FBI Interviewing Protocol
Objectives

1. Provide an overview of the FBI Forensic Interview Protocol

2. Assist consumers of Child/Adolescent Forensic Interviewer (CAFI) services

Please note - this presentation/training does not “certify” participants as child/adolescent/adult forensic interviewers
Interview Considerations

Child/adolescent victims and witnesses should be forensically interviewed if statements are for possible criminal charges.

Forensic interviews are supported by research as best practice.

If you must talk to a child/adolescent victim or witness, familiarize yourself with the protocol. It is highly recommended that you are trained and comfortable with this process before conducting interviews.
Interview Considerations

These are fundamentally different interviews because of social, emotional, cognitive, sexual and language development.

Protocol guidelines are established for the FBI on interviewing child and adolescents.

How a child/adolescent victim/witness is interviewed can determine the threshold of evidence and statements admitted into court. If done incorrectly, the interview could become the focus of the court case.
Law Enforcement Interview
GOAL OF LAW ENFORCEMENT INTERVIEW

To obtain useful and accurate information from victims and witnesses that is most crucial for case solution and effective criminal prosecution.

Geiselman & Fisher, 2014
Brief rapport.

Open-ended request for information quickly interrupted by interviewer.

Series of direct, short answer questions.

These practices have the adverse effects of reducing the amount of information witnesses provide and increasing inaccurate responses.

Fisher & Geiselman, 2010; Geiselman & Fisher, 2014
Law Enforcement Interview

• These practices **entice** interviewees to:
  - **withhold** information
  - not provide any **unsolicited** information
  - give **abbreviated** answers
  - volunteer answers they are **unsure of**
  - disrupt the **natural process** of searching through memory, thereby making **memory retrieval inefficient**

*Fisher & Geiselman, 2010; Geiselman & Fisher, 2014*
Minimal Facts Interview
What is a Minimal Facts Interview?

Sometimes exceptional circumstances make it necessary for LE or Child Protective Services (CPS) to immediately gather information.

This interview should only seek enough information to make immediate protective and investigative decisions.
Minimal Facts Interview

• An initial basic fact-finding interview may need to be conducted if you are a first responder. It should be a Minimal Facts interview.

• The purpose is to assess the need for immediate medical attention or safety issues.

• This information should be obtained from a source other than the child (unless the child is the only source) and not conducted with child present.

• This is usually an interview that is “minimal” so not a lot of time needs to be spent gathering these facts.
Minimal Facts Interview Format

Rapport
• Direct child/adolescent towards particular topic to gather minimal information
  If recovered child in abduction, unknown suspect still at large, focus child on suspect, not all details of abduction
  Utilize nonsuggestible, developmentally appropriate questions

Set stage for forensic interview
Is A Minimal Facts Needed?

1. If a child makes a clear disclosure about abuse to an adult
   - Set up a forensic interview

2. If a child makes an unclear disclosure about abuse to an adult
   - Conduct a minimal facts with the ADULT to whom the disclosure was made

3. If a child makes a disclosure to another child (friend, sibling, etc.)
   - Set up a forensic interview with the friend/sibling
   - Based on findings from forensic interview decide on forensic interview of child victim
1. If you have images of a child/adolescent that show a face or identifiable clothing, background items, etc.
   - Have parent/guardian identify child or items
   - Set up forensic interview

2. If you have a username of the child/adolescent
   - Have parent/guardian identify username
   - If parent/guardian cannot identify username, ask child if they can identify her username and/or subject’s username
   - Set up forensic interview
Is A Minimal Facts Needed?

1. If you are running an op and recover a victim who is willing to speak immediately
   - Conduct minimal facts with victim to identify trafficker and assess medical/safety concerns, then set up forensic interview
   - If victim wants to give all information immediately it is fine to move ahead with full interview

2. If you recover a victim at an op who is unwilling to speak, but will be placed in a juvenile facility/group home
   - No minimal facts needed, set up forensic interview

3. If through your investigation you identify a victim
   - Set up forensic interview
16y/o sextortion victim
• Multiple images
• “Minimal facts” interview by SA and VS conducted at house prior to CAFI forensic interview
• Victim asked to provide all online interaction with subject, to include how they met, apps used, devices used, CSAM sent/received, usernames of victim/subject
• Victim asked about threats/blackmail

⚠️ Parent/guardian could have identified adolescent through a sanitized image; forensic interview then could have been set up
Reality

Historically, children were “subjected to 4 to 11 interviews...and in most cases they have experienced numerous other bouts of questioning from family members, therapists, social workers, and other interested parties.”

