



JUDICIAL REFORM AND
INSTITUTIONAL STRENGTHENING
(JURIST) PROJECT

**Guidelines for the
Police Forensic Interview
in Sexual Assault Cases**



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Planning and Preparation

In most cases where an allegation of a sexual offence is reported to the police, the police will begin to take the full statement from the complainant as soon as possible especially where the complainant is the one making the report. In the regional consultations with survivors, there were indications that this can take up to four hours. More recent approaches to police investigation of sexual offences in the UK, Australia and the US are recommending that in the first encounter with the complainant, the police should document the fact of the allegation being reported and that a second encounter to gather the details of the allegation referred to as 'the forensic interview' should be planned. Typically, the forensic interview is conducted after the medical exam and other emergency needs of the complainant are dealt with.

The importance of planning for the forensic interview cannot be overstated. The success of an interview and thus an investigation could hinge on it. Even if the circumstances necessitate an early interview, an appropriate planning session that takes account of all the information available about the witness at the time and identifies the key issues and objectives is required. Time spent anticipating and covering issues early in the criminal investigation will be rewarded with an improved interview later. It is important that, as far as possible, the case is thoroughly reviewed before an interview is embarked upon to ensure that all issues are covered and key questions asked, since the opportunity to do this will in most cases be lost once the interview(s) have been concluded.

In addition, where a video will be recorded as the primary evidence of the complainant, suitable arrangements must be made to prepare the facility and equipment as well as the key technical persons and support persons that will be involved.

Further, if it is already known that the forensic interview will involve children or other vulnerable persons, the provisions below for vulnerable persons must be considered and appropriate preparations made.

GENERAL INTERVIEWING GUIDELINES

Preliminaries

1. A brief account of what is alleged to have taken place should first be obtained. The more detailed account should not be pursued at this stage but should be left until the formal forensic interview takes place.
2. Such a brief account should include where and when the alleged incident took place and who was involved or present. This is will likely influence:
 - a. Forensic and medical examination of the complainant;
 - b. Scene of crime examination;
 - c. Interviewing of other witnesses;
 - d. Arrest of the accused; and
 - e. Witness support.
3. Arrest of the accused, and treatment and support of the complainant must usually be addressed first before continuing to the forensic interview.
4. Forensic interviews should be video recorded, and the equipment should be checked that it is working.
5. It is advisable that a female interviewer should conduct the interview with a female adult or child complainant. At a minimum, a female officer should be available should the complainant become uncomfortable speaking to a male officer.

6. For all witnesses, interviews should normally consist of the following four main phases:
 - a. Establishing rapport;
 - b. Free narrative account;
 - c. Questioning; and
 - d. Closure.

Establishing Rapport

1. At the beginning of the recording, the interviewer should say out loud the day, date, time and place (not the detailed address) of the interview and give details of who is present. The interviewer should then briefly mention the reason for the interview in a way that does not refer directly to an alleged offence. Interviewers should be aware that while some witnesses will from the outset be very clear concerning what the interview is about, other witnesses may be confused.
2. Rapport is essential, and will improve the quantity and quality of information gained in the interview. One way to achieve this is to start by briefly asking some neutral questions not related to the event which can be answered positively and therefore create a positive mood.
3. Any discussion of neutral topics in the rapport phase should be short. However, it can be longer where the interview is of a very young child, and where the presence of an intermediary may be needed, or there may need to be familiarization with use of specialized techniques such as anatomically correct dolls.
4. It is important to explain to the witness how the interview will proceed, as for most witnesses an investigative interview is an alien situation. People typically fear the unexpected,

and by describing the interview process this fear can be reduced. The interviewer therefore needs to explain the outline of the interview, though without prompting the witness as to what he or she is expected to say.

