

Forensic Interviewing of Individuals with Cognitive and/or Communication Disabilities

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Techniques for Interviewing Victims with Communication and/or Cognitive Disabilities

- **A guide to discuss and demonstrate effective techniques for interviewing individuals with disabilities that affect cognitive and communication abilities.**

Interviewing Victims with Cognitive, Communication, and Language Disabilities.

- Cognitive disabilities include disabilities such as mental retardation (aka “intellectual disabilities”), learning disabilities and autism.
- Communication disabilities include non-verbal methods such as speech production (those who have cerebral palsy or who have had a stroke) or those who require the use of an interpreter.
- Language disabilities include voiced communication machines, or communication boards as well as typing.

Objectives

- Help law enforcement personnel & forensic interviewers
 - acquire additional skills to add to their repertoire of expertise,
 - have a deeper understanding of the lives, personal attributes and abilities of individuals with developmental and other disabilities.
- Vignettes offers a “bird’s eye view” into the life of a variety of people with disabilities, to bridge the gap in life experience and exposure that most people have into the lives of people with disabilities.
- Bridging the gap is a major theme.

- In addition to the actual interaction with an individual with a disability, this training describes some basic steps in documenting that interaction.

WORDS MATTER

- The words used with and about individuals with a disability make a difference in how well the interaction proceeds.
- Language illuminates attitudes we hold, knowledge we have, and the respect we have for individuals of any population group or designation.
- Language preferences emerge from the disability community & change over time. It is important to “keep up” with these changes, to be sure not to offend, while at the same time making an effort to demonstrate respect.
- You will note that throughout the this training, the terms “individuals with disabilities,” “person who has a disability” are used.

Language, Perspective and Attitudes

- Person First Language
- Normalization
- Least Restrictive Alternative
- Presuming Competence
- Nothing about us without us
- All you say and write if observed...

Language, Perspective and Attitudes

- Myths
- Stereotypes
- Joking around
- “retard”, “that’s SO retarded”
- “don’t go full retard” (Tropic Thunder, NEMO)
- Grouping

Language, Perspective and Attitudes

- He's an idiot
- "they"...
- Sex maniacs
- Making up stories of abuse because they are lonely, looking for attention
- They are not really hurt by abuse as they do not understand...

Who are People with Disabilities?

- People born with disabilities
 - People who acquired disabilities as children
 - People who acquired disabilities as adults (TABs)*
 - People who acquired disabilities as a result of domestic violence
 - People who acquired disabilities as a result of criminal behavior by others
 - People who acquired a disability by other means
- * “Temporarily Able Bodied” refers to individuals who do not have disabilities...yet!

Data on Prevalence of Abuse

Children with Disabilities are:

- 3.4 times more likely to be abused than others (Sullivan, 2001)
 - 1.7 times more likely to be abused than others (Westat, 1991)
 - 4-10 times more likely to be abused than others (Garbarino, 1989)

Adults with Disabilities are:

Equally as likely to be abuse victims as the generic population (Nosek, 1999) BUT

The extent and duration of the abuse is different for women with disabilities.

- Increased rates of abuse among both men and women with disabilities from 31-83%
- For women with mental retardation & other intellectual impairments rates range from 40-90%

- **Powers et. al. (2002) study found that of women with physical and cognitive disabilities:**
 - **67% experienced physical abuse in their lifetime**
 - **53% experienced sexual abuse in their lifetime**
 - **These are approximately twice the rates in the non-disabled population**

Overall...

- Approximately **1 million children** (generic) per year have substantiated abuse cases.
- Approximately **2 million elders** per year have substantiated abuse cases.
- Approximately **5 million vulnerable** adults annually become crime victims. (NAS, Petersilia, 2001)

This means that more vulnerable adults become crime victims annually than children & elders **combined**.

Yet, society (the press, etc.) continue to address each case AS IF it were an ISOLATED INCIDENT.

PART 1: Introduction-

Defining Terms and Concepts

- A **COGNITIVE** disability refers to the mental process of knowing, including aspects such as awareness, perception, reasoning, judgment and learning.
- A **COMMUNICATION** disability refers to the physical involvement that impairs one's ability to convey information and/or ideas.

