

## Chapter 7

# Interviewing

Interviewing relevant witnesses is a key component in the investigation process, as it provides insight, understanding, and evidence regarding the abuse allegations. Researchers recommend that maltreated children have as few investigative interviews as possible because these sessions are distressful and may result in children making inconsistent statements across interviews due to the different questioning styles employed by each interviewer (American Prosecutors Research Institute, 2004). Initially, children should have a minimal fact-finding interview with a first responder (e.g., child protective services [CPS] worker, emergency hospital intake nurse). If this person deems it necessary, a follow-up investigative fact-finding interview can then be conducted by a formally trained investigator—typically someone who is part of a multidisciplinary team (MDT). In other words, the mandated reporter or first responder uses the victim’s answers to assess the severity of maltreatment and decides whether the child’s immediate safety is at risk, including the need to take the child into emergency protective custody; an immediate medical examination and care (preferably at a child advocacy center for sexual and physical abuse) and/or therapeutic counseling services should be provided; and a follow-up investigative fact-finding interview is required.

This chapter describes the linguistic and cognitive abilities needed by children during interviews to recall personal experiences, as well as findings from the developmental literature on event memory and interviewing. It also examines components of the interview, alternative forensic assessments, and interviewer techniques; reviews advantages and disadvantages of various interview techniques in light of the developmental capacity of children and adolescents; and provides recommendations. Finally, it focuses on the advantages and disadvantages of nonverbal assessments that sometimes are used to supplement interviews and the corresponding indicators (e.g., lying) that may affect witness reliability.

## Fact-Finding Interview Protocol

The fact-finding interview protocol provides the best practices approach to gathering evidence through testimony. It is very important that the interviewer considers the interviewee's cognitive and linguistic abilities when designing the questions used to elicit information about the alleged maltreatment (Saywitz & Snyder, 1996). The interviewer will need to determine the developmental ability of the interviewee regardless of that person's chronological age and to find a way to make the interviewee comfortable with the interview process. The ideal interview setting for any interviewee is a neutral room that contains few distractions, particularly as the victim will feel vulnerable and stressed by the discussion of maltreatment. Typically the room for investigative interviews will be clean and uncluttered and will have either a child-sized table and chairs or rugs and pillows on the floor to allow the child and interviewer to stay at eye level. Although the first responder rarely has the option of where to interview the child victim, an attempt should be made to emulate closely the described ideal setting. Most importantly, the interviewer must stay attuned to the child's comfort and anxiety levels, providing breaks and snacks whenever the child becomes restless or unfocused (but should never use these as bribes to gain compliance). Another key element is that the investigative interview room should have either a closed-circuit monitor or a one-way mirror to allow the MDT to observe the interview.

The investigative interview plan focuses on decisions that interviewers need to make in the interview protocol. As such, it is relevant for anyone who will need to question a child victim. Specifically, a mandated reporter or first responder will conduct a minimal fact-finding interview with the child victim(s) to determine what harm (if any) has been done, evaluate the risk to safety for the child victim(s) immediately and in the future (such as the need for emergency protective custody), identify which services (if any) may be needed (e.g., medical examination and care), and decide whether further investigation should be conducted. Additionally, an investigator will interview the child victim(s) and anyone else who could provide information relevant to the case (i.e., investigative fact finding).

## Investigative Interview Plan

*Who should be interviewed and in which order?* The first decision the interviewer must make is to determine who should be interviewed. The interviewer should speak with the person who made the report, the child victim, witnesses (e.g., family members, acquaintances, neighbors, peers), collateral sources (e.g., professionals, such as teachers, coaches, law enforcement officers, medical personnel, and psychologists), the nonoffending parent/guardian(s), and the suspect (Pence, 2011).

Once the list of relevant parties is compiled, the second decision is to determine the order in which to interview them. This requires careful thought, as the outcome of the investigation may be affected by the evidence gathered during each interview (Pence & Wilson, 1994). It is desirable for the interviewer to speak directly with the person who made the report, but this may depend on availability of the reporter, the jurisdiction,

use of a coordinated MDT to conduct the investigation, and the means by which the report was made (e.g., child abuse hotline, agency, police). The goal of the interview with the reporter is to ascertain the person's motive and credibility, details of the abuse as described by the child, the means by which the abuse was disclosed (e.g., spontaneously, in response to direct questions), additional witnesses to the abuse and/or disclosure, the reporter's concerns about the child's and others' safety, other agencies or individuals contacted, and any information necessary to enhance understanding of the abuser's motives (Pence, 2011).

