ADVANCED (VULNERABLE WITNESS) INVESTIGATIVE INTERVIEW TRAINING

For the
OFFICE OF THE PROSECUTOR OF THE INTERNATIONAL CRIMINAL COURT
A worldwide network for investigative interviewing professionals
Developmental issues when interviewing children and elderly victims and witnesses

Professor Fiona Gabbert
Developmental challenges

Limited memory capacities (remember less); limited communicative competence (report less)

Can lead interviewers to resort to inappropriate questioning style featuring closed, leading, suggestive, and repeated prompts for information.

Additional risks

‘Interviewer bias’ (seeking confirmatory evidence)
Children often have heightened compliance to authority figures
Children are suggestible and have poor ‘source monitoring’ ability

In sum, children have a higher risk of receiving, and being negatively affected by, a poor quality interview.
High profile cases

Wee Care nursery - State of New Jersey v. Michaels
McMartin Preschool Case – Manhattan Beach, CA
Little Rascals Day Care – Edenton, NC
Fells Acres Day Care – Malden, MA
August 1983, parent tells police her son was molested by Ray Buckey (her estranged husband and McMartin teacher)

200 letters are sent to parents of past and present students; panic!

Media reports of child-sex ring and child porn links

100s of interviews conducted

360 children ‘diagnosed’ of abuse over last ten years
• Ray Buckey dressed as a police officer, fireman, clown or Santa Claus during abuse
• Satanic conspiracy, Sacrifices, Ritual murder of infants
• Forced participation in porn movies & photographs
• Mutilation and killing of animals
• Bestiality
• Witnessed dead and burned babies; drinking of babies’ blood
• Forced into a coffin and buried
• Children taken to the airport, traveled to Palm Springs in a hot air balloon, sexually abused and returned
• Abused on the side of the highway
• Traveled through sewers and tunnels to a place where adults sexually abused them, cleaned them up and later returned them to the pre-school so they could be picked up by their parents.
Wild allegations

Buckey served 5 years in prison before the trial was heard

- No evidence
- Court case took 6-years
- No convictions resulted

Hundreds of children (now adults) led to believe they were victims of abuse.

HOW DID THIS INVESTIGATION GET SO OUT OF HAND?
Initial denial or reluctance to talk on the part of a child led many interviewers to adopt inappropriate questioning techniques:

Suggestive questions - *Where did he touch you?* (the child hadn’t mentioned being touched)

Leading questions – *You were scared weren’t you?* (communicating an expected response)

Conformity pressure - *Everyone else told me….*

Children were asked to imagine that an event occurred

Use of repeated questions in the same interview

Use of positive/negative reinforcement - *You’re so smart*

Use of opinions (he sounds brutal/clumsy/mean)
Short Documentary (apologies for the quality):

Can You Always Believe The Children?
Participants: 3-4 year olds & 5-6 year olds

Procedure

5 interviews about a 2-min visit to day-care centre by Sam Stone

Four experimental conditions

1. Good interview (no suggestion)
2. Pre-event stereotype (“Sam is clumsy”)
3. Suggestive interview
   “I wonder is Sam was wearing long pants or short pants when he ripped the book”
   “I wonder if Sam got the teddy bear dirty on purpose or by accident”
4. Pre-event stereotype AND suggestive interview

Leichtman & Ceci, 1995
Information freely reported in final interview

No suggestions + no stereotype

Suggestions but no stereotype

Stereotype but no suggestions

Suggestions + stereotype
Participants: 3-4 year olds & 5-6 year olds

Procedure

Interviewed once a week for 12 weeks about 8 positive and negative events, of which 4 were fictitious

“Picture event in your head before trying to remember if it happened or not. Think really hard about it. Who would have been with you? How would you have felt?”

Last session - different interviewer who told the children that not all events had happened to them.
Proportion of children ‘remembering’ false events

<table>
<thead>
<tr>
<th>Event</th>
<th>Session</th>
<th>First</th>
<th>Last</th>
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<tr>
<td>3-4 years</td>
<td>Negative</td>
<td>.17</td>
<td>.28</td>
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<td>Positive</td>
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<td>5-6 years</td>
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<td>Positive</td>
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**Source monitoring:**

We infer the source of our memories based on the quantity and quality of memory characteristics.

