to real-world scenarios.

In 2006, Wilcock et al. conducted a study where children were taken to a fire station or an early learning laboratory and were subjected to innocuous touches while being dressed in a fire hat and a shirt or a fire service costume.²¹⁶ One month later, the interviewers introduced *clothed* body diagrams and then asked the children to point on the diagram where they had been touched.²¹⁷ The researchers found that 11.3% of the five- to six-year-old children disclosed a genital touch.²¹⁸ However, since the diagrams were clothed, it is difficult to determine precisely what the children may have

²¹⁰ See *supra* notes 159–66 and accompanying text.

²¹¹ See Bruck et al., *Children’s Reports of Body Touching*, *supra* note 92, at 6–8.

²¹² Kathleen Coulborn Faller & Sandra K. Hewitt, *Special Considerations for Cases Involving Young Children*, in FALLER, INTERVIEWING CHILDREN, *supra* note 89, at 143.

²¹³ See Bruck et al., *Children’s Reports of Body Touching*, *supra* note 92, at 7. When, for example, the researchers discuss false positives of children undergoing “cued recall” with the diagrams, they note “[a]ll of these children were in the younger age group: four 3-year-olds . . . and one 5-year-old.” *Id.*

²¹⁴ *Id.* at 9.

²¹⁵ See, e.g., MINN. STAT. § 609.341, subdiv. 11(a) (2020).

²¹⁶ Emma Wilcock, Kirstie Morgan & Harlene Hayne, *Body Maps Do Not Facilitate Children’s Reports of Touch*, 20 *Applied Cognitive Psych.* 607, 609 (2006).

²¹⁷ *Id.* at 609–10.

²¹⁸ *Id.* at 611.

been pointing to. Indeed, other scholars have noted that the use of clothed diagrams may be a “possible explanation” for the higher rate of false reports.²¹⁹

In 2011, Poole and Dickinson published a “Mr. Science” experiment in which children received two touches, one to the wrist and one to the shoulder.²²⁰ The children were later read a story with inaccurate information about the events.²²¹ Months later, the children were interviewed with and without *gender-neutral* body diagram figures.²²²

The researchers found that diagrams had “beneficial and detrimental effects on the accuracy of touch reports.”²²³ Without the diagrams, no child reported touching, but this increased to 9% when diagrams were introduced.²²⁴ The consequences of this were that some children interviewed with the diagrams reported touches suggested by the story, and 14.5% made “false intrusions of touching by Mr. Science.”²²⁵ From these findings, the researchers concluded that “it is easy for children to make false allegations by pointing to body parts”²²⁶ and recommended a “moratorium on the practice of introducing body diagrams early in interviews.”²²⁷

Despite this sharp language, not a single child in the Poole and Dickinson study falsely reported a genital touch.²²⁸ Given that the diagrams were gender neutral, it is not entirely clear how they *could* report a genital touch. Nevertheless, since the presumed concern with diagrams is that a child may falsely report a genital touch, this study provides little support for the conclusion that it is “easy” for children to make “false allegations” (presumably of sexual abuse) or to justify a “moratorium” on the usage of diagrams.

Poole and Dickinson dismiss the absence of genital touch in their study by noting:

A second foreseeable criticism is that no child in our research falsely reported genital touching, and other studies collectively found few forensically relevant false reports. However, our body

²¹⁹ Lyon, *Twenty-five Years*, *supra* note 86, at 17.

²²⁰ Poole & Dickinson, *supra* note 91, at 662. As described by the researchers, “Mr. Science tried to wrap a small wrist band around the child’s wrist, marveled at how big the child’s wrist was, wrapped his fingers around the wrist to measure it, and retrieved a larger band that he taped onto the child. After the demonstrations, Mr. Science removed the wrist band and then tried unsuccessfully to stick a worn-out reward sticker on the child’s shoulder, after which he handed the child a strip of stickers instead.” *Id.*

²²¹ *Id.*

²²² *Id.* at 662–64.