5. Witnesses should also be told that:
 - a. If they do not understand a question or do not know the answer, they should say so; and
 - b. If the interviewer misunderstands what they have said or incorrectly summarizes what has been said, they should point this out.
6. It should be made clear that the witness can ask for a break at any time. Breaks may be required more frequently than with other witnesses. To ensure vulnerable witnesses have some control over a request for a break and yet not have to make a verbal request, a 'touch card' can be useful; that is, a card is placed beside witnesses which they can touch when they want a break.
7. Concerning children, toward the end of the rapport phase, the interviewer should explain the importance of telling the truth, and must establish the child understands the difference between truth and lies. This should be done by offering statements to the child, some of which are true and some of which are a lie, and asking which is which, rather than asking for a definition of a lie or truth.

Initiating and supporting a free narrative account

1. In this phase of the interview the interviewer should initiate from the witness an uninterrupted free narrative account of the incident. The easiest way to begin this is to ask an open question, like *'what happened?'*

2. It is essential not to interrupt the witness during their free narration by asking questions seeking specific facts; these should be kept for later.
3. During free narration, the interviewer should encourage witnesses to provide an account in their own words by the use of non-specific prompts such as *'did anything else happen?'*, *'is there more you can tell me?'* and *'can you put it another way to help me understand better?'* Verbs like 'tell' and 'explain' are likely to be useful. The prompts used at this stage should not include information known to the interviewer concerning relevant events that have not yet been communicated in the interview by the witness.
4. For example, questions beginning with the phrase 'Tell me' or the word 'Describe' are useful examples of this type of question, e.g. *'You said you were in the shopping centre this morning when something happened, tell me everything that you can remember?'*
5. Active listening is necessary, letting the witness know that what they have communicated has been understood by the interviewer. This can be achieved by 'reflecting back' to the witness what they have just communicated; e.g. *'I didn't like it when he did that'* (witness) then *'You didn't like it'* (interviewer).
6. Vulnerable witnesses may wish to be compliant in that they may try to say what they believe the interviewer 'wants to hear'. This is particularly so for witnesses who believe the interviewer to be an authority figure and they may be frightened not to displease. The interviewer should therefore try not to appear too authoritative, but instead should simply act in a confident supportive manner.

7. In some interviews, particularly concerning allegations of child sexual abuse, witnesses may be reluctant to talk freely. This can sometimes be overcome by the interviewer offering reassurance, e.g. *'I know this must be difficult for you. Is there anything I can do to make it easier?'* However, caution must be exercised in saying too much, or the interview may later be challenged as exaggerated. It is quite in order for the interviewer to refer to a witness by their first or preferred name, but the use of terms of endearment or any physical contact between the interviewer and the witness are inappropriate.
8. If the witness has said something which needs clarification, but seems reluctant to say more, it is better to return to the point later in the interview rather than be there and then insistent.

Questioning

1. After establishing rapport and a free narrative, and before asking the witness any questions seeking specific facts, the interviewer should outline what will happen in the questioning phase of the interview. This means that the interviewer should tell the witness that they will now be asking them some questions, based on what they have already communicated in the free narrative phase, in order to expand and clarify upon what they have said.
2. The interviewer should also explain that the purpose of questioning is to ascertain certain details, that this can be a difficult task which requires a lot of concentration, and to point out that it is acceptable to say *'I don't know'* or *'I don't understand'* to a question.
3. When being questioned, some witnesses may become distressed. If this occurs, the interviewer should consider

moving away from the topic for a while and, if necessary, reverting to an earlier phase of the interview (e.g. the rapport phase). Shifting away from and then back to a topic the witness finds distressing or difficult may need to occur several times within an interview.