Any factor that makes it difficult to discriminate between qualities associated with different memories can significantly increase source errors:

- A high level of detail can lead people to think something is a memory.
- High perceptual, semantic and/or temporal similarity between two sources.
- Poor encoding conditions and/or lax decision criteria at retrieval, e.g., tiredness, stress.
In addition to providing an accurate account of what happened, child victims/witnesses must also identify the source of those memories – *In comparison to adults, children are poor at source-monitoring*

<table>
<thead>
<tr>
<th>Source Judgement</th>
<th>Examples</th>
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<tbody>
<tr>
<td>Within-event</td>
<td>Which of two people carried out an action in a target incident?</td>
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<tr>
<td>Event - post-event</td>
<td>“Did X actually happen in the event, or did Y tell you about it when you were being interviewed?”</td>
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<td>Pre - event-event</td>
<td>“Did X tell you that it was going to happen, or did you really see it happen?”</td>
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<tr>
<td>Multiple event</td>
<td>“Did X touch you during the first incident or the second incident?”</td>
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<td>1</td>
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<tr>
<td>Sea creature</td>
<td>2</td>
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<td>Easter</td>
<td>3</td>
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<td><strong>Person who holds pictures</strong></td>
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<tr>
<td>Child A</td>
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<td>Child B</td>
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<td>Child C</td>
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<td><strong>Reason koala was kept awake</strong></td>
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<td>Kangaroo sneezing</td>
<td></td>
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<tr>
<td>Kookaburra laughing</td>
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<tr>
<td>Dingo howling</td>
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<td><strong>Music scene for resting</strong></td>
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Powell et al. (2007)
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Powell et al. (2007); Results

The graph illustrates the mean percentage of responses for both non-experienced and experienced suggestions. It shows a comparison between non-target suggestions and target suggestions. The graph indicates that experienced interviewers have a higher percentage of correct responses compared to non-experienced interviewers.
Children are suggestible.

Suggestibility is not confined to formal interviews (peer and/or parental influence).

Children can come to believe the suggestions actually happened.

Children are poor at source monitoring and particularly susceptible to making internal intrusion errors, when being interviewed about events that happened more than once.

Developmental differences in source monitoring ability can help explain false reporting of suggested details.

All of this can lead to a decline in accuracy, certainty, and consistency of reports.
Can the use of ‘props’ within an interview context help child witnesses provide more accurate accounts?
Bruck et al., 2000

Controlled research with young children being interviewed about an official medical examination

After physical exam, interviewers presented anatomical dolls

- 27% of non-touched children falsely claimed doctor touched genitalia/buttocks
- 51% of touched children denied being touched

Interviewers then asked more suggestive questions asking the children to show how the doctor had touched genito-anal areas

- 36% of non-touched children falsely showed touching
- Errors included ‘over touching’ responses (finger insertions etc).
The burden is on forensic interviewers to use appropriate methods to ensure that the most accurate evidence is gathered.

Scientists and practitioners have worked together to develop and promote evidence-based interview protocols that help elicit reliable information from children.

The NICHD Protocol is widely accepted as the best method to interview children.
Researchers at the National Institute of Child Health and Human Development (NICHD) developed a structured interview protocol designed to translate professional recommendations into operational guidelines.
Open questions for breadth of information

“Tell me what happened”
“Tell me more about that”
“Tell me everything about that”
“Then what happened”
“What happened next”

Open questions for depth of information and/or time segmentation

“Earlier you mentioned [activity mentioned by the child]. Tell me everything about that.”
“Tell me everything that happened after [event mentioned by the child] until [event mentioned by the child].”
Cued-recall questions (Who, where, when, what, how)

These can vary greatly in difficulty, can be misunderstood, and can exacerbate miscommunication, e.g. –

*Easy to answer*

What is your brother's name? How old are you?

*Hard to answer*

What is on the back of a 50p piece? What finger did he use?

*Confusion*

What colour was the car? (Inside v. outside)
Where did he hit you? (“At home” v. “on the head”)

*Not remembered*

When was that? How many times did it happen?
Option posing/leading
Options to choose from, yes/no questions

Suggestive
Information provided by the interviewer that is not already provided by the child
Implying that a particular response is desired
See http://nichdprotocol.com/the-nichd-protocol/

See Example of an NICHD interview

• Introduction

• Ground rules
  • Truth & lies
  • Transfer of control - don’t know, don’t guess, correct interviewer

• Rapport – what do you like to do? Tell me about that.

• Practice Interview (Memory training/Cognitive support)
  • Neutral event
  • Yesterday
The NICHD Protocol: an overview

• Transition

• Investigate incident/s
  • Open-ended prompts (Invitations)
  • Separation of incidents

• Break

• Focused questions about information not mentioned

• Disclosure information

• Closure – anything else, any questions, contact details

• Neutral topic - what are you going to do when you leave?
1. ‘Hello, my name is _______ and I am a police officer. [Introduce anyone else in the room; ideally, nobody else will be present.] Today is ______ and it is now ______ o’clock. I am interviewing ______ at ______.

‘As you can see, we have a video-camera and microphones here. They will record our conversation so I can remember everything you tell me. Sometimes I forget things and the recorder allows me to listen to you without having to write everything down.’