²²³ *Id.* at 665.

²²⁴ *Id.*

²²⁵ *Id.* at 666.

²²⁶ *Id.*

²²⁷ *Id.* at 668.

²²⁸ *Id.*

diagrams lacked genitalia, interviewers did not prime genital areas by asking children to name them,²²⁹ and the children were not in a social environment that expressed concerns about sexual abuse.²³⁰

In other words, Poole and Dickinson appear to be suggesting that if they used the unclothed diagrams utilized in ChildFirst or CornerHouse forensic interviews, children would likely have made a false allegation of genital touch. Although this hypothesis could have been put to the test by using unclothed diagrams, it was not a part of this study.

Professor Tom Lyon notes that Poole and Dickinson “provide no support for their apparent belief that explicit depiction would increase the likelihood of error.”²³¹ Lyon contends, “the opposite problem might be at work: When the genitalia are not depicted, this increases the risk of misunderstanding.”²³² Lyon also noted a number of other shortcomings in the anatomical diagram studies published prior to 2012.²³³

In a 2016 study, Dickinson and Poole tried to correct for a number of these design limitations. This study, discussed earlier in this Article,

²²⁹ Poole and Dickinson’s reference to interviewers “priming” children to disclose genital touches by asking them to name body parts appears to be a reference to the practice in some forensic interviews of asking a child to identify body parts on a diagram to reach common language for body parts and determine if a child can make a representational shift. The inference, apparently, is that such a use of diagrams would increase the chance a child will falsely allege a genital or sexual touch. Again, this could have been tested simply by using unclothed diagrams and asking the children to name body parts as part of the research design. Moreover, it is problematic to assert that a child who identifies body parts on an anatomical diagram is “primed” to make a disclosure of genital touching, much less sexual abuse. If a little child has no experience of sexuality, he or she is not likely to be able to describe fellatio, cunnilingus, anal intercourse, vaginal intercourse, sexual toys, sexual sounds, and the other details that is often produced in a forensic interview and it is critical in obtaining a criminal conviction for child sexual abuse—a standard which requires proof beyond a reasonable doubt. For an overview of the sexual knowledge and behavior of children, see Victor I. Vieth, *Recognizing and Responding to Developmentally Appropriate and Inappropriate Sexual Behaviors of Children: A Primer for Parents, Youth Serving Organizations, Schools, Child Protection Professionals, and Courts*, in HANDBOOK OF INTERPERSONAL VIOLENCE ACROSS THE LIFESPAN (Springer 2021).

²³⁰ Poole & Dickinson, *supra* note 91, at 668.

²³¹ Lyon, *Twenty-five Years*, *supra* note 86, at 17.

²³² *Id.*

²³³ *Id.* Unfortunately, the studies are not terribly useful in helping us assess the potential utility of diagrams in questioning children about genital touch. Because there was no condition in which children *were* touched on their genitalia, one cannot calculate the percentage of children who were touched who revealed with or without the diagrams. Children often showed very low rates of touch disclosure, but there is no reason to assume that children were reluctant to disclose any of the touches that occurred. It is more likely that they simply forgot the touching or found it unremarkable. *Id.* With respect to the findings of false reports, Lyon finds the absence of genitalia a weakness in the Poole & Dickinson and Wilcock studies and notes the research by Otgaard, discussed earlier, in which unclothed diagrams “produced more accurate details” in younger children. *Id.*

reached the opposite results, finding that utilizing diagrams early in the interview “did not increase false reports”—a finding that “contrasts with results from our previous investigation”²³⁴

Although Dickinson and Poole’s most recent study did find an increased error rate when the diagrams were used later in the interview, they conclude, “it is likely that question format and their location in interviews, *rather than the presence of a diagram*, accounted for the high error rate in our study.”²³⁵

X. CHILDFIRST PROPOSAL FOR FUTURE RESEARCH DESIGNS

In 2016, the national and state ChildFirst forensic interview training programs echoed the OJJDP best practices guide’s call for more research and proposed eight improvements, reforms, or extensions of research on media. These eight suggestions are listed verbatim below.