4. The questioning phase should be structured, and therefore divided into manageable topics.
5. There are different styles of questioning to consider. Let us imagine that 'the small dog sat on the mat' and we want to find out where the dog was.
 - a. A *leading* question is one which tells the witness the answer. In the example, it would be to say: '*the dog sat on the mat, that is right isn't it*', to which the witness is expected to answer 'yes'. The question puts the answer into the mouth of the witness. It can have the effect of distorting memory, and can give rise to the witness wishing to please the interviewer by agreeing with what seems to be expected. Leading questions must not be used in a forensic interview as they will be objected to by the defence and the questions and answers will almost always be edited out.
 - b. An *open* question is one beginning '*who, how, what, when, where, why, please describe*'. It can seek a specific piece of information, but the answer will consist entirely of words chosen by the witness. In the example, open questions might include, '*where was the dog, what was the dog doing, how was the dog positioned?*' Open questions should be used as much as possible and are almost always unobjectionable.
 - c. A *closed word-choice* question is one in which the witness is given a choice of words. The choice must cover a broad spectrum or it will be challenged as suggesting the answer. In the example, a closed word choice question

might be, *'was the dog on the floor, or mat, or chair, or sofa?'* (assuming you have established already that in the room there was a mat, and sofa). Such questions can help to pinpoint evidence.

- d. A *closed yes-no* question is one in which the witness is asked a question to which the answer is yes or no. In the example, it might be, *'was the dog seated on the mat?'* However, such questions are often challenged later by the defence as too close to being leading questions so that they are usually best avoided.
- e. Every question should deal with only point at a time, and not contain multiple questions. An example would be, *'where was the dog, on what furniture, describe the room, and the dog, and where it was?'* Such questions are confusing, and the witness is unlikely to remember each segment, only answering one segment and feeling they have made a mistake or disappointed the interviewer when the next question repeats reference to an unanswered segment.
- f. Questions should be short, preferably not more than ten words. Short questions are more easily understood, and therefore the answer is often clearer.
- g. Where multiple persons are involved in an incident, be careful about asking about 'them', such as *'what were they doing?'* This is another form of multiple question. It asks for information about more than one person, and therefore is dealing with more than one point.
- h. In sum, for a forensic interview, during the questioning phase, short open questions are preferred, one point at a time, with some closed word-choice questions, and only rarely closed yes-no questions. There should never be leading questions.

6. In complex cases, it may be appropriate to have a break in the interview for refreshments after the witness's free narrative and before the questioning phase. This allows final preparation for the questioning phase having heard the free narrative.
7. If there is a break, consideration should be given to inserting a fresh tape or disk into the recording equipment for when the interview resumes, to avoid running out of disk space later, causing further interruption.
8. If an interviewer opens the questioning phase by using a succession of non-open questions, which do not allow the witness to give full answers, the witness may then expect this to occur throughout the interview. As a result, the witness will probably get used to giving only short answers to questions, even if the interviewer may later seek longer answers with open questions. This is one reason why open questions should be used first, and mostly, with closed questions reserved only as a back-up option.
9. If the interviewer is seeking elaboration on what the witness mentioned in their free narrative account, the interviewer should as far as possible try to use the same words that the witness used.
10. Questions should not be repeated 'word for word' where further information is sought, because the witness may feel that their first answer was incorrect and change their response. When a question is not answered fully, or the answer is not understood, it should be reworded instead of repeated.
11. If closed questions are to be used, either as to 'choice' or 'yes-no', it is particularly important to remind the witness that responses like *'I don't know'* or *'I don't understand'* or *'I don't remember'* are welcome.

12. In the questioning phase, it is not necessary to summarize as you go along since a summary will be done at the end before closing the interview.
13. Witnesses can on occasion provide inaccurate accounts of events. However, this is often due to poor questioning, which in turn gives rise to misunderstandings or misremembering, rather than to deliberate fabrication.
14. Where there are significant inconsistencies in the witness's account, interviewers should explore them with great sensitivity. On no account should the interviewer voice suspicion to the witness or label a witness a liar: there may be a perfectly reasonable explanation for any inconsistency, which instead should be carefully explored.
15. When dealing with a vulnerable witness, including a young child, special care must be taken to ask simple short questions. Where appropriate, in advance of the interview, the interviewer should establish with an intermediary what the level of comprehension of the witness is, and what questions will not be understood. Examples in young children include that they seldom understand dates, times, or formal names, instead recounting events by reference to nicknames, whether an event happened in daylight or nighttime, and by reference to landmarks like a birthday or school holiday, rather than a day of the week.

