



Reevaluating Child Advocacy Center (CAC) Interviews: Evidence-Based Forensic Interviewing and Polygraph Use in Child Abuse Investigations May 2025

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Introduction

Recent judicial rulings have illuminated critical scientific and legal flaws in the continued reliance on Child Advocacy Center (CAC) interviews in child abuse investigations. In *State v. Foley*, CR-22-30684 (Me. Super. Ct. Mar. 2023), the Maine Superior Court denied the State's motion to admit a CAC interview under 16 M.R.S. §358, ruling that the interview failed to meet the statutory requirement of being based on an "evidence-based practice." The interviewer explicitly testified that the protocol used was only "evidence-supported"—a distinction the court deemed both material and dispositive.

This ruling reflects growing judicial concern over the admissibility and scientific reliability of CAC interviews.

CAC interviews often guide investigative decision-making, shape charging determinations, and sway jury perceptions—frequently in the absence of corroborating physical evidence. The gravity of this influence demands adherence to validated, replicable, and peer-reviewed techniques. This paper urges reform: the mandatory adoption of empirically validated, evidence-based protocols—specifically the National Institute of Child Health and Human Development Investigative Interview Protocol (NICHD) Protocol—and the strategic use of validated polygraph testing to reduce wrongful accusations and promote fact-finding.

Distinction Between Evidence-Based and Evidence-Supported Practices

Prosecutors and attorneys for plaintiffs

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frequently defend CAC interviews based on the interviewer's training and the general acceptance of such procedures in the field. But experience and popularity do not constitute scientific validation. Courts applying Maine's evidentiary rules have now made clear that only evidence-based protocols are admissible under 16 M.R.S. §358.

In *State v. Foley*, the forensic interviewer, Lori Deschaine, testified under oath that she used an "evidence-supported" protocol. During cross-examination, she acknowledged a difference between evidence-supported and evidence-based practices, stating unequivocally that she did not use an evidence-based model. The court ruled:

"Deschaine made clear that her protocol in conducting a forensic interview was evidence-supported, as opposed to evidence-based. There was no evidence offered to support a conclusion that the forensic interviewer 'used an evidence-based practice.'" — *State v. Foley*, CR-22-30684 (Me. Super. Ct. 2023).

In a nearly identical fact pattern, *State v. Deroshe*, CUMCD-CR-2022-02657 (2022), reinforced this interpretation:

"The plain and unambiguous language of the statute requires that the statute applies to a 'forensic interview' and that the 'forensic interview' is based on an 'evidence-based' practice." — *Deroshe*, at 2.

Scientific Definitions:

- Evidence - Supported Practice: Based on field use and practitioner experience; lacks systematic empirical validation such as peer-reviewed studies or randomized controlled trials (RCTs).
- Evidence-Based Practice: Scientifically validated, peer-reviewed, replicable across multiple populations, and supported by rigorous empirical methods.

This is not a semantic debate. The difference directly determines legal admissibility under Maine law. Without proof that an interview used an evidence-based protocol—such as the NICHD Protocol or Preparation and Planning, Engage and Explain, Account, Closure, and Evaluation (PEACE) Model—it must be excluded under §358.

The Need for Evidence-Based Interview Protocols

A. Empirical Reliability and Legal Admissibility

The NICHD Protocol has been validated in over a dozen peer-reviewed studies and is internationally recognized for increasing the number and accuracy of forensically relevant disclosures.²

Powell et al. found that NICHD-trained interviewers elicited 2.5 times more

² Michael E. Lamb et al., *Child Abuse & Neglect* 31(11–12):1201–1231 (2007).

relevant details than those using unstructured approaches.³

B. Reduced Suggestibility and Interviewer Bias

Unlike many CAC interviews, which allow for discretion and deviation, structured protocols like NICHD and PEACE minimize the risk of interviewer contamination.⁴

C. Protection Against Wrongful Convictions

The National Registry of Exonerations attributes nearly 23% of wrongful child sex abuse convictions to flawed or suggestive interviews.⁵

Ceci & Bruck's foundational work confirmed that children are especially vulnerable to interviewer influence.⁶

Incorporating Polygraph as a Complementary Tool

Polygraph testing—when conducted using validated formats such as the

Comparison Question Test (CQT)—has demonstrated high accuracy, especially when physical evidence is lacking.⁷

The American Polygraph Association (2011) meta-analysis found that event-specific formats achieve 90%+ accuracy, with <20% inconclusive rates.⁸

Compared to human lie detection, which averages ~54% accuracy, validated polygraph results provide meaningful insight for investigators and prosecutors. Information Gain (IG) analysis, shows that CQT polygraph tests when compared to baseline human lie detection accuracy (~54%) are nine times more likely to correctly identify a truthful person, than the unassisted human and four times more likely to correctly identify a deceptive person than the unassisted human.⁹

The National Research Council concluded that specific-incident polygraph testing can discriminate lying from truth telling at rates well above chance.¹⁰

Horvath, Jayne, and Buckley (1994) found polygraph examinations effectively

³ Martine B. Powell et al., *International Journal of Child Abuse & Neglect* 55:35–46 (2016).

⁴ David La Rooy et al., *Child Abuse & Neglect* 48:223–233 (2015); D. Walsh & R. Bull, *Legal and Criminological Psychology* 15(2):305–321 (2010).