1. *More research.* Since the research on diagrams is limited, there needs to be more studies on the use of this media in forensic interviews.

2. *Better research.* As noted by Professor Lyon, many of the existing studies “are not terribly useful.”²³⁶ Simply stated, researchers must design studies that more closely reflect a scenario of abuse and use media that parallels actual forensic interviewing practices. Instead of designing studies that reflect bad interviewing practices, such as employing leading questions and giving children false information, researchers should design studies reflecting quality interviewing practices.

3. *Neutral research.* Researchers must be cognizant of the biases implicit in the design and interpretation of these studies and guard against it. Just as MDTs can guard against biases by bringing multiple disciplines and perspectives to the table in evaluating a case of possible maltreatment, researchers can make a concerted effort to bring to the table those who see benefits, as well as weaknesses, in the use of media.²³⁷

4. *Involve frontline professionals in the design of research.* One of the criticisms of doll and diagram research is that the designs can be markedly different from real world practices with the use of media.²³⁸ These weaknesses can be reduced if researchers are proactive in consulting with frontline professionals in the design of future studies. It is promising that at least one of the most recent studies on diagrams notes some of these limitations and made several steps in the direction of designing research that

²³⁴ Dickinson & Poole, *supra* note 178, at 10.

²³⁵ *Id.* (emphasis added).

²³⁶ Lyon, *Twenty-five Years*, *supra* note 86, at 17.

²³⁷ See Everson & Sandoval, *supra* note 78, at 297.

²³⁸ See generally Everson & Boat, *supra* note 154, at 55-74 (noting that anatomical doll research often employs designs that do not match the actual usage of dolls in forensic interviews); Amy Russell, *Out of the Woods: A Case for Using Anatomical Diagrams in Forensic Interviews*, 21(1) UPDATE (2008).

more realistically reflects the type of cases that result in forensic interviews.²³⁹ The goal of conducting studies that reflect actual work in the field could be achieved more quickly if frontline professionals were closely consulted in the design.

5. *Cease the use of extreme language when referring to the proponents of media.* Proponents of media are often well-educated, have attended multiple forensic interview training programs, and have significant experience in working as forensic interviewers—a credential very few researchers have. Instead of comparing these proponents to ancient practitioners of sorcery,²⁴⁰ critics should recognize that this remains an issue where reasonable minds can differ²⁴¹ and should encourage and practice a more respectful dialogue until a consensus is reached. Although extreme language may assist in identifying the specificity bias among some researchers, it discourages a healthy debate by denigrating dissenting voices.

6. *Recognize dolls and diagrams are used in physical abuse, emotional abuse, neglect, torture,²⁴² polyvictimization²⁴³, as well as sexual abuse investigations.* The research on dolls and diagrams is centered on the use of these tools in cases of sexual abuse. Although forensic interviewers may have historically focused only on sexual abuse,²⁴⁴ this narrow application is no longer the case. Perhaps the most unique feature of the ChildFirst forensic interviewing protocol is that it takes into account relatively recent research on polyvictimization.²⁴⁵ Accordingly, even if children are initially interviewed out of concern about possible sexual abuse, multiple forms of abuse are screened for, and children often report

²³⁹ Dickinson & Poole, *supra* note 178, at 1 (noting that previous “analog paradigms mimic the dynamics of day care cases in which investigators interviewed numerous children who had not previously reported abuse. In contrast, sexual abuse investigations include a sizable percentage of children who have already disclosed, and this group may be less suggestible . . . If this is true, then interviewing techniques that prompt an alarming number of false reports in laboratory studies may not have similar effects in the field.” (citations omitted)).

²⁴⁰ Pool & Bruck, *supra* note 97, at 166.