Closure

1. Before closing the interview, it is important to summarize the information shared.
2. Summarizing the interview can lead to further memory retrieval. The witness should be told that they can add new information at this point in the interview.

3. The interviewer should always try to ensure that the interview ends appropriately. Every interview must have a closing phase. In this phase it may be useful to discuss again some of the 'neutral' topics mentioned in the rapport phase.
4. In this phase, regardless of the outcome of the interview, every effort should be made to ensure that the witness is not distressed but is in a positive frame of mind. Even if the witness has provided little or no information, they should not be made to feel that they have failed or disappointed the interviewer. The witness should be thanked for their time and effort and asked if there is anything more they wish to communicate.
5. An explanation should be given to the witness of what, if anything, may happen next, but promises that cannot be kept should not be made about future developments.
6. The witness should always be asked if they have any questions and these should be answered as appropriately as possible. Sometimes a contact number is given to the witness for them to call if they re-call anything further. However the interviewer should refrain from giving out a personal number to the witness or encouraging them to text them as this may breach professional boundaries.
7. Advice on seeking emotional help and support should also be given.
8. Finally, the interviewers should report the end time of the interview on the recording.
9. If the interview was not being video (or audio) recorded, then the interviewer will have been writing up a statement for the complainant as the interview has been progressing. It

is important that the statement be re-read to the witness and they be allowed to sign it as their own words, and to add or correct anything. The interviewer should also sign the statement.

10. If the interview was video (or audio) recorded, a separate written statement by the interviewer dealing with the preparation and conduct of the interview should be made while the events are still fresh in the interviewer's mind.

SPECIAL FOCUS - PERSONS WITH A DISABILITY

1. Some people with learning disabilities can be isolated and distanced from other communities, congregated together, dependent on others (having learned helplessness) and waiting for 'permission' to do anything.
2. It is essential that every possible effort is made to encourage the witness's active participation in the interview process and to ensure that they know that their contribution is valued, whatever the outcome.
3. When report is made involving a child with a disability, all interventions after the report is made should be coordinated with the local child care and protection department.
4. When interviewing witnesses with autism, best practice suggests that being aware of the following may be helpful:
 - a. The interviewer should try to be calm, controlled and non-expressive;
 - b. The witness may be frightened of emotion or shouting;
 - c. The witness may be fearful of unfamiliar stimuli, including noise, colour and unknown people;
 - d. The witness may not like people to come too close to them;
 - e. The witness may not like to make direct eye contact; and

- f. The witness may prefer a consistent and stable environment. For example, if there is more than one interview, they should be carried out in the same place, with the same people in the same positions within the room. This would also apply to the courtroom situation if they must appear on multiple days.
5. Witnesses with Down's Syndrome and many other people with learning disabilities might:
 - a. Be disturbed and become anxious if there is shouting or aggression, especially if they are questioned by unknown people, particularly authority figures, and in addition be affected by noise; and
 - b. If they have a significant hearing loss they may, for example, confuse similar sounding words (this has particular relevance in responses to questions regarding when, where, what, why and who).
6. All witnesses with learning disabilities are eligible for an intermediary where the use of an intermediary would maximize the quality of their evidence.
7. There is also the possibility of additional physical disabilities, which might contribute to intellectual impairment and add to the difficulty of giving evidence.
8. A physical disability may cause additional health problems. Witnesses who have associated health or mobility difficulties may benefit if their interviews are spaced out, with periods for rest and refreshment. Planning should allow for the extra time if necessary.
9. Physically disabled witnesses may need a support person who is a family member on hand to give assistance with toileting, medication and drinks. Access requirements may also need additional planning. Where the witness has speech and/or hearing difficulty, this may require the use of an intermediary.

