

Summary of Guidelines on How a Child Should Be Questioned in Court

1. It is essential to ascertain whether a child who is placed in a particular situation (the courtroom) and asked questions about an event they either witnessed or experienced can distinguish what is the truth and what is a lie. All questions must be age appropriate.
2. Substituting the word 'promise' for the word 'oath' when swearing in child witnesses has become increasingly more common and accepted throughout the legal system.
3. To ascertain whether the child can distinguish truth from lies, questions relevant to the situation should be asked. For instance, "If I told your mother that you shouted at me, would that be a truth or a lie?" or "If you told your teacher that something bad happened to you, but really it did not happen to you, would that be a truth or a lie?"
4. Children should be asked what might happen to them and the other person if they say something occurred and it is not true. Examples of such questions are: "If you said that your sister hit you and it really did not happen, what would happen to you for telling a lie?" and "If you said that your sister hit you and it really did not happen, but your mother believed you, what could happen to your sister?"
5. Young children are very literal in their use of language, so it is essential to find out what they mean when they use certain words and not assume that they have the same meaning as an adult would give them.
6. It takes children longer to process words, so it is essential to give them time to think and respond to the question. Pausing during questioning can be very productive.
7. Children will not say they do not understand, whether because they do not realize that they do not understand or because they do not want to show ignorance; they may not be aware that this is an option unless expressly told that it is.
8. Use one question for each idea and start the question with the main idea. For example, ask children, "Did the bell ring when you were eating?" rather than asking, "When you were eating, did the bell ring?"
9. Avoid jumping from one topic to another during questioning.
10. Do not use the word 'any' (including 'anything', 'anyone', 'anywhere') as these are not specific. For instance, a very young child will not know what 'anyone' means and if asked, "Did you see anyone" will answer "no". Instead ask, "Who did you see?" or "Did you see X?"
11. Avoid using 'different' or 'the same' while questioning children. Asking "Was it the same as this?" is confusing for the child. By age 5 or 6, children may be able to distinguish between "the same" toy – meaning the actual one they played with – and a similar one, but it may take several more years to appreciate that things generally similar are regarded by adults as different.

12. The word 'inside' is problematic for children. In sex abuse cases involving suspected penetration, a child may need to be asked if an object was inserted 'inside' an orifice. This is fraught with difficulties. It is essential to find out what the child understands by 'inside'. For example, anything between the legs could be perceived as 'inside' by the child and the question needs to be asked in an age-appropriate way.
13. Avoid using either/or questions. Adults recognize that neither choice may be accurate; this is difficult for children to do.
14. Avoid using how/why questions. In relation to 'why', this is seen by a child as requiring them to defend themselves to justify why something happened. 'Why' also requires a child to be able to look at motivations, reasoning from effect back to cause, which children cannot do until about ages 7 to 10. 'How' may require memory of concepts; "How many times did that happen?" may require the ability to recognize intention and flow of events. Instead of asking, "How did he do that?", ask "What did he do?" or "Show me what he did?"
15. Leading questions are confusing for children and result in them giving incorrect responses.
16. Pronouns ('he', 'she', 'they') confuse children. It is better to name the person being talked about or to ask the child to do so.
17. For a young child, questions about family, school, counting, and knowledge of the alphabet and colours can provide a sense of the child's intelligence and memory.
18. Examples of recent experiences that can be used as questions could include what the child ate or who the child saw that day. An example of past events could include what happened on the child's birthday or holiday. These questions should be put keeping in view the socio-economic background and literacy of the child.