Recommendations for interview order dictate that the interviewer obtain testimony from the child victim(s) first, but there are two options for how to proceed beyond this point. One option is to interview the alleged perpetrator as a means of keeping the suspect unbalanced and ill prepared to respond to questions. The other option is to gather evidence about the maltreatment and learn about the alleged perpetrator, thus, ending with the interview of the suspect (Pence, 2011). Regardless of which option is selected, the interview procedure should continue with children who live in the same home as the victim (siblings, relatives, nonrelatives), followed by nonoffending adults who live in the home (e.g., caregiver/parent, relatives, nonrelatives), and then by collateral parties and professionals (e.g., neighbors, schoolmates, friends, teachers, pediatricians, psychologists, medical personnel conducting maltreatment assessment).

*Which documentation option should you select?* A third decision the interviewer must make is which documentation option to use—interviewer and observer note-taking, audio recording, and/or video recording (Pence & Wilson, 1994). It is recommended that interviewers obtain detailed, accurate verbal statements and record the accompanying emotions and behavioral indices from children who witness or allege abuse, as well as the investigative questions and both behavioral and verbal responses by the interviewer. Although ideally more than one method should be used for documentation, such an approach is not always practical. Therefore, the advantages and disadvantages of the various options must be considered:

- Notes have the advantage of not making the interview process subject to evaluation, but the disadvantage of not accurately representing all that the child stated or nonverbal cues perceived by the interviewer/observer.
- Audio provides an accurate recording of what the child stated and the questions asked by the interviewer, but have the disadvantages of exposing errors in the interview procedure, missing nonverbal cues, or misconstruing statements made by the child.
- Video has several advantages, including producing an accurate recording of the child's statements and nonverbal responses (e.g., facial expressions, body language, physical reactions), reducing the number of interviews needed because other agencies will have access to the recording, providing a record for the nonoffending parent to review, encouraging plea bargains, allowing the child to watch may refresh his or her memory for the testimony, and using

the video for grand jury inquiry instead of live testimony (Myers, 1993; Perry & McAuliff, 1993; Perry, McAuliff, Tam, Claycomb, Dostal, & Flanagan, 1995). Disadvantages of video are that juries become overly concerned with using them rather than other evidence, and the defense can use the video to expose inconsistencies in statements made by the victim, point out problems with interview techniques, and highlight these problems so as to raise doubts about the credibility of the victim.

In some jurisdictions, policies dictate which interview documentation option interviewers must use. Nevertheless, this decision varies within the same state or even from city to city, and depends on whether the case is being considered for prosecution in criminal court or will be retained in family court. For example, the five boroughs of New York City (considered separate counties) vary in their requirements for investigation of potential criminal cases. In Brooklyn, the interviewer videos the interview in the child advocacy center while simultaneously sending a live feed to the district attorney (DA)/prosecutor, who, in turn, at the recommendation of the investigating officer, presents the video to the grand jury. In the Bronx, only the DA/prosecutor interviews the child at the child advocacy center, recording the exchange through notes, which are then used to present evidence to the grand jury.

### *Fact-Finding Investigative Interview Goals*

The goal of the investigative interviews with the child victim(s) and witness(es) is to obtain information about the alleged maltreatment against the victim(s). Consequently, these interviews should address the circumstances surrounding the maltreatment (e.g., which activities were performed prior to and subsequent to the maltreatment), the causal mechanism for physical injuries (e.g., explain how injuries occurred, which weapon or implement was used and its current location), who perpetrated the harm (i.e., reveal the offender), the degree of harm (e.g., was there bleeding, pain, or any bloody or stained clothing), supplemental information (e.g., the names of other witnesses, the name of the person to whom the child disclosed information about the incident, whether coercion was used to prevent the child from reporting any incident and/or to keep the child from resisting the maltreating incident), and the general quality of the parent-child relationship (e.g., determine who is the main caretaker and disciplinarian, which parenting style is used, how this child and other children in the household are disciplined, what the results of discipline have been in the past for this victim and for siblings). Interviews of siblings and other children and adults in the home should similarly ascertain the surrounding circumstances; descriptions and observations of the alleged perpetrator, maltreatment, and consequences; and confirmation of the parent-child relationship for the victim and themselves.