²⁴¹ Lyon, *Twenty-five Years*, *supra* note 86, at 14.

²⁴² See generally Barbara L. Knox, Suzanne P. Starling, Kenneth W. Feldman, Nancy D. Kellogg, Lori D. Frasier & Suzanna L. Tiapula, *Child Torture as a Form of Child Abuse*, 7 J. CHILD & ADOLESCENT TRAUMA 37 (2014).

²⁴³ “Polyvictimization” refers to a child who has been abused in multiple ways. For instance, a child may be sexually abused, physically abused, emotionally abused, neglected, and witness violence between his or her parents.

²⁴⁴ See generally Kathleen Coulborn Faller, *Forty Years of Forensic Interviewing of Children Suspected of Sexual Abuse, 1974-2014: Historical Benchmarks*, 4 SOCIAL SCIENCES 34 (2015) [hereinafter Faller, *Forty Years*] (noting the original forensic interview training programs in teaching professionals how to interview children who may have been sexually abused).

²⁴⁵ *Id.* at 51.

being abused in multiple ways.²⁴⁶

7. *Design research that places the use of diagrams in the context of not only the entire forensic interview but also the entire MDT investigation.* Michael Lamb and colleagues correctly caution us that “our narrowed focus on forensic interviews should not lead” us “to ignore the importance of the overall investigation and the need to see the interview as but one (important) part of the process.”²⁴⁷ Researchers would do well to take this into consideration in designing research. The use of diagrams is but one small part of the forensic interview process, and the interview process is but one part of the MDT investigation. As a matter of law, it would be impossible to charge anyone with a crime simply because a child pointed to the genitals (or any other part) of an anatomical diagram. In a criminal case, the government must prove beyond a reasonable doubt that a child was sexually touched or otherwise violated in a certain time period in a certain jurisdiction by a certain person. In cases of sexual abuse, the government must not only prove a genital touch but prove that it was done with sexual or aggressive intent.²⁴⁸ Meeting these thresholds requires significant details, which the MDT acquires not only from the child but also the suspect and other witnesses and crime scene investigations.²⁴⁹ Simply put, there are multiple checks and balances both inside and outside of the forensic interview to guard against a false allegation of abuse. Future studies should at least acknowledge this reality and, if possible, attempt to study whether these checks and balances are effective in making sound charging decisions.

8. *Recognize that modern MDT investigations have multiple checks to limit false positives—but very few checks on false negatives.* As noted above, when a child discloses abuse in an interview, the MDT investigation and, if need be, subsequent trial has a number of checks to reduce the risk of a false positive. In contrast, when a child falsely denies abuse in a forensic interview, the investigation typically ceases. Unless there is an extended evaluation,²⁵⁰ the child’s opportunity for protection from continuing abuse may be forfeited. Given this risk, as well as the consistent findings in the research that diagrams or dolls may reduce false negatives, such tools should continue to be an option in MDT investigations.

²⁴⁶ This is based on clinical observations but is also consistent with the poly-victimization research referenced earlier in this Article. See Finkelhor et al., *supra* note 126.

²⁴⁷ LAMB ET AL., *supra* note 104, at 269.

²⁴⁸ See generally AMERICAN PROSECUTORS RESEARCH INSTITUTE, INVESTIGATION AND PROSECUTION OF CHILD ABUSE (3d ed. 2004) (showing a comprehensive overview of the complexities of proving a case of child maltreatment).

²⁴⁹ See generally Vieth, *supra* note 203, at 5 (noting the importance of corroborating as many details as possible provided by a child in a forensic interview); Victor I. Vieth, *Picture This: Photographing a Child Sexual Abuse Crime Scene*, 1(5) CENTERPIECE (2009) (noting the importance of crime scene photographs as corroborating evidence).

²⁵⁰ See, e.g., Faller et al., *Techniques*, *supra* note 131, at 237.

