

Conference on handling child evidence

Representing the child and defending
its interests in criminal cases

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Intro

- Representation and legal aid
- Interviewing the child when the parents' interests conflict with the child's interests



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Representation and legal aid



Special guardian

- The child's parents are the legal guardians of the child and normally make decisions on behalf of the child
- If the interests of the child and the guardian are in conflict, a special guardian may be appointed (Guardianship Act)



Legal counsel

- The suspected victim of e.g. violence or a sex crime has the right to a legal counsel (Administration of Justice Act)
- The legal counsel's tasks include:
 - Legal assistance
 - General guidance and support to the suspected victim
 - Support to the suspected victim during interviews at the police and in court
 - Protest and making requests on behalf of the suspected victim
- The expenses to the legal counsel are paid for by the state



Representative from the municipality

- When the local municipality is informed that a child witness below 14 years of age is to be interviewed by the police or in court, they must send a representative
- During a police interview, the representative must support the child and ensure that the interview is conducted with care according to the nature of the case and the age of the child
- During a court interview, the representative must support the child and contribute to giving the court hearing a course and outcome that as far as possible is in the best interest of the child



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Interviewing the child when the parents' interests conflict with the child's interests



Police interview

- An interview with a child during the investigation is normally conducted by the police and not in court. Taking part in a police interview is voluntary
- Depending on the age of the child and the nature of the case, the interview is recorded on video in a Children's House and used as evidence in court so that the child will not have to give evidence in court
- The interview is usually the first step of the investigation



If the parents are the suspected perpetrators

- Since taking part in a police interview is voluntary, the parents may prevent the child from being interviewed by opposing to this
- However, if one of two parents is the suspected perpetrator and opposes to the interview, the police may conduct the interview if the other parent does not oppose to this
- If both parents (or the only parent) oppose to a police interview, the police may request a court interview during the investigation



Court interview

- As a general rule, everyone has a duty to give evidence in court, including children
- A witness is, however, not obliged to give evidence against a family member
- If a witness refuses to give evidence, the court may order the witness to give evidence if this is crucial to the outcome of the case and the merits of the case and its importance to society justify an order
- The court interview may also be conducted by a specially trained police officer as a video recorded interview in a Children's House. The judge will then observe the interview from the monitor room



Preventing the parents from influencing the child before the court interview

- By opposing to a video recorded police interview, parents who are suspected of committing a crime against the child may get an opportunity to influence the child before a court interview can be conducted
- However, if the police presume that the parents will oppose to a video recorded police interview they may in some cases:
 - notify the court that a court interview may be necessary (before contacting the parents) and have a prosecutor ready to file a request
 - go to the day care or school where the child is
 - then contact the parents about the interview
 - immediately request a court interview if the parents oppose to a police interview
 - stay with the child until the court interview is granted or refused
 - if the interview is granted, transport the child to a Children's House where the interview is conducted

Thank you!