Leichtman & Ceci, 1995, pp. 569-570
Multiple duplicative interviews are discouraged. This practice has the potential to increase the child’s distress and perception of the investigation as harmful, as well as increase the number of inconsistencies.
The combination of repeated interviews with leading, suggestive or coercive questions can cause serious harm to children’s memory and increase the amount of false information in their reports.

Quas et al., 2000
The Forensic Interview
Where to Begin?

- Decide where interview will be done (e.g., CAC, soft room at PD).
- Who will be part of the team?
- Who can be present to view interview?
- Who should do the interview?
- Cover both state and federal charges.
The Physical Setting

Child Advocacy Centers (CACs) are specifically designed for interviewing victims

- Comfortable waiting rooms
- Neutral environment
- Interviewing rooms with video and audio links to the observation rooms
- Soft rooms at FBI Field Offices
- Soft rooms at police departments
Per FBI policy, all forensic interviews are to be digitally recorded.

Document interviewer’s name, the child’s name, case number, date of forensic interview, and who observed forensic interview.

Agent/TFO accepts custody of recording as evidence.

Written reports should be limited – the recording is the best reflection of what happened.
Interviewer Guidelines: What to Avoid

• Touching the child.
• Wearing uniforms or having guns visible during the interview.
• Expressing surprise, disgust, disbelief, or other emotional reactions to descriptions of abuse.
• Asking the child to make a written statement.
• Polygraphing the child or threatening to do so.
• Suggesting feelings or responses for the child.
  o "I know how hard this must be for you."
Interviewer Guidelines: What to Avoid

• Making promises to the child
• The words “pretend” or “imagine” or other words that suggest fantasy or play
• Giving gifts to the child
• Making comments such as “Good girl” or “We’re buddies, aren't we?”
  o May be interpreted as reinforcement for statements
  o May make child uncomfortable
Before the Interview

- Before scheduling with the family, first find out the CAFIs availability.
- CAFI and agent meet with parent/primary caregiver before beginning the interview to ascertain:
  - Developmental information
  - Mental health concerns
  - History of abuse/neglect
  - Outcry/disclosure information
  - What does the child/adolescent know about being here today?
  - Worries/clarify the interview process
After the Interview

• After the interview, meet with parent/primary caregiver.

• Share any information requiring a response from parent/caregiver to care for or protect child.

• VS to provide follow up services for the victim and family.
FBI Interview Protocol
The goal of a forensic interview is to obtain a statement from a child/adolescent, in a developmentally sensitive, unbiased and legally defensible manner, that will support accurate and fair decision making in the criminal justice and child welfare systems.

Information obtained from an investigative interview might be useful for making treatment decisions, the interview is not part of the treatment process.
Characteristics of a Forensic Interview

• Use a hypothesis-testing approach
  o Maintain skepticism by testing competing hypotheses
  o Clarify statements made by child and their meanings

• Are child-centered
  o Empower children, keep in mind developmental levels and cultural norms

• Support the broader investigation
  o Questions leading to physical evidence, witnesses and other collaborative findings

• Keep the scope in mind
  o Trust the process but remember each child is different.

Poole, 2016
What Does Hypothesis Testing Mean?

Interviewers should list plausible possibilities regarding the meaning of evidence and look for information that will increase or decrease the likelihood of each possibility.

Some possible alternative hypotheses may be:

- Someone misunderstood the child’s statement.
- The child was abused, but misidentified the perpetrator.
- An injury was accidental.
- Touching occurred during routine caregiving.
- The child made up a story to get out of trouble.

State of Michigan Governor’s Task Force on Child Abuse and Neglect and Department of Human Services, 2017, p. 29
A phased interview structure minimizes suggestive influences and empowers children to be informative.

These goals are accomplished by three major guidelines:

Children/adolescents receive clear information about the interviewer’s job and the ground rules for the interview.

The interviewer builds rapport in a way that encourages children to talk.

The interviewer elicits information using the least directive question formats.
Phases of the Interview

- Rapport
- Establishing the Ground Rules
- Conduct a Practice Interview
- Introduce the Topic
- Elicit a Free Narrative
- Question and Clarify
- Closure
Rapport building begins with the initial introduction and continues throughout the interview.