FACTS

1. Many people who have cognitive disabilities have an excellent recall of traumatic or special events in their lives.

FACTS

2. The communication method of the victim may be new to the interviewer, but it is an everyday, every moment method for the individual.

FACTS

3. Victims with disabilities may be thought of as a “credibility risk” for the case and consequently are not interviewed. Treat each new crime victim the same, taking all of the same steps such as scene investigation, victim and witness interviewing, documentation of findings, and next-step planning “as if” each case will be viable for prosecution.

If the on-the-scene responder decides not to interview the crime victim or witness who has a disability, this may lessen the strength of the case when it is forwarded through the system.

FACTS

4. Cases involving victims with disabilities have rarely been moved forward for prosecution, due to improper interviewing. In other words, when an interview has not occurred, or has not followed the steps of a traditional interview, it may make it difficult later on to defend the interview process or content. Sticking to the bedrock of the usual crime victim interview in content and process can eliminate such problems from the start.

FACTS

5. Sometimes, when we think that one is “unable to interview” a crime victim, this is not the end of the process, but a bridge to “learning how” for the interviewer. Because of the severity of the disability of an individual, there are times when an officer believes that a person “cannot be interviewed.” This impression needs to be explored, and represents an opportunity for that officer to seek guidance from the supervisor and other resources available in the community to support the possibility of a successful interview.

FACTS

- 6. SPEECH PRODUCTION** problems do not signal an intellectual impairment. It may signal that the individual has a disability such as cerebral palsy, or is the survivor of a stroke, and the mechanics of speech production have been affected (movement of the mouth and tongue, breathing to produce voice).
In most cases, intellect is unrelated.

FACTS

7. **COGNITIVE** impairment (or disability) is *unrelated to the reliability of memory*. In people with severe mental retardation, for example, they can describe in exquisite detail the crimes that have been committed against them, including the name (if known) of the perpetrator and the details of the case.

Like most of the population, however, they do not have excellent recall of unimportant details of daily life such as the breakfast meal they had a few days prior.

FACTS

- 8. **COGNITIVE** disability is *unrelated to the ability to distinguish the truth from a lie*. Children learn to distinguish the truth from a lie early in their developmental process. This ability is intact in most people who have cognitive disabilities.
- To assess this ability may require a simple adjustment to matters with which they are familiar. The skill is most likely present.

DISCUSSION

1. When you see a person with an obvious disability, what are some of the thoughts that pop into your mind regarding their ability to communicate with you?
 - 2. Do you usually think that if a person has speech disability they most likely also have an intellectual disability?
 - 3. When you think about a “cognitive disability,” what does this term mean to you?
 - 4. When you think about a “communication disability,” what does this term mean to you?

DISCUSSION

5. Make a list of the types of intellectual disabilities with which you are familiar.
6. Make a list of the types of communication disabilities with which you are familiar.
7. Create a list of resource people, by type, that could provide technical assistance to conduct an interview of an individual with a cognitive or communication impairment, or someone with both impairments.
8. Suggest two ideas for how to overcome these barriers in your interview.

PART 2:
The Pre-Interview Process
4 STEPS

1. Personal Preparation

DISCUSSION

1. Identify some examples of a “disability-negative” society that does not highly value individuals who are “different” or who have a disability.
2. Identify some myths and stereotypes that could interfere with a positive interaction or interview process.
3. Discuss how having a belief in such myths or stereotypes could negatively impact an interview or interpretation of the results of an interview.
4. Discuss the value of using positive references to, and with, people with disabilities in terms of the outcome of an interaction or interview.
5. Discuss how having a feeling of pity for another person can be a negative and interfere with a positive interaction.

DISCUSSION

6. Discuss the differences between “having” a condition and “being” a condition. Utilize comparisons of objectification of a person, and how these words can change one’s feelings and perceptions of the crime victim.
7. Discuss methods of overcoming the viewing of difficult situations or individuals whose appearance is different from the norm. Use as examples, individuals you have seen in your own life or other source or knowledge.
8. Discuss how you would, at a moment’s notice exchange roles in a forensic interviewing situation in the event that the assigned interviewer determined that it was best to use another team member for the direct interview.