⁵ National Registry of Exonerations, *Exoneration Statistics for Child Sexual Abuse* (2023).

⁶ Stephen J. Ceci & Maggie Bruck, *Jeopardy in the Courtroom: A Scientific Analysis of Children's Testimony* (1995).

⁷ Charles R. Honts, Steven Thurber & Mark Handler, *Applied Cognitive Psychology* 34(1):e3779 (2020).

⁸ American Polygraph Association, *Meta-Analytic Survey of Criterion Accuracy of Validated Polygraph Techniques*, *Polygraph* 40(4):194–198 (2011).

⁹ Charles F. Bond & Bella M. DePaulo, *Personality and Social Psychology Review* 10(3):214–234 (2006).

¹⁰ National Research Council, *The Polygraph and Lie Detection* (2003).

¹¹ Frank Horvath, Bruce Jayne & John Buckley, *Journal of Forensic Sciences* 39(3):793–807 (1994).



corroborate or challenge suspect statements in complex cases.¹¹

Legal Framework and Statutory Compliance

Maine's Title 16, §358 explicitly requires forensic interviews in criminal cases to be conducted using evidence-based practices. Courts in *Foley* and *Deroshe* have held that no waiver or substitution is allowed where the statutory language is clear.

Recommendations

- Mandate the NICHD Protocol for all forensic interviews of young children.

- Adopt the PEACE Model for adolescent interviews.
- Require documentation verifying the use of an evidence-based protocol.
- Incorporate validated polygraph testing as a supplementary tool.

Conclusion

Child abuse cases demand investigative rigor, legal integrity, and scientific discipline. CAC interviews must meet the same evidentiary standards applied to any forensic technique. Adopting evidence-based practices is essential to preserving justice, avoiding wrongful convictions, and safeguarding the truth.

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STATE OF MAINE
AROOSTOOK, ss.UNIFIED CRIMINAL DOCKET
DOCKET NO. CR 22-30684

STATE OF MAINE

v.

ORDER ON MOTION IN LIMINE

DALE FOLEY

On December 19, 2022, Lori Deschaine of the Child Advocacy Center interviewed the alleged victim at a facility in Fort Fairfield, Maine. Before the court is the State's Motion in Limine to allow admission of the Child Advocacy Center interview of the alleged minor victim at trial. The parties have stipulated that a relative of the child was not present during the substantive phase of the interview and that the interview was of a child, J.R., who was under 18 on the date of the interview. *16 MRS §358(1)(C)(1) and (3)(C)*. Deschaine testified at today's hearing, held to determine whether the interview met the requirements of the statute. The court has also reviewed the video of the interview in its entirety.

Under Maine law, a forensic interview of a protected person is not hearsay if it meets certain requirements. *16 MRS §358*. As it relates to this case, the State is required to show that Deschaine was a "forensic interviewer" and that she conducted a "forensic interview." *16 MRSA §§ 358(3), §358(3)(A)*. The court finds that Deschaine is a forensic interviewer as defined by statute. *Id.* §358(2). The court accepts her testimony that she completed the necessary instruction "on an *evidence-supported* interview protocol" and



has participated in “ongoing education in the field of child maltreatment or forensic interviewing.” §358(2)(B) and (C)(emphasis supplied).

To be a “forensic interview,” the interview must be based on “an *evidence-based* practice.” 358(1)(A)(emphasis supplied). On cross examination from Attorney Swanson, Deschaine contrasted an *evidence-based* practice, in terms treatment modalities in her role as a therapist, with the *evidence-supported* practice used for forensic interviews. (*Courtroom 1 - FTR - 9:24:50 to 9:25:24*)(emphasis supplied). Thereafter, Attorney Swanson sought to clarify which practice was used with forensic interviews with children, such as was done with this case:

Swanson - I just want to make sure that I am clear, you use an evidence-supported practice . . .

Deschaine - Yeah

Swanson - . . . when it comes to forensic interviewing?

Deschaine - Correct

Swanson - and there is a difference, just a yes or no question, is there a difference between evidence-supported practice and evidence-based practice?

Deschaine - Yes

Deschaine made clear that her protocol in conducting a forensic interview was evidence-supported, as opposed to evidence-based. There was no evidence offered to support a conclusion that the forensic interviewer “used an evidence-based practice.” 16 MRSA § 358(1)(A).

The court finds the analysis of this exact issue in *State v. Deroshe* to be instructive:

“The court does not doubt that the Legislature intended the statute would apply to an interview by a Child Advocacy Center trained interviewer. The Legislature may also not have intended that there was any difference between “evidence-supported” and “evidence-based.” Nevertheless, the plain and unambiguous language of the statute requires that the statute applies to a “forensic interview” and that the “forensic interview” is based on an “evidence-based” practice.” *State v. Deroche*, CUMCD-CR-2022-02657 (McKeon, J).

Deschaine has considerable experience in this area and noted that there was indeed a difference between evidence-supported and evidence-based practices. Given Deschaine’s testimony, the court would have to defy plain language to apply the statute to Deschaine’s interview in this case.

In light of this determination, the court need not reach the other contentions raised by the Defendant related to the timing of the accreditation of the Child Advocacy Center involved, the manner of questioning of the child, or relevance.

The State’s Motion in Limine is hereby DENIED.

This matter shall proceed to trial, as scheduled. Clerk to send notice.

DATE: 8/20/2024



Justice, Maine Superior Court