XI. STATUTORY AND CASE LAW ON DIAGRAMS AND DOLLS

The United States Code specifically permits child victims and witnesses to use anatomical diagrams or dolls when testifying in federal court.²⁵¹ States such as Alabama,²⁵² Connecticut,²⁵³ New Jersey,²⁵⁴ New York,²⁵⁵ Michigan,²⁵⁶ Pennsylvania,²⁵⁷ and West Virginia²⁵⁸ also have statutes specifically permitting the use of diagrams or dolls by child witnesses in their courts.

In addition to statutes, there is a significant body of case law permitting the usage of diagrams and/or dolls in courts of law.²⁵⁹ In commenting on why

²⁵¹ 18 U.S.C. § 3509(l) (2018) (“The court may permit a child to use anatomical dolls, puppets, drawings, mannequins, or any other demonstrative device the court deems appropriate for the purpose of assisting a child in testifying.”).

²⁵² ALA. CODE § 15-25-5 (West, Westlaw through Act 2021-19) (“In any criminal proceeding and juvenile cases wherein the defendant is alleged to have had unlawful sexual contact or penetration with or on a child, the court shall permit the use of anatomically correct dolls or mannequins to assist an alleged victim or witness who is under the age of 10 in testifying on direct and cross-examination at trial, or in a videotaped deposition as provided in this article.”)

²⁵³ CONN. GEN. STAT. ANN. § 54-86g(b)(3) (West, Westlaw through 2020 Reg. Sess., 2020 July Spec. Sess., and 2020 Sept. Spec. Sess.) (permitting the specific use of “anatomically correct dolls”).

²⁵⁴ N.J. STAT. ANN. § 2A:84A-16.1 (West, Westlaw through L.2020, c. 146 and J.R. No. 6) (“In prosecutions for those crimes described in sections 2C:14-2, 2C:14-3 and 2C:24-4 of the New Jersey Statutes, where the complaining witness is a child under the age of 16, the court shall permit the use of anatomically correct dolls, models or similar items of either or both sexes to assist the child’s testimony.”).

²⁵⁵ N.Y. CRIM. PROC. LAW § 60.44 (McKinney 2021) (“Any person who is less than sixteen years old may in the discretion of the court and where helpful and appropriate, use an anatomically correct doll in testifying in a criminal proceeding based upon conduct prohibited by article one hundred thirty, article two hundred sixty or section 255.25, 255.26 or 255.27 of the penal law.”).

²⁵⁶ MICH. COMP. LAWS ANN. § 600.2163a(3) (West, Westlaw through P.A.2020, No. 402, of the 2020 Reg. Sess., 100th Leg.) (“If pertinent, the court must permit the witness to use dolls or mannequins, including, but not limited to, anatomically correct dolls or mannequins, to assist the witness in testifying on direct and cross-examination.”).

²⁵⁷ 42 PA. STAT. AND CONS. STAT. ANN. § 5987 (West, Westlaw through 2021 Reg. Sess. Act 4) (“In any criminal proceeding charging physical abuse, indecent contact or any of the offenses enumerated in 18 Pa.C.S. Ch. 31 (relating to sexual offenses), the court shall permit the use of anatomically correct dolls or mannequins to assist a child in testifying on direct examination and cross-examination.”).

²⁵⁸ W. VA. CODE ANN. § 61-8B-11(d) (West, Westlaw through 2021 Reg. Sess.) (“At any stage of the proceedings, in any prosecution under this article, the court may permit a child who is 11 years old or less to use anatomically correct dolls, mannequins, or drawings to assist such child in testifying.”).