The overall goals of interviewing the parents/caregivers are to determine each one's strengths and weaknesses and to understand the relationship between the parent and the child so as to assess present and future risk for maltreatment. Parents should be asked

to provide a description of their parent–child relationship with the child victim and with other children in the household, their parenting style, the discipline techniques typically used and sometimes used for specific infractions, and the misbehaviors of the child victim and other children. This information will allow the interviewer to determine the nonoffending parent’s ability to protect children against future incidents (which will become important when CPS is deciding whether to leave the child in the home). Interviewers should also obtain a social history, including the current family characteristics and dynamics. Attempts should be made to learn the parents’ past (i.e., family) and current (e.g., neighborhood) cultural influences, as these factors will impact their parenting, as well as whether they have relationships (and which type of relationships they have) with their own parents and siblings. Other factors that affect family functioning and risk for abuse should be assessed, such as academic and vocation history, military service, legal history, physical history, substance use, emotional/psychological issues, and a detailed marital history.

In the interview with the nonoffending caregiver who was present during the maltreatment, the goal is to obtain corroboration of the circumstances, causal mechanism, person who perpetrated the maltreatment, and degree of harm. Even if the nonoffending caregiver was not present during the incident, this person may be able to provide a timeline of when the injuries were first noticed, what type of care was provided, and the explanation provided by the child victim (and by the alleged perpetrator) for the symptom or injury. This person may also be able to provide his or her own observations, report past incidents of a similar nature with explanations of how these events occurred, and give his or her interpretations and suggestions for questioning the perpetrator and protecting the child. If this person was the one to whom the child disclosed maltreatment, then obtain information regarding the circumstances under which the disclosure occurred, the wording of the disclosure itself, and the reaction and questioning following disclosure, as well as previous incidents that were observed and their explanations. The interviews of collateral parties and professionals should be geared toward gleaning information that will aid in confirming or disconfirming maltreatment, including, but not limited, to these persons’ observations of the child’s physical and mental health prior to and subsequent to the maltreatment incident, disclosures of maltreatment (if any), and evaluations and descriptions of the child’s socioemotional interactions with the caregivers, family members, and others (e.g., friends, peers).

The goal of the suspect interview is to obtain preliminary statements regarding the suspect’s perception of the event leading to alleged maltreatment. The investigator will inform the suspect of his or her role in this process, build rapport, and then progress to interviewing the suspect based on already obtained information from other parties. Investigators should ask the suspect to describe his or her relationship with the child, responsibilities (if any) the person has in providing care, and activities he or she engaged in prior to, during, and subsequent to the alleged maltreatment. These statements may indicate a plausible, alternative account (e.g., “He bruises easily because of a medical condition”);

reasons (e.g., “She wanted me to do it”); or excuses (e.g., “I was drunk”) for the child’s statements, injuries, and/or symptoms to confirm or disconfirm maltreatment.

### ***Recommended Fact-Finding Interview***

The primary purpose of the fact-finding interview is to gather facts related to the incident as a means of ascertaining whether the child’s safety is at risk, either imminently or in the future. A secondary purpose is to determine whether the perpetrator of the maltreatment should be prosecuted criminally. Consequently, questions should focus on the events, including their location and timing, and the identification of the alleged perpetrator(s), other witnesses, and other victims. For both types of fact-finding interviews, only general, open-ended questions should be asked. Minimal fact-finding interviewers should avoid follow-up questions to obtain details while acknowledging that they are taking the child’s allegations seriously. It is imperative that the interviewer be respectful and listen to the child victim rather than interrupting and challenging what is stated (even if the story is fragmented), keeping in mind that the topic being discussed is a traumatic experience. Many jurisdictions have established their own minimal and investigative fact-finding forensic interview protocols and require their staff to be trained in how to use them properly.

