Presenter: Mark Ells

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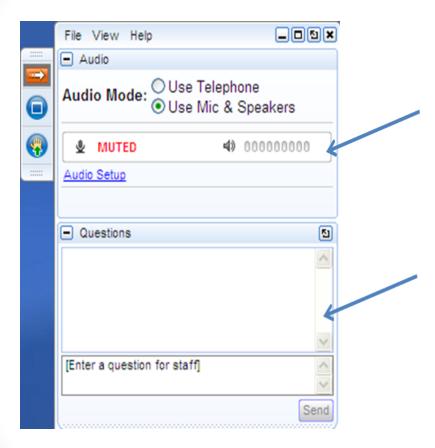
#### OJJDP's MECP

- MECP offers assistance to local, state and tribal law enforcement, nonprofit organizations, and other juvenile justice practitioners to:
  - strengthen their responses
  - increase the use of evidence-based practices
  - identify and address operational and programmatic needs
- Coordinated by Fox Valley Technical College
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#### To ask a Question:

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- Staff will respond in the 'Questions' box





- My background
  - Worked with kids in court 13 years
  - Trained prosecutors 15 years
    - Trial practice
    - Forensic interviewing
  - Presently





- Scope of discussion
  - Multi-disciplinary team approach
  - Language
  - Memory
  - Disclosure
  - Legal considerations
- Further education required





- What "preparing" means
  - NOT telling child what to say
  - IS providing child best opportunity to tell what happened
  - Will vary depending on child and jurisdiction





- What "support" means
  - NOT denying defendant a fair trial
  - IS providing child best opportunity to tell what happened
  - Will vary depending on child and jurisdiction





#### Multidisciplinary approach

- State of the art
- Essential
- Definition/description

Do not forget parents/guardians/custodians





#### Multidisciplinary approach

- Forensic interviewing
  - There is a recognized process
  - Requires training
    - Regular peer review
    - Refresher courses
  - Prosecutors should be trained





#### Language

 The following information on language development is based on the work by Ann Graffam Walker, Ph.D.





#### Language

- Hard for kids to maintain discussion about a single topic
- Kids answer when they don't know the answer
- Kids often don't know when they don't know or don't understand the question
- Even if they do know they don't know, they won't tell the speaker





#### Language

- Phonology—language sounds
- Semantics—meaning of words in sentences
- Syntax—rules for combining words





#### Language—Phonology

- Do not suggest a specific interpretation
- Ask child to repeat the word
- Write it down phonetically
- Ask questions to clarify





#### Language—Semantics

- Prepositions
- Pronouns
- Words describing touch
- Temporal terms
- Legal terms





#### Language—Syntax

- KISS
- Concrete (where, who, what)
- Compound questions
- Tag questions





Memory—

the ability of the brain to store, retain, and subsequently recall information





#### Memory

- Encoding: processing received information
- Storage: recording the encoded information
- Retrieval/Recall: accessing stored information





Memory—encoding

- Selectivity
- Expectations
- Meaning
- Attention
- Motivation





#### Memory—storage

- Short-term
- Long-term
- Effect of stress





#### Memory—retrieval

- Recognition
- Recall
- Source monitoring





#### Disclosure

- It is a process
- Testifying is part of the process





- **All** witnesses presumed competent [FRE 601]
- Judge has wide latitude [FRE 611(a)]
- Use of leading questions [FRE 611(c)]
- How oath is administered [FRE 603]
- Allowance of "essential" person [FRE 615(3)]





- **All** witnesses presumed competent [FRE 601]
  - Burden of showing incompetency
  - Process of proving incompetency
  - Consider requesting instruction





- Judge has wide latitude [FRE 611(a)]
  - Scheduling
  - Seating arrangements
  - Recesses
  - Language
  - Other accommodations





- Use of leading questions [FRE 611(c)]
- How oath is administered [FRE 603]
- Allowance of "essential" person [FRE 615(3)]





- Hearsay (not)—know definitions!
  - Prior inconsistent statement [FRE 801(d)(1)(A)]
  - Prior consistent statement [FRE 8o1(d)(1)(B)]
  - Identification [FRE 801(d)(1)(C)]





- Hearsay
  - Excited utterance [FRE 803(2)]
  - Medical diagnosis [FRE 803(4)]
  - Recorded recollection [FRE 803(5)]
  - Against party responsible [FRE 804(b)(6)]





#### Legal considerations: Confrontation

- Video interviews
- Video depositions
- Closed circuit testimony
  - one way
  - two way
- Screens





#### After the trial

- Inform child of verdict
- Subsequent process—guilty verdict
- Subsequent process—acquittal
- Accessibility





Desired outcome—Children have the *opportunity* to testify truthfully and completely





Resources—MECP has bibliography