²⁵⁹ See, e.g., *Perez v. State*, 925 S.W.2d 324, 326 (Tex. Ct. App. 1996) (disagreeing with defendant’s contention the dolls lacked scientific reliability); *In re Rinesmith*, 376 N.W.2d 139, 141 (Mich. Ct. App. 1985) (finding the testimony of a child’s reaction to an anatomical doll was admissible evidence); *State v. Eggert*, 358 N.W.2d 156 (Minn. Ct. App. 1984) (permitting dolls as a demonstration aid for a child victim in court); *Cleveland v. State*, 490 N.E.2d 1140, 1152-53 (Ind. Ct. App. 1986). *But see*, *In re Amber B.*, 236 Cal. Rptr. 623,

a child victim should be allowed to use anatomical diagrams while testifying, the Minnesota Court of Appeals notes:

[A] doctor or engineer may be allowed to use artificial mockups of the human anatomy, cutaways, maps and diagrams, etc., even if the witness acknowledges that he does not have to have those things to testify. The test is whether or not the testimonial aid will likely assist the jury in understanding the witness's testimony.²⁶⁰

Although defense experts are often critical of forensic interviews, including the use of diagrams and dolls, courts have generally not adopted these arguments as a basis to exclude evidence of the forensic interview.²⁶¹

XII. GUIDELINES FOR COURTS

When a court is evaluating the reliability of a forensic interview in which diagrams or dolls are used or is determining the scope of a prosecutor or defense expert's testimony on the subject of media, at least three factors should be taken into account.

First, a court must keep in mind the issue of sensitivity and specificity bias and how this may influence an expert's view of the appropriateness of the tool used. Consider, for example, this recommendation from Poole and Dickinson on the usage of anatomical diagrams: "simply place body diagrams after open-ended questioning when a prop is needed to clarify verbal reports or when case evidence (e.g., images or a definitive medical finding) justifies using a more suggestive memory cue."²⁶²

With some variation, none of the major forensic interviewing

625 (1987) (critiquing the use of dolls and holding that the "psychological technique of detecting child sexual abuse by observing the child's behavior with anatomically correct dolls and analyzing the child's reports of abuse" did not meet scientific standards). However, this case involved a psychologist's testimony of a child's interaction with the dolls and not a forensic interviewer's use of dolls. As noted in this Article, all of the major forensic interview training programs would not permit dolls to be used in this way but instead only as a demonstration aid after a child has made a verbal disclosure. *Id.* See generally JOHN E.B. MYERS, MYERS ON EVIDENCE OF INTERPERSONAL VIOLENCE: CHILD MALTREATMENT, INTIMATE PARTNER VIOLENCE, RAPE, STALKING AND ELDER ABUSE 200-204 (5th ed. 2011); E. Morgan Kendrick, *Diagram Debate: The Use of Anatomical Diagrams in Child Sexual Abuse Cases*, 8 LIBERTY L. REV. 125 (2013).

²⁶⁰ *Eggert*, 358 N.W.2d at 161.

²⁶¹ *State v. Granderson*, No. A-3415-15T2, 2018 N.J. Super. Unpub. LEXIS 176, at *8 (Super. Ct. App. Div. Jan. 25, 2018) (finding there was no evidence to support the claim that anatomical dolls and diagrams are overly suggestive). In an unpublished 2019 opinion, a Kansas trial court permitted a defense psychologist to critique a forensic interview, including the interviewer's usage of diagrams and dolls, which the psychologist felt contributed to making the victim's statements unreliable. However, the court declined to give the jury a limiting instruction as to their assessment of the forensic interview and this decision was upheld on appeal. *State v. Wheeler*, 432 P.3d 693 (Kan. Ct. App. 2019).

²⁶² Poole & Dickinson, *supra* note 91, at 668.

models discussed in this Article uses the diagrams until the child is asked a series of open ended prompts, such as those recommended by Poole and Dickinson (e.g., asking children why they are here today).²⁶³ Indeed, Poole and colleagues note that “recent modifications” to the ChildFirst and CornerHouse interviewing programs “have added narrative practice and open-ended topic introduction to their procedures, thereby elbowing out media, such as dolls and BDs, from the first part of the interview.”²⁶⁴

Nonetheless, when open ended questioning falls short, the alternative option proposed by these researchers of using diagrams only when there are “images” or a “definitive medical finding” sets an extraordinarily high bar. For example, even in pre-pubertal children who are penetrated, medical evidence is extraordinarily rare.²⁶⁵ Obviously, if our primary focus is only on preventing a false allegation, we may wish to set the bar this high. If, though, we are also concerned about false denials, a broader discussion and more focused research is warranted.