### **Types of Questions**

Various types of questions could be used in a fact-finding interview to elicit information about an experience. The best questions to ask are open-ended ones in which no information is provided (e.g., “What happened?” or “Tell me everything you can about what happened”), thereby allowing the child to determine what should be reported about the experience. These should be followed up with general prompts to obtain additional details (e.g., “What else?” or “Then what?” or “What happened next?”) and to get clarification (e.g., “You said \_\_\_\_\_. Tell me more about that \_\_\_\_\_.”). Interviewers could also use neutral acknowledgments, such as “uh huh” or “hmm,” to encourage the child to expand or to continue with what is being said. Specific, nonleading questions are also appropriate to ask children as a follow-up to their statements as these can address temporal sequencing of the event (e.g., “Start with the first thing that happened from the beginning to the end.”). Prompts can be used, when needed, to get additional details of the sequence (e.g., “What happened after your father left the room?”) and people, events, and objects associated with the event (e.g., “You said the babysitter hit you. What is the name of the babysitter?” or “You said you were wearing pajamas. What color were your pajamas?”).

Three types of questions—namely, closed-ended, yes/no, and leading questions—should be avoided. Multiple-choice, closed-ended questions provide a set of limited options from which the child may choose (e.g., “Were you attacked at home or in school?”). There are four problems with this type of question. First, it produces options that may not include the correct answer (e.g., “Were the pajamas red, blue, or green?” when they were yellow). Second, it creates pressure for children to select one of the options, particularly if the



information is not remembered. Third, simply mentioning these choices may prevent children from remembering the actual information or, even worse, may replace it. Fourth, closed-ended questioning assumes that children will state the correct answer spontaneously or will be able to inform the interviewer when the correct answer is not present among the choices.

Yes/no questions may provide general (e.g., “Did he tell you anything?”) or specific (e.g., “Did he tell you to keep the game a secret?” and “Did that happen to you after school?”) information to which children must respond yes or no. Such questions make it difficult for children to respond, “I don’t know,” when they do not know, remember, or understand the question because they feel pressure to produce a response (Poole & Lindsay, 2001). It is also possible that children may get locked into a “response bias,” in which they keep responding the same way, with only yes or only no (they may even “sing” it: “Yes, Yes, Yes”) to every question.

Four specific types of yes/no questions are possible. A negative format is used for both *negative-term* yes/no questions (e.g., “Didn’t he tell you to keep the game a secret?” and “Isn’t it true that your mother knew Tom would hurt you if he stayed”) and for *double-negative* yes/no questions (e.g., “Didn’t he tell you not to tell anyone?” and “Is it true that your mother didn’t know that Tom would not hurt you if he stayed?”). Children may feel pressure to answer “yes” even if they do not know what they are affirming (i.e., “He didn’t tell me” or “He did tell me”). *Tag-ending* yes/no questions also require a response, but are worded as a statement followed by a question for children to answer (e.g., “You are scared to go to your Dad’s home, aren’t you?” and “This happens to you after school, doesn’t it?”). This order of words may be confusing for children to understand and answer (i.e., does “yes” mean “I am scared” or “I am not scared?”). *Compound/double-barrel* yes/no questions contain more than one question within the structure (e.g., “Isn’t it true that your mother knew Tom would hurt you if he stayed and she did so because you made her angry?”). It is impossible to know whether the child’s answer of yes or no is in response to the first or second question. Moreover, such a structure does not necessarily provide an opportunity for the child to inform the interviewer that the question contained a mixture of true and false information. That is, the child may agree with information in one question, but disagree with information in the other question. In addition, this format requires children to hold two or more pieces of information in their minds simultaneously and to consider all the parts before responding, yet either task alone is difficult for them to do.

Leading questions suggest information that the child has not yet provided (hence, they are also called suggestive questions). If the information in the question is correct, it is considered a positive leading question (e.g., “Were the pajamas yellow?” when they were yellow). If the information in the question is incorrect, it is considered a negative or misleading question (e.g., “Were the pajamas blue?” when they were yellow). These types of questions are inherently problematic, as interviewers could not possibly know which information is correct or incorrect. Children may not be capable of resisting the suggestions, and the suggestions can become incorporated into their memories.