10. Where there is a major concern about the mental health of a witness or information that suggests mental disorder, consent for an early assessment by a psychiatrist or psychologist might be sought to establish whether the witness is able to give a reliable account of events.
11. It might also be helpful to ask the witness if they are in contact with a professional such as a doctor, adult social care social worker, community psychiatric nurse or legal representative who might be able to assist them.
12. Witnesses with a mental disorder are eligible for an intermediary where the use of an intermediary would maximize the quality of their evidence.

SPECIAL FOCUS - INDIGENOUS PERSONS

1. Indigenous persons face many barriers in coming forward to make a report of a sexual assault.
2. Police should be aware of cultural dynamics and be sensitive to the impact of this during the interview process. Ensuring that a female police officer will interview a female complainant or witness while having a male police officer for a male complainant or witness is often very important.
3. It may be necessary for the complainant or witness to have a support person present during the forensic interview. The support person should not be the intermediary or an interpreter if the indigenous person is a child or a person whose interview will be recorded using an intermediary or an interpreter. The support person may be a member of the family not involved in the investigation or a representative of a

local NGO with expertise in working with persons who have experienced sexual assaults.

4. When report is made involving a child with a disability, all interventions after the report is made should be coordinated with the local child care and protection department.

SPECIAL FOCUS – CHILDREN

1. While circumstances will sometimes limit what can be found out about a child prior to the interview taking place (for example, because of time constraints where the alleged perpetrator is in custody), as much of the following background information should be obtained about the child as possible:
 - a. Age and gender;
 - b. Domestic circumstances (including whether the child is currently in a 'safe' environment);
 - c. Relationship of the child witness to the alleged perpetrator;
 - d. Any medication being taken and its potential impact on the interview;
 - e. Current emotional state (including trauma, distress, shock, depression, fears of intimidation or recrimination, and being generally unsettled by the recent significant stressful events experienced);
 - f. Likely impact by recalling of traumatic events on the behavior of the child;
 - g. Current or previous contact with public services (including previous contact with police, the local children's or adult services authority or health professionals); and
 - h. Any other relevant information or intelligence known.


2. When report is made involving a child, all interventions after the report is made should be coordinated with the local child care and protection department. It is recommended that the intermediary or relevant social worker attached to the department be present at the forensic interview.
3. It is important that the interviewer asks only one question at a time, and that he or she allows the child enough time to complete his or her answer before asking a further question. Patience is always required when asking questions, particularly with developmentally challenged or younger children and some vulnerable adult witnesses as they will need extra time to respond.
4. It is important also that the interviewer does not interrupt the child when they are still speaking. Interrupting the child may suggest to them that only short answers are required.
5. When posing questions, interviewers should try to make use of information that the child has already provided and use words and concepts with which the child is familiar.
6. Some children have difficulty understanding pronouns (e.g. he, she, and they); in these circumstances, it is better for interviewers to use people's names wherever possible.
7. It is important that interviewers check that children understand what has just been said to them by asking the child to convey back to the interviewer (where this is possible) what they understand the interviewer to have just said.
8. The information requested in questions should always take account of a child's stage of development. Many concepts that are taken for granted in adult conversation are only acquired gradually as children develop.