2. Victim Knowledge

DISCUSSION

1. What are the sources of information about the victim with a disability that exist beyond the normal sources (doctors, workplace, home)?
 - 2. If the individual is a child, using the school as an information source, who would be individuals that would either have information about the child that could be helpful and are these possible suspects?

DISCUSSION

3. Is there any facet of the case that you would want know, before meeting the victim, that are different for the crime victim with a disability?
4. Exactly how would you go about finding information on communication, cognitive and conduct issues once you have identified the type of disability the victim has?

DISCUSSION

5. How would you prepare for a stress reaction of a crime victim with a disability that may arise during your interview?
6. Does the disability result in any factors that could require special medical attention such as a seizure?
7. Does the disability plus stress result in any factor that could require special preparation in terms of responding to apparent distress (yelling, walking around, pacing, gesturing, self-hitting)?

3. Methods of Communication

DISCUSSION

1. Name at least 5 different communication methods that people use. (Sign language, communication boards, communication technologies such as typing with voice output, Facilitated Communication, Braille)
2. What are the principal ethics or practical issues when working with an interpreter? Why are these important to the interaction or the interview outcome?
3. Why would an interpreter sit next to the client instead of next to the interviewer?

DISCUSSION

4. What are the legal issues around using an interpreter who is not a certified interpreter, such as the client's parent, teacher or aide?
5. What are some of the practical issues around using the parent or family member as the interpreter?
6. About how much time do you think is reasonable or practical, to learn about the person's communication method before beginning your interaction with the individual?

4. Site and Time Schedule

DISCUSSION

1. What would be the differences in site selection for an individual with a disability? Why are these different? Upon what law are these based?
2. What are the benefits and drawbacks about returning to the scene of the crime to conduct an interview? Could there be cases in which this may be the best way for the individual to show you what happened? What factors would go into making this decision?
3. Discuss some reasons for making accommodations for light, noise and visual distractions.

DISCUSSION

4. What might be some of the “negative effects” of these distractions on the individual with a disability?
5. In addition to the interview room being able to easily accommodate a wheelchair through the door and into the room, what other places in the building should be evaluated in terms of accessibility? (Entrance to the building, reception desk height, water fountains, bathrooms)
6. Videotaping the interview. What are some of the benefits and drawbacks? What are the current implications of *Crawford* and how are they being handled in your jurisdiction?

DISCUSSION

7. What are some of the effects of medications that could enhance or diminish the effectiveness of the interview? Who in your office or consultant pool could you consult?

DISCUSSION

8. Discuss the effect of conducting the interview when the individual had “other plans” such as work or chores or a social activity planned. Use in your discussion issues of anxiety, a need to keep to a schedule due to a psychological issue, such as for people with autism or Obsessive-Compulsive Disorders, or people with mental retardation who have experienced severely negative consequences when not “doing what they are supposed to be doing.”

DISCUSSION

9. How will you convince your Captain/Chief that more time is necessary to investigate this case, when timelines are strict and time is limited? What time accommodations are written into your guidelines or policies for victims who have disabilities?

PART 4:

The Interview Process 8 Steps

1. Preparing the Interview Site

A. To manage the stress of the interview, have material available for the interviewee that they can handle and touch. These could include drawing paper, pencils, and stress balls, among other items. Of course, do not include something that could be used as a weapon.

Preparing the Interview Site

- B. Use support materials for the interview. These could include items such as photographs from the person's home, school, work, social activities, standard dolls and drawings.

- C. Label your videotape and begin the recording devices just prior to the interview. Do not stop the recording during the interview. This will help avoid a later defense accusation that the tape may have been edited.

Preparing the Interview Site

- D. The team can observe through one-way glass and participate by feeding questions to . the interviewer by note, phone and/or earwig.

- E. The members of the team, of course, should be determined with the individual's disability in mind. In particular the individual's disability may signal a need for a consultant who specializes in that type of disability

2. Introducing Yourself

- A. Calmly and politely introduce who you are.
- B. Offer to shake hands but let victim make decision.
- C. Let them introduce themselves to you if they choose.