Building rapport helps to:

- Make the victim comfortable with the interview setting
- Get preliminary information about victim’s verbal skills and cognitive maturity
- Convey that the goal of the interview is for the victim to talk
There are four main ground rules to establish for the child:

1. Tell the truth
2. Don't guess/ tell interviewer if they don't know
3. Correct me
4. Don't understand

*Be concise, should only take 2-4 minutes to deliver*
Assessment of Competency

- Conduct with children under the age of 5
- Conduct with developmentally disabled victims
- Conduct with victims where their credibility has been challenged
- Remember the Federal Rules of Evidence
  - Local statutes apply

“Ground rules instruction is more effective when children have opportunity to practice rules,”

Poole, 2016, p. 90.
Legal Competency

- Child understands difference between truth & falsity and appreciates obligation to tell truth
- Child had mental capacity at time of event to observe and record accurate impression
- Child has sufficient memory to retain an independent recollection of observation
- Child has ability to communicate memory of event and understands simple questions regarding the event
Soliciting an agreement to be truthful can increase honesty (not guaranteed)

- Even for children that have been told to make false reports or have been told to keep silent
  - Even for children that did not perform well in the truth/lie comprehension practice

Not legally required, but many prosecuting attorneys prefer that interviewers address it

American Professional Society on the Abuse of Children Taskforce, 2012
Truth or Lie Assessment

Problematic

• Difference/Definition:
  • What is the difference between truth/lie?
  • What does it mean to tell the truth/lie?

Preferred

• Labeling interviewer's statements
  • “The lights are on in this room, is that the truth or a lie?”
• Using Right/Wrong for young children

Poole, 2016
Prior to the interview, or during rapport building phase, the interviewer should **identify a non-abuse event** that the victim has recently experienced.

Have victim narrate event from beginning to end.

Assess developmental concepts as necessary.
Introduce the Topic

The substantive portion of the interview begins when the interviewer prompts a transition to the target topic. Interviewers should attempt to raise the topic by using the least specific prompt and then progress, as necessary, being careful to avoid mentioning particular individuals or events.

Poole, 2016
Introduce the Topic

Begin with a **broad prompt** that does not include any specifics about the allegation or the alleged subject.

Tell me what you're here to talk to me about today? (Earhart et al., 2018, p. 222)

What have you come here to talk to me about today? (Newlin et al., 2015, p. 9)

If the answer is "I don’t know. . .” I talk to kids about things that have happened. Tell me what happened to you.
Introduce the Topic

If no response, then become more focused:

• I talk to kids about things that have happened online. Tell me what you do online.
• I heard you told ___ something. Tell me what you talked about.
• I heard the police came to your house yesterday. Tell me about that.
Some prompts can feel, especially to adolescents, that the forensic interviewer is being manipulative. Interviewers should be honest about what we know.

• Being honest doesn't mean that we have to share everything we know, but it does mean we shouldn't lie.

We want to be careful to word our questions appropriately when we have evidence to support what we are discussing.

We don't want victims to feel like we are playing stupid or trying to trap or trick them into a response.

Kenniston (2020)
If we have evidence of touching –
  • *Tell me about a time there was touching vs Has there ever been any touching?*

If our evidence came from Instagram –
  • *Tell me about things that happen on Instagram vs Do you use Instagram?*

If our evidence is of CSAM –
  • *Tell me about any pictures without clothes on vs Have you ever sent a picture without clothes on?*

If the child acknowledges a concern and transitions to the topic of focus, follow up with an open-ended prompt: Tell me all about.

Poole, 2016
Video
I: ...you do, Ok, well we can do that while we’re talking today
KP: OK
After the topic is raised, the interviewer asks the child to provide a narrative description of the events. Open-ended invitations and cued narrative requests elicit longer, more detailed, and less self-contradictory information (Newlin et al., 2015).

"Start at the beginning and go all the way to the end and tell me everything that happened, even things you don’t think are important."

The most common interviewer errors are omitting the narrative phase or shifting too soon to a specific question.
Video

Video of free narrative under 12
The questioning and clarification phase begins after it is clear that the victim has finished providing a free narrative.