Second, the court should assess the usage of media in the context of the overall forensic interview. Did the child provide significant verbal detail? Were the questions posed open ended or otherwise appropriate? Was the length of the interview appropriate for the child’s development? Was the location of the interview appropriate? Was the interview recorded? Was the child’s statement against their interest (e.g., they were worried about a parent getting arrested)? Did the child correct the interviewer or otherwise indicate he or she was not particularly suggestible? If dolls and diagrams were used, what purpose did they serve and did the interviewer use them consistent with guidelines (e.g., dolls were used only after a verbal disclosure and for clarification purposes)?

Third, the court should consider the usage of media not only in the context of the forensic interview but in the context of the overall investigation. For example, when the details provided by a child are corroborated or when a suspect confesses or makes incriminating statements, it may still be appropriate to allow defense counsel to critique the usage of media, but the critique does little to explain the sum total of the state’s case. Moreover, defense experts who focus on only one aspect of the interview or the case are often tipping their hand as to their selective approach to assessing a forensic interview conducted as part of a multi-disciplinary response to child abuse.

²⁶³ *Id.* Under the ChildFirst protocol all children are asked why they are here today and, if they indicate maltreatment, that issue is explored through open ended questions prior to the use of diagrams. Rita Farrell & Victor Vieth, *ChildFirst® Forensic Interview Training Programs*, 32(2) APSAC ADVISOR 56, 59 (2020).

²⁶⁴ Bruck et. al, *Children’s Reports of Body Touching*, *supra* note 92, at 9.

²⁶⁵ See Astrid Heger, Lynne Ticson, Oralia Velasquez & Raphael Bernier, *Children Referred for Possible Sexual Abuse: Medical Finding in 2384 Children*, 26 CHILD ABUSE & NEGLECT 645, 652-53 (2002).

XIII. CONCLUSION

Forensic interviewers, child protection professionals, and courts of law need to be concerned about specificity and sensitivity bias so that child abuse allegations are assessed with an equal concern for preventing false positives (children falsely asserting abuse) and also false negatives (children who have been abused either denying or not disclosing during a forensic interview).

Some scholars have asserted the field has strayed too far down the path of avoiding false positives and thus are leaving a large number of maltreated children unprotected.²⁶⁶ According to Everson and Rodriquez, forensic interviewing protocols have become “more structured, if not scripted, to reduce room for interviewer error. To overgeneralize only slightly, the implicit attitude in interview methodology changed from ‘Tell me if you have a secret, so I can help[]’ to ‘Convince me, if you say you are abused.’”²⁶⁷ Dr. Kathleen Coulbom Faller writes, “Much of the research and the practice advice has been driven by the concern that forensic interview practices might elicit false reports of sexual abuse and thereby jeopardize the lives of adults.”²⁶⁸

As a result of this shift in focus, research suggests that as many as “50% of true cases of abuse may fail to disclose their abuse in the forensic interview process because of interview methodology that has prioritized specificity over forensic balance for at least the last 25+ years.”²⁶⁹

This is not to say the field should not act to prevent false accusations but simply to keep the balance true and adopt methodologies to reduce both false positives and false negatives. In this context, current research suggests there is value in the responsible usage of media in forensic interviews.

²⁶⁶ See Everson & Rodriquez, *supra* note 81, at 92-95.

²⁶⁷ *Id.* at 93.

²⁶⁸ Faller, *Forty Years*, *supra* note 244, at 57.

²⁶⁹ Everson & Rodriquez, *supra* note 81, at 95.