

“ I didn’t understand a word you said.”

Children, particularly young children, don’t always say what they mean or mean what they say. When a child’s experiences are at the centre of criminal or civil legal proceedings, it takes considerable skill and experience to sort out the true meaning of the child’s testimony. Earlier this year, I had the pleasure of attending a seminar presented by Anne Graffam Walker, a forensic linguist. She is an expert in children’s language skills, and frequently appears in court to help clarify what children mean when they say certain things.

Although five or six-year-olds have a vocabulary of about 14,000 words, they will not have mastered the true meaning of many of those words until they are 10 or 11 years old. It takes years to master concepts such as age, time, speed, size, duration, and number. At age four or five, a child may reliably say that one thing is “bigger” or “more” than another. It is not until age six to eight that he can make complex comparisons to answer questions such as, “Which box is taller than it is fat?” By age five, most children understand the concepts of truth and lies, but the ability to define these concepts verbally develops much later. So, sometimes children understand concepts but cannot effectively express them in language. At other times, children use language in an adult fashion without really understanding it fully. To complicate matters, these developmental milestones are very general. Children reach different stages at individual times that can vary widely. There are two parts to effective understanding of a child’s testimony:

- a basic understanding of children’s language development in general, and
- an individual assessment of where that particular child fits into the general development scheme.

If a child’s evidence is vital to a court case, having a skilled questioner who understands both of these factors is crucial. Besides understanding the child’s answers, the questioner must know how to ask appropriate questions. Dr. Walker set out seven things to remember when questioning children:

1. Listen to the child’s language. Try to make your language fit his or hers. If the child uses simple words and short sentences, so should you.
2. Keep in mind that experience shapes language use and understanding. Each child is unique. For example, the child of tennis-playing parents may understand the question, “Did you see her in *court*?” to mean a tennis court instead of a courtroom, and give a confusing response.

3. Remember that children acquire language gradually, and in uneven steps. Recent research shows that abused children may be 12 months behind their peers in acquiring language skills.
4. Be alert to the fact that young children both use and interpret language very literally. For example, to an adult, the word “story” can mean “a narrative account of a happening,” or “a fiction.” Asking a child to “Tell me your story in your own words” may result in just that – the child will tell you a story. If you ask a young child, “Did it happen before or after Christmas?”, and the child answers “Yes,” he may be giving a completely truthful answer – it happened either before or after Christmas.
5. Don’t take for granted that you know what the child means, or that the child knows what you mean. Run a check now and then on what a word means to the child. Phrase your questions something like, “Tell me what you think a is,” and don’t expect an adult-like answer.
6. After a question, ask yourself, “Is this a response I’m getting, or an answer?” Remember that society trains children that when an adult asks a question, the adult requires a response of some sort. The child will answer even if she doesn’t understand what she is being asked. Take the question, “Do you remember when Mary asked you if you knew what colour Mark’s shirt was, and you said, ‘Blue?’” What would a “Yes” or “no” answer tell you here?
7. Overall, keep whatever you ask or say short and simple.

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On reflection, all questioners should keep these rules in mind when questioning any witness, child or adult. Consider this question taken from the transcript of a wife’s examination for discovery:

Q. All right, so then what you are saying is that it was your initiative and your desire to go out and get a job rather than pressure from the defendant to get a job that caused you to make some inquiries and do a little looking here and there and then when the job came with the microfilming company, you took it but it wasn’t because of pressure from the defendant: would that be fair?

A. I didn’t understand a word you said.

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