This phase is a time to ask follow up questions, seek legally-relevant information, and to clarify statements.
Questioning and Clarification

Utilize forensically sound questions

Follow focused prompts with open-ended prompts

*Wh*-questions are frequently used to obtain contextual details and clarification

Test alternative hypotheses and clarify ambiguous information

Poole, 2016
Questioning and Clarification

FOCUS ON LEGALLY RELEVANT INFORMATION

Establish:
→ Jurisdiction
→ Timeline
→ Sequence of events during abuse
→ Number of times abuse occurred (first/last/most remembered)

Identify other crimes:
→ Production of CSAM
→ Contact offenses
→ Other abuses

Separate out each event

Ask about sensory detail
Questioning and Clarification

• Sensory details
• Other crimes (e.g., other forms of abuse, were abusive images created?)
• Witnesses (to the crime as well as outcry witnesses)
• Other victims
• Other alleged offenders
R: Um, anything you remember about his Periscope at all?
Y: Uh, well, he did have a lot, he did follow a
Do you have a clear picture of what happened?
Closure

• Opportunity to disclose any additional information
• Opportunity to express worries or concerns about the interview/investigative process
• Opportunity to ask you questions
• Avoid making promises
• Keep the interview process open
  ✓ Inform the child that she/he could return if additional information becomes available
• Ensure the child is emotionally grounded
• Shift to a neutral topic
I: Thank you for telling me about that and thanks for talking with me today, like I said there may be things that we might want to talk
Guidelines for Questioning Children
Developmental Competence

**Who** - ages 3 and up

**What** - ages 3 and up

**Where** - ages 4 and up

**When** - ages 5 and up

**How** - ages 7 and up

**Number of times** - ages 9 and up

**Peripheral details** - ages 11 and up
Hierarchy of Interview Questions

- Free Narrative and other Open-ended Questions
- Specific or Focused but Nonleading Questions
- Closed Questions
- Explicitly Leading Questions
Free Narrative

After the topic is raised, the interviewer asks the victim to provide a narrative description of the events. The free narrative encourages the victim to describe the events in their own words.

“Start at the beginning and go all the way to the end and tell me everything that happened, even things you don’t think are important.”

“The most common interviewer error is omitting the narrative phase or shifting too soon to a specific question.”

“Tell me all about _____ from the beginning to the very end.”
Open-Ended Questions

• Allows children to select the specific details they will discuss. Open-ended questions encourage multiple-word responses.
  • “You said he took you into a room. Tell me all of the things that were in the room.”
  • “You said, ‘That other time.’ Tell me about that other time.”
Follow-up Strategy

A wait time of 10 seconds before asking the next question gives the child time to respond to open-ended prompts.

Extending pauses for even 3-5 seconds after a child is finished speaking produces more details and is especially helpful with non-disclosing children.

Rezmer et al., 2020
Facilitative Cues

A strategy to keep children talking.

An interviewer gesture or utterance aimed at encouraging more narration.

Use of "Ok", "uh-huh" and/or head nodding that shift the conversation back to the child.
Specific/Focused, but Non-Leading Questions

• Ask for details about topics that victim has already mentioned.
  o What were you doing when John came over?
  o What did your mom say after you told her?
<table>
<thead>
<tr>
<th>Closed Questions</th>
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<tbody>
<tr>
<td>Provide only a limited number of options and are used when children do not respond</td>
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<tr>
<td>Used when there is no obvious open-ended question that will elicit the desired information</td>
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<tr>
<td>Used when a specific question is developmentally inappropriate</td>
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<tr>
<td>Multiple choice preferred over yes/no.</td>
</tr>
<tr>
<td>Did that happen one time or more than one time? (Tell me about the last time that happened.)</td>
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</tbody>
</table>
Explicitly Leading Questions

LEADING QUESTIONS SHOULD BE AVOIDED!!

- Leading questions contain desired answer or provide information that the child has not yet volunteered.
- Even yes/no questions are considered leading by many psychologists.
Good Touch/Bad Touch

*Not recommended* to be used in the forensic interview or minimal facts interview.

The idea of good touch/bad touch can be confusing to kids, especially when it may feel good.
Interview Aids

External media that an interviewer brings into an interview to assist during the interview process

Purposes: comfort, assessment, clarification, and additional means of communication (Poole, 2016)

Includes anatomically detailed dolls, anatomical diagrams, and crayons, markers, paper, etc.

Not the same as evidence
Interview Aids

Anatomically Detailed Dolls
  o Not used as part of the FBI Protocol

Anatomical Diagrams
  o Use AFTER a disclosure for clarification
  o Know the risks associated with use prior to disclosure

Crayons, markers, paper
  o Mixed research findings - beneficial vs. distracting
  o CAFIs provide plain white paper
When interviewers are sensitive to the special developmental and emotional needs of children and structure their interview accordingly, even very young preschoolers can be highly reliable sources of forensically relevant information.
Questions?
References


References