**Investigative Interview Format**

The Step-wise Interview (SI; Yuille, Hunter, Joff, & Zaparniuk, 1993) attempts to minimize inaccurate reporting by gradually increasing specificity in questions, starting with free recall and progressing to directive questions for clarification and elaboration of already mentioned information (without inquiring about anything that was not indicated directly by the child). The Enhanced Cognitive Interview (ECI; Geiselman & Fisher, 1997) was designed to enhance field interviews with crime victims and witnesses who often show emotional signs of their trauma and have difficulty in providing critical information. It was modified for use with children (e.g., Saywitz, Geiselman, & Bornstein, 1992) and has been adopted by the United Kingdom as the formal investigative interviewing procedure for children (see Bull, 1996; Bull & Corran, 2002). The ECI begins with an introduction and rapport-building phase that sets up the social dynamics of the interchange between the witness, who actively generates testimony, and the interviewer, who actively listens and provides support. This procedure seems effective in increasing the amount of correct information in reports by older children and adults, but the retrieval methods require perspective taking that is beyond the limited cognitive capacity of preschoolers (Qin, Quas, Redlich, & Goodman, 1997).

The recommendations for interviewing strategies presented here are based on training obtained by Lauren Shapiro under the auspices of Peter Ornstein at the University of North Carolina in Chapel Hill and on interviewing and interrogation practices used by Marie-Helen Maras during U.S. Navy investigations. The authors recommend a combination of these two interview protocols as the ideal investigative interview format to obtain testimony for all forms of maltreatment, regardless of whether an episode occurred only once or repeatedly (also see Bull & Corran, 2002; Price & Roberts, 2007; Saywitz & Snyder, 1996). The following description organizes the best practice approach into five phases.

*Phase 1: Rapport development and narrative practice.* The interviewer talks to the child about neutral topics to encourage him or her to relax, establish credibility, and develop rapport. A few toys can be kept in the room, as allowing the child to play with them should reduce some of the distress from being interviewed. To determine the child's ability to describe personal experiences completely, accurately, and with detail, the child should be asked about two past experiences, unrelated to the maltreatment, using nonleading, open-ended questions (e.g., "Tell me more" and "What happened next?"). The interviewer should ask the child about a recent or personally relevant event (e.g., birthday party, trip to the zoo). A chronological narrative of the experience may be obtained by requesting, "Tell me what happened from the time you got out of bed until the time you went home." Nonleading prompts should be given until the child indicates he or she is finished as a way for the interviewer to model the questioning format. The goal is to obtain information about the people who participated in the event, the location, and other details. This phase of the questioning provides the interviewer with an opportunity to assess the child's developmental skills and adjust questions as needed.

*Phase 2: Transition and interview preparation instructions.* The interviewer prepares the child in a few ways. First, an explanation of the expectations, rules, and role the child has in the



interview process is provided. Specifically, the child is informed that the interviewer was not there, so only the child knows what happened and the interviewer needs the child to tell him or her everything that the child remembers. The child should be told, “I want you to tell me only what you really remember” and given permission to (1) state “I don’t know” and “I don’t remember,” when he or she does not know or forgot; (2) state “I don’t understand/know what you mean,” when the child is confused about the question; (3) state “I don’t want to tell you,” if the child is uncomfortable providing the information or otherwise does not want to respond; and (4) correct the interviewer when a question or statement is incorrect. Second, the child should be told that sometimes the interviewer will ask a question more than one time, but that does not mean the child should change the answer; instead, the child should be reminded to state simply what he or she remembers. This is also an opportunity to determine the child’s ability to distinguish between truth/lie and fantasy/reality through the use of specific questions. Finally, ask the child to promise to tell the truth.

*Phase 3: Narrative of maltreatment.* The interviewer informs the child of the purpose of the interview. To introduce the topic, the interviewer will state, “Tell me the reason you came to talk to me today.” If the child is unresponsive, the interviewer can provide various focused questions based on the child’s previous disclosure or reasons for abuse without using suggestive statements, such as “I heard that you saw/spoke to a police officer/social worker/doctor/teacher today/yesterday/last week. Tell me what you talked about.” The interviewer could also state, “My job is to talk to children about things that happened to them. It is very important that I understand why you are here today.”