‘Part of my job is to talk to children [teenagers] about things that have happened to them. I meet with lots of children [teenagers] so that they can tell me the truth about things that have happened to them. So, before we begin, I want to make sure that you understand how important it is to
2. ‘That would not be true, because my shoes are really [black/blue/etc.]. And if I say that I am sitting down now, would that be true or not true [right or not right]?”

[Wait for an answer.]”

3. ‘It would be [true/right], because you can see I am really sitting down.’

‘I see that you understand what telling the truth means. It is very important that you only tell me the truth today. You should only tell me about things that really happened to you.’

[Pause.]

4. ‘If I ask a question that you don’t understand, just say, “I don’t understand.” Okay?”

[Pause]

‘If I don’t understand what you say, I’ll ask you to explain.’

[Pause.]

5. ‘If I ask a question, and you don’t know the answer, just tell me, “I don’t know”.’

‘So, if I ask you, ‘What is my dog’s name?’ [Or “my son’s name”] what would you say?”

[Wait for an answer.]

[If the child says, ‘I don’t know’, say:]

6. ‘Right. You don’t know, do you?”

[If the child offers a GUESS, say:]

‘No, you don’t know because you don’t know me. When you don’t know the answer, don’t guess – say that you don’t know.’
II. RAPPORT BUILDING

‘Now I want to get to know you better.’

1. ‘Tell me about things you like to do.’
   [Wait for child to respond.]
   [If the child gives a fairly detailed response, skip to question 3.]
   [If the child does not answer, gives a short answer, or gets stuck, you can ask:]

2. ‘I really want to know you better. I need you to tell me about the things you like to do.’
   [Wait for an answer.]

3. ‘Tell me more about [activity the child has mentioned in his/her account. AVOID FOCUSING ON TV, VIDEOS, AND FANTASY].’
   [Wait for an answer.]
Before the interview, identify a recent event the child experienced – first day of school, birthday party, holiday celebration, etc. – then ask these questions about that event. If possible, choose an event that took place at about the same time as the alleged or suspected abuse. If the alleged abuse took place during a specific day or event, ask about a different event.

'I want to know more about you and the things you do.'

1. ‘A few [days/weeks] ago was [holiday/birthday party/the first day of school/other event]. Tell me everything that happened on [your birthday, Easter, etc.]’

   [Wait for an answer.]

1a. ‘Think hard about [activity or event] and tell me what happened on that day from the time you got up that morning until [some portion of the event mentioned by the child in response to the previous question].’

   [Wait for an answer.]

   [Note: Use this question as often as needed throughout this section.]
“Takes too much time”

- Brubacher et al., (2009) showed 5-7 minutes of practice produced benefits, and that interviews were no longer in total.

“It will tire the child out”

- Practice interviews result in more information being willingly provided, so it is illogical to conclude that the practice interview leads to fatigue.

“The children I interview just want to get to the point”

- It may seem like a good idea to harness the child’s apparent eagerness, and if the child has already disclosed it may feel foolish to stop the child from talking about alleged abuse.
- But children don’t know what level of detail is required
THE SUBSTANTIVE PART OF THE INTERVIEW

IV. TRANSITION TO SUBSTANTIVE ISSUES

‘Now that I know you a little better, I want to talk about why [you are here] today.’

[If the child starts to answer, wait.]
[If the child gives a summary of the allegation (e.g., ‘David touched my wee-pee’, or ‘Daddy hit me’), go to question 10]
[If the child gives a detailed description, go to question 10a]
[If the child does not make an allegation, continue with question 1.]

1. ‘I understand that something may have happened to you. Tell me everything that happened from the beginning to the end.’

[Wait for an answer.]
[If the child makes an allegation, go to question 10.]
[If the child gives a detailed description, go to question 10a.]
[If the child does not make an allegation, continue with question 2.]

2. ‘As I told you, my job is to talk to kids about things that might have happened to them. It is very important that you tell me why [you are here/ you came here/ I am here]. Tell me why you think [your mum, your dad, your grandmother] brought you here today [or ‘why you think I came to talk to you today’].’

[Wait for an answer.]
VIII. IF CHILD FAILS TO MENTION INFORMATION YOU EXPECTED

Use only the prompts that are relevant.
If you know of conversations in which the information was mentioned say:

1. ‘I heard that you talked to [ ] at [time/place]. Tell me what you talked about.’
   [If child does not provide more information, ask question 2; If child does give some more information, say:]
   ‘Tell me everything about that.’
   [Follow up with other open-ended prompts, such as ‘Tell me about that.’ If necessary.]

If you know details about prior disclosures and the information has not been disclosed to you, say:
2. ‘I heard [s/he told me] you said [summarize allegation, specifically but without mentioning incriminating details if possible]. Tell me everything about that.’
   [Follow up with other open-ended prompts, such as ‘Tell me about that.’ If necessary.]