Introducing Yourself

- D. Explain to the care provider what will happen during the interview process and about how long to expect to wait. Let them know you are trained in working with individuals with disabilities.

- E. Inform the care provider that the victim must be interviewed alone, to assure a forensically sound interview. Provide more information as needed to assure that the care provider understands, facilitating an easier separation and good case management.

Introducing Yourself

F. Let victim know where you will be going and for how long.

G. Guide victim to interview site. If it is possible for you to go first and have the victim follow you, this may allow them to feel more comfortable in knowing where to go. However, this may violate policy for officer safety, so instead provide adequate prompts as to the next choice point (at the next hallway we will turn to the left).

3. Providing for Victim's Needs

- A. Make sure the victim is comfortable.
- B. Provide water or other beverage and a restroom before starting the interview.
- C. Don't touch the interviewee. It's okay to ask to shake hands briefly. Some individuals are highly sensitive to being touched.

Providing for Victim's Needs

- D. Only the victim and interviewer should be in the room, with the obvious exception for an interpreter or facilitator.
- E. If your jurisdiction allows for a support person to remain silently present in the room with the victim, this may improve interview outcome, with the usual caveats present.
- F. Directly ask the victim for their consent to be interviewed "today."

Providing for Victim's Needs

- G. If you are audio or videotaping, tell the victim about the taping, and explain the reason for recording the interview. Ask for their consent for the recording.
- H. Let the victim know that you will be taking breaks from time to time, and that they may ask for a break anytime.

4. Developing Rapport

- A. Use your standard interviewing protocol.
- B. Explain who you are and the purpose for them talking with you.
- C. Explain what will happen after the talk.

Developing Rapport

- D. Explain what is happening at each step. Avoid surprises, such as areas of discussion.
- E. If there is an “emergency,” such as P.A. announcement , handle it with calm as usual.
- F. Ask about their areas of interest with a genuine curiosity.
- G. Speak easily about yourself.

5. Language

- A. Listening and remaining focused is essential.
- B. Avoid childlike words or baby talk.
- C. Use plain language. Use the simplest word to convey your thoughts or questions.

Language

- D. Match the individual's use of vocabulary, syntax and grammar.
- E. Break "Why" questions into concrete thought.

Language

- F. Use “When” questions in context of the individual’s daily or weekly routines and activities.
- G. If you do not understand what they say, it is okay to ask them to repeat their answer.

Language

H. Ask one question at a time.

I. Avoid using compound questions. Use simple questions. A compound question embeds two or more topics or questions in the sentence. An example is, “When you were at the store, did you buy some ice cream and eat it before you paid for it?” A simple question would be, “Did you buy ice cream at the store?”

6. Victim's Personality Traits

- A. Do not expect a chronological rendition of experience. Someone with a cognitive disability may process information differently than someone without a disability.
- B. Someone with a cognitive disability may not tell you they do not understand. They are more likely to say what they think you want them to say.

Victim's Personality Traits

- C. It is most likely that the interviewee will want to please you. Therefore it is extremely important that you do not indicate the desired answer or prefer a particular answer.
- D. Let them know you are pleased with their participation.

7. Interviewer Patience and Demeanor

- A. The interviewer guides the interview.
- B. The interviewer should be calm, patient and caring.

Interviewer Patience and Demeanor

C. Use CREDO:

Compassion,

Respect,

Empathy,

Dignity, and

Openness to their needs.

Interviewer Patience and Demeanor

- D. Allow the interviewee to speak at own pace, don't try to "rush" them.
- E. Do not "charge" the individual with follow up questions just after one question has been answered.

Interviewer Patience and Demeanor

F. If the interviewer cannot understand the verbal expression of the victim, it is best not to pretend that you understand.

Ask for clarification in the form that works best for you.

If you absolutely cannot understand the individual after a reasonable period of time, switch out interviewers with another member of the team or office.

8. Signals & Control

- A. Watch for signs of stress. If the individual begins to demonstrate signs of stress that are typical within the disability, respond to these by changing the subject or calling a break. These could be increased withdrawal, distraction (looking around), fidgeting, humming, groaning, rocking, hand wringing, leg swinging, tapping, not answering questions, among others.
- B. If separation from their parent or care provider seems to cause too much stress, take it slower, and allow the parent into room for a “getting to know you” moment. It may be that this is the only thing that is accomplished in the first visit.