Once the topic is introduced, the interviewer will ask the child to “Picture that time as if you were there right now. Think about what it was like there. Tell me out loud.” The interviewer should help the child to focus on people and any sense-related information (e.g., sounds, feelings, smells). The interviewer should then elicit information in a free narrative format, allowing the child to describe the event from beginning to end without interruption (i.e., do not correct or challenge, simply listen), waiting for a lull to use general, open-ended prompts (e.g., “What else happened? Then what?”) and clarification prompts (e.g., “Tell me more about that”). Avoid repeating questions unless you need clarification, and do not ask questions that may be answered yes/no without elaboration (e.g., “Can you . . . ?” “Do you . . . ?” “Is there . . . ?”). To obtain information about individual episodes in recurrent maltreatment, avoid present-tense language that elicits what generally happens rather than what happened during a particular time.

*Phase 4: Specific questions.* Make sure you use plain language and simple sentence structure, checking periodically for comprehension. Specific nonleading questions about the event may be used to elicit additional details about a person, object, or action (e.g., “You told me X was there. Tell me more.” “You saw Y on the desk? What is Y?” “You said that P came over to you. Tell me everything about that.”). To determine if the child’s description was complete, the interviewer should ask the child to recall the events in reverse order (bearing in mind this task is difficult for young children to do), starting at the end and

then proceeding toward the middle and the beginning, as prompted (“What happened right before that?”). It is *not* recommended that the interviewer use memory joggling techniques to produce additional details, such as going through the alphabet one letter at a time to recall a forgotten name or asking the child if anyone’s voice or characteristics remind them of the perpetrator, as these suggestive techniques can backfire (i.e., make the child think the wrong information introduced in the interview had instead been experienced). If the child is capable of understanding perspective taking, he or she may be able to provide the report from another’s point of view (e.g., “What would your teddy bear say happened last night?” when a child is hesitant to report child sexual abuse). The interviewer should conclude with final fact checking to give the child one last opportunity to clarify or provide additional details.

*Phase 5: Closure.* At this point, you need to return to discussing neutral topics (e.g., television, movies, music). It is also important that you inform the child of the procedure from this point forward (e.g., if someone else will be talking to the child) and provide the child with an opportunity to ask questions. The child may have developed false conceptions of what happened in the experience or what will happen to him or her and to his or her family that you are obligated to dispel. Finally, thank the child for his or her time and for talking with you.

### **Forensic Assessment Tools: Advantages and Disadvantages**

Young children, who typically are the only witnesses to their maltreatment, often have difficulty providing detailed descriptions of their traumatic experiences (Ceci & Bruck, 1995). However, because their exhibited physical symptoms and behavioral signs are not always considered definitive evidence of abuse, their testimony becomes the prime source used to prosecute their perpetrator. Additionally, children may be hesitant to recount details of their maltreatment or their emotional reaction to it, choosing instead to show what happened to them (Boat & Everson, 1988). Consequently, several nonverbal, forensic investigative tools have been developed to facilitate testimony, including simple free drawing, playhouses, conventional dolls, puppets, projective cards, play dough, games, and anatomically detailed body drawings and dolls (Kendall-Tackett, 1992). These tools may help children to express behaviorally what they cannot verbalize because they do not know the names for the body parts that were touched or the actions performed on them (Everson & Boat, 1994). However, researchers warn that these tools are not valid or reliable diagnostic assessment techniques and are likely to taint testimony when the interviewer lacks training, does not use the instruction manual, does not follow standard protocol (see the practice guidelines developed by the American Professional Society on the Abuse of Children, 2012), or encourages the child to pretend (Boat & Everson, 1988; Pence & Wilson, 1994; Underwager & Wakefield, 1995).

The controversy is greatest regarding the use of anatomically correct dolls—which are soft and have clothes that are easily disrobed, hands with individual fingers, and penises that can be inserted into holes in the mouth, anus, and vagina (mature dolls have pubic