3. If something was observed, say:
   a. ‘I heard that someone saw [ ]. Tell me everything about that.’
IX. INFORMATION ABOUT THE DISCLOSURE

‘You’ve told me why you came to talk to me today. You’ve given me lots of information and that really helps me to understand what happened.’

[If child has mentioned telling someone about the incident(s), go to question 6. If child has not mentioned telling anyone, probe about possible immediate disclosure by saying:]

1. ‘Tell me what happened after [the last incident].’
   [Wait for an answer.]
2. ‘And then what happened?’
   [Note: Use this question as often as needed throughout this section.]

[If the child mentions a disclosure, go to question 6. If not, ask the following questions.]

3. ‘Does anybody else know what happened?’
   [Wait for an answer. If the child identifies someone, go to Question 6.]
   [If the child confirms but does not mention the name, ask:]
   ‘Who?’
   [Wait for an answer. If the child identifies someone, go to Question 6.]
4. ‘Now I want to understand how other people found out about [the last incident].’
X. CLOSING

[Say:]
‘You have told me lots of things today, and I want to thank you for helping me.’

1. ‘Is there anything else you think I should know?’
   [Wait for an answer.]
2. ‘Is there anything you want to tell me?’
   [Wait for an answer.]
3. ‘Are there any questions you want to ask me?’
   [Wait for an answer.]
4. ‘If you want to talk to me again, you can call me at this phone number.’ [Hand the child a card with your name and phone number.]

XI. NEUTRAL TOPIC

‘What are you going to do today after you leave here?’
[Talk to the child for a couple of minutes about a neutral topic.]
‘It’s [specify time] and this interview is now complete.’
The NICHD Protocol: pre v post training

**Pre-Protocol**
- Open-prompt: 28%
- Directive: 40%
- Option-Posing: 14%
- Suggestive: 18%

**Protocol**
- Open-prompt: 47%
- Directive: 18%
- Option-Posing: 23%
- Suggestive: 7%
• Using the same standardised approach with all children has advantages
  – Personal biases such as underestimating children’s capabilities, or those resulting from knowing certain case characteristics, are minimised;
  – Forensic interviewers sometimes also lack self-awareness or self-monitoring regarding their own interviewing practices and thus a standardised format aids in efforts to maintain desirable interview standards;

• The NICHD protocol has been validated in over 40,000 interviews worldwide.

http://nichdprotocol.com/

See also David La Rooy’s lecture: https://www.youtube.com/watch?v=RQrHRqrPG8
Information on child suggestibility


See also Science in the Courtroom with Maggie Bruck: [http://www.youtube.com/watch?v=l4W5mBwtdDE](http://www.youtube.com/watch?v=l4W5mBwtdDE)
Older adult’s cognitive abilities presents challenges for interviewers

**Perception:**
Less efficient processing capacities (sight and hearing).

**Encoding:**
Difficulties associating or linking items of information to form whole episodic memories, and transferring this information into long-term memory.

**Retrieval:**
Difficulties discriminating between the source of memories.
Where straightforward comparisons have been made between different age groups, young adults have been found to be significantly superior to older adults in many eyewitness skills –

- Accuracy of recall for perpetrator characteristics
- Details of actions and events
- Identification accuracy
  - Older adults are particularly susceptible to ‘false recognition’
Yarmey (2001)

- Explored differences in recall between young adults (mean age 21 years) and older adults (mean age 70 years).

- Found young adults were –
  - 20% more accurate in free recall
  - 13% more accurate in cued recall
  - 15% more complete in their person descriptions
Karpel et al. (2001) and Mitchell et al. (2003)

- Explored age differences in source monitoring performance between young and older adults.
- Found older adults were –
  - More likely than young adults to report information that had been suggested to them, rather than actually seen.
  - More confident when erroneously reporting suggested information
Memon, Meissner, & Fraser (2010)

- Across five studies comparing recall performance between younger and older adults in a Cognitive Interview, it was found that “Older adults benefit even more from the CI than younger adults” (p359).

- Older Adults benefit more from retrieval support than younger adults.

- Using interview skills and techniques to facilitate remembering, such as cuing memory through mental reinstatement of context, or eliciting and using self-generated cues, can help older adults access target information.
Cognitive abilities decline as we age

Older adults are suggestible
• Interviewers should be particularly mindful that older witnesses may be more suggestible than younger adults.
• Care is therefore needed when questioning older adults; avoid any suggestive interview techniques.
• Be aware that information has been suggested to older adults is likely to be reported confidently, as if it is their own memory.

However! Interview techniques that provide retrieval support can compensate for age related deficits in recall to some extent.


Review questions

1. What developmental factors should you be aware of when interviewing children?
   - What effects might these have on the reliability of the reported memory?
   - What steps can you take to increase the reliability of information elicited when interviewing a child victim or witness?

1. What factors should you be aware of when interviewing older adults?
   - What effects might these have on the reliability of the reported memory?
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