Signals & Control

C. Be prepared for multiple short interviews.

D. Be aware of behaviors that may be new to you as an interviewer but normal for the interviewee. If the victim needs to move about the room, allow it. Provide breaks, change venue if needed.

Signals & Control

- E. Consider rescheduling another interview with the victim if the current situation is too stressful and unproductive.
- F. Announce a break, don't ask if victim wants a break. The reason is that they most likely will not believe that they have the right to ask for a break. If you ask if they want a break, they may feel that they don't know "the right answer" and unnecessary social pressure is unintentionally applied.

Signals & Control

- G. Assess victim's level of comfort before continuing.
- H. Before ending the interview, provide information about supportive services such as Victim's Assistance funding for therapy or other restorative needs, sexual assault or rape crisis counseling services that would serve them, shelter services or others that are relevant.

DISCUSSION

1. In addition to the suggestions for preparing the interview site, what other considerations would be important?
2. What are some ideas you have found successful in separating an individual with a disability from their care provider?

DISCUSSION

3. When introducing you, what exact words would make sense to an individual with mental retardation or other psychological disability? What would potentially frighten them?
4. If a person is “touch toxic” what is the best way to handle their sensitivity to being touched? (This term refers to the perception of touch being painful or otherwise distressing.)

DISCUSSION

5. If an individual with mental retardation or an intellectual disability makes an attempt to hug you, what should you do?
6. What's the difference between using "childlike" language and using simple language?
7. How can you believe someone who cannot provide a chronological story? Does it make a difference so long as all of the facts are present?

DISCUSSION

8. How do each of the 5 factors in CREDO play out during the interaction with the individual?
9. What would be some behaviors that an individual with a disability might exhibit that would be new to the interviewer, that s/he should know about prior to the interaction?
10. What are some signs that a break should be called? How would you know how to assess whether or not the victim can continue after the break?

PART 5: The Post-Interview Process

Following the forensic interview the team must interpret the interview content by addressing

the interviewee's:

1. Behavior
2. Responses
3. Body language
4. Spontaneous utterances

The Post-Interview Process

5. Response set
6. Understanding of all vocabulary used by the interviewer
7. Interpretation of drawings or doodles made by interviewee

The Post-Interview Process

Use of your videotape will allow for a review of the interview and closer examination to identify words, statements and non-verbal messages that may have been missed during the interview.

DISCUSSION

1. What would the importance of certain behaviors have in assessing the interview? Might they signal stress about a particular area of inquiry or the entire interview experience itself?
2. Are the individual's responses to the questions on point? Do they signal another area of potential abuse that has not been explored? Is the interviewee paying attention to the question? Did the interviewee understand the question?

DISCUSSION

3. Are there circumstances in which you would request a second interview “for verification?”
4. How might body language be different with an individual with a disability than any other victim?
5. Did it appear that the person started giving the same answer for every question?

DISCUSSION

6. Does it appear that the individual understood the vocabulary used by the interviewer?
7. Do the drawings or doodles made by the interviewee have any importance for further investigation?

EXPLANATION OF TERMS

Response set – This occurs when questions are asked that demand a set response pattern. Such as all questions in a row are answered “yes,” the interviewee automatically says “yes” to the next questions. Or on True/False tests, one can identify a pattern for correct responses.

Touch toxic – Touch is painful or distressing to the individual. This is most common in individuals with Autism Spectrum disorders, but can also be present in others such as those with Obsessive Compulsive Disorder (OCD), Attention Deficit Disorder (ADD)/ Attention Deficit Hyperactivity Disorder (ADHD), and anxiety disorders.

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Note: Spanish language fluency

DOJ/OVC

GOOGLE: Department of justice + office for victims of crime

This includes materials they have produced and will include information on obtaining our second video.

For copies of VICTIMS WITH DISABILITIES:
THE FORENSIC INTERVIEW:

<http://www.ojp.usdoj.gov/ovc/publications/infores/other.htm>