9. Therefore, questions that rely upon the grasp of such concepts may produce misleading and unreliable responses from children, which can damage the overall credibility of their statements in the interview. Concepts with which children have difficulty include: dates and times; length and frequency of events; and weight, height and age estimates.
10. Such concepts are only gradually mastered. For the concept of time, for instance, telling the time is learned by the average child at around seven years of age, but an awareness of the days of the week and the seasons does not usually occur until at least a year later. Age norms are only a guide and it should be anticipated in the planning phase whether a particular child is likely to perform above or below such norms.
11. Height, weight and age can be specified relative to another person known to the child (e.g. the interviewer or a member of the child's family). Time and date estimates can also be made by reference to markers in the child's life (e.g. festive seasons, holidays, birthday celebrations, or their class at school). Time of day and the duration of events can sometimes be assisted by questions that refer to television programs watched by the child or to home or school routine.
12. If, for the sake of clarity, interviewers decide to repeat one or more questions later in the interview, even with changed wording, they should explain that it does not indicate that they were unhappy with the child's initial responses but that they just want to check their understanding of what the child said.
13. Drawings, pictures, photographs, symbols, dolls, figures and props may be used for different reasons:
 - a. To assess a child's language or understanding;
 - b. To keep a child calm and settled and in one place;

- c. To support a child's recall of events; and
 - d. To enable a child to give an account of events.
14. Young children and children with communication difficulties may be able to provide clearer accounts when using drawings, pictures, photographs, symbols, dolls, figures and props compared with purely verbal approaches, but when considering whether their use is appropriate in any given circumstances interviewers need to be aware of the risks and pitfalls as well as the advantages associated with their use.
 15. The risks and pitfalls of using drawings, pictures, photographs, symbols, dolls, figures and props include: potential challenge in the legal arena prompting the judge to issue a warning or cautionary statement; some props, e.g. anatomical dolls, can result in distortions or inaccuracies; and some props, e.g. teddies, animals, dolls houses, may engender play or fantasy.
 16. Drawings, pictures, photographs, symbols, dolls, figures and props should be used with caution and never combined with leading questions.
 17. Interviewers should try to ensure that the child's facial expressions, gestures and body language, as well as any drawings, pictures, photographs, symbols, dolls, figures and props, are visible to the interviewer and to the camera.
 18. Where necessary, verbal attention should be drawn to the child's unspoken communication. One way to do this is to comment to the child without offering an interpretation, e.g. 'you're pointing'.
 19. Interviewers should make sure that drawings, pictures, photographs, symbols, dolls, figures and props do not prevent children gesturing.

20. Any drawings, pictures, photographs, symbols, dolls, figures and props used should be preserved for production at court if required.
21. Where interviewers may use the child's own drawings, the child should label the drawings themselves, where possible. If they cannot, the interviewer should let them dictate the names of any people drawn to them and also write down any other features identified by the child.
22. If the child has an existing communication system of pictures or symbols, it is important to explore any potential gaps in their vocabulary during an assessment of how to conduct the interview before it takes place.
23. The use of items similar to those involved in the event may assist recollection. However, they may also cause the child distress. Furthermore, it may not be certain which items were actually involved and the introduction of incorrect items may mislead or confuse the child. Similarly, models or toys may be misleading and confusing if the objects they represent were not, in fact, part of the event. Some children may not realize the link between a toy or model and the real-life object it is supposed to represent; this is particularly so for very young children and learning-disabled children.
24. Where anatomically accurate dolls are to be used, it is particularly important that the interviewer is trained in their use and understands how they might be misused: for example, a combination of these dolls and leading questions can elicit misleading statements from children.

25. In the main, anatomically accurate dolls should only be used as an adjunct to the interview to allow the child to demonstrate the meaning of terms used by them or to clarify verbal statements.
26. One of the key aims of video-recording forensic interviews is to reduce the number of times that children need to repeat their account so video-recording of the child's interview should be encouraged and the recording shared with other persons that may need to interview the child rather than subjecting the child to further interviews.
27. Yet, even with an experienced interviewer and good planning, a further interview may be necessary.
28. Consideration should always be given to whether holding such a further interview would be in the child's best interests.
29. With particularly vulnerable child and adult witnesses, a decision could be made at the planning stage to divide the interview into a number of sections to be conducted by the same interviewer on different days, or at different times on the same day, with rapport and closure being achieved each time.



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