

Guidance for Law Enforcement when Interviewing Adults with Disabilities

Preparation for the Interview:

- Talk to collaterals about how the individual acts and communicates. How do they act when stressed? Suggestions for reducing stress?
- Evaluate if the interviewer's gender, age, clothing (such as a uniform or uniform equipment), culture, etc. will affect the interview and how those possible barriers can be addressed.
- If working with a Multi-disciplinary Team, does the team have a disability specialist?
- Determine if the individual uses assistive technology or a translator and assure these resources will be available at the interview.
- Do not touch the individual or their assistive technology devices unless encouraged/directed by the individual being interviewed.

Adults who are described as "non-verbal":

- Does the individual have any vocabulary?
- How does the individual communicate? How do they get their needs met?
- Can the individual respond to yes/no questions?

Dealing with Stress:

- Tell the individual at the beginning that you will take breaks and he/she can ask for a break whenever needed.
- Bring materials to interview a victim can use if he/she becomes stressed (e.g., drawing paper, pens and pencils, stress balls, etc.).
- Take a break when signs of stress become apparent (e.g., rocking, pacing, vocalizing).

Interview Tips:

- Use age-appropriate language.
- Be patient and respectful.
- Speak to the individual, not the interpreter.
- Minimize distractions.
- Avoid "why" questions as they may imply blame and may not result in a concrete answer.
- Use concrete language, avoid abstractions.
- Do not force eye contact.
- Sit at the individual's level, do not tower above them.
- Do not expect individual to provide a chronologically ordered account.

Questioning:

- Acknowledge something has happened to the individual and that interview is an open and non-judgmental environment:
 - "I am sorry you experienced ...".
- Be empathetic and address any fears or self-blame:
 - I can understand your fears.
 - This experience is not about what you did or did not do...This experience is not your fault...
 - Repeat back what you heard the individual say to confirm you understand accurately.
 - You said...Is that correct? Did I understand you correctly?

- Provide guidance on how to respond to questions:
 - Tell me everything you are able to recall, even if it seems unimportant. Such information may trigger a memory of more important information.
- Frame questions in trauma-informed ways:
 - What are you able to remember about this experience?
 - Do not ask the individual to start at the beginning.
 - Ask about sensory impressions — sights, sounds, smells, and feelings before, during and after the experience.
 - Explore how the experience affected the individual physically and emotionally.
- Good questions
 - Tell me more about...
 - What did you do next...
 - What were you feeling...
 - What were you thinking... (not why didn't you ...?)
- Keep interview moving along using active listening skills.
- End by thanking the individual, telling them what to do if they recall more, and what will happen next (that is under interviewer's control).

Sources:

National Alzheimer's and Dementia Resource Center

Intellectual and Developmental Disabilities and Dementia: Practical Strategies for Professionals, Section 5: Communicating with Individuals Living with Intellectual and Developmental Disabilities and Dementia (2019)

Link: <https://nadrc.acl.gov/details?search1=169>

VERA Institute of Justice

Supporting Crime Victims with Disabilities On-Line Training Toolkit, National Resource Center for Reaching Victims (2020)

Link: <https://www.reachingvictims.org/resource/supporting-crime-victims-with-disabilities-online-training-toolkit/>

Office for Victims of Crime

Victims with Disabilities: The Forensic Interview-Techniques for Interviewing Victims with Communication and/or Cognitive Disabilities (DVD and Guidebook), (2012) NCJ 234678

Link: <https://ovc.ojp.gov/library/publications/victims-disabilities-forensic-interview-techniques-interviewing-victims>

Interviewing Older Adults and Adults with Disabilities

A critical law enforcement investigative step is the ability to interview victims who are elderly or have disabilities. The victim's situation will often dictate whether the person can be interviewed at all, and if so, the type of interview that can be conducted. Most older victims do not have dementia or other cognitive conditions.¹ Absent evidence to the contrary, an interview should be attempted if the victim can be interviewed.

Interviewing Older Adults

Around age 60, there are changes in the normally aging brain that affect interviews. Processing speed slows so it takes longer for a person to take in a question, find the answer within the brain, and respond. Additionally, older adults may have some difficulty with word finding. Neither of these affects the accuracy of recall or the reliability of the answers.

Interviewers should expect the interview to take longer than for younger persons and should slow their pacing to match the victim's response time. Avoid rapid fire or stacking multiple questions. Wait for questions to be answered. Do not fill the silence with another question or repeating the question that has not yet been answered. When an interviewer does any of these their actions may be construed by the person being interviewed as meaning that that what they have to say is not important or that the interviewer already knows the answer so they do not need to respond.

Victims with dementia experience and recall trauma and traumatic events. Even those who have significant memory deficits can recall traumatic events because such memories are imprinted in a different part of the brain from ordinary or routine information (e.g., what ate for lunch, routine conversation).² Even victims with advanced dementia who are unable to speak display trauma symptoms, such as changes in behavior, trying to run away, hiding under beds, and refusing to be bathed when previously they complied.³

¹ The risk of occurrence of dementia increases with age. Van der Flier WM, Scheltens P. (2005) Epidemiology and risk factors of dementia. *Journal of Neurology, Neurosurgery & Psychiatry*; **76**:v2-v7, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1765715/pdf/v076p000v2.pdf>

² Mosqueda, L., & Wiglesworth, A. (2011). People with Dementia as Witnesses to Emotional Events. *Report to the United States Department of Justice*.

³ Burgess, A., Ramsey-Klawnsnik, H., & Gregorian, S. (2008). Comparing Routes of Reporting In Elder Sexual Abuse Cases. *Elder Abuse & Neglect*, 20, 336–352

I. Interview Considerations

Timing of Interviews

First responders may have little control over the timing of an initial interview unlike investigators who can often control when victim interviews are conducted. This section offers suggestions related to timing.

Some victims will appear unable to be interviewed during the initial law enforcement response. They may be badly injured, comatose, or badly confused. In many instances, they may improve with medical care and treatment and be able to be interviewed days or weeks later.

For example, a person who is confused may be diagnosed with delirium, a reversible medical condition that results from dehydration, malnutrition, over-under-or-mismedication, an infection, or another untreated medical condition. Others may appear confused because of trauma and need time to sleep and get care. Depression is not unusual in older adults and may make a person seem confused and exhausted. With treatment, depression can be greatly improved.

In such situations the initial responder should document the person's behaviors and indicate if the person will be receiving medical or other care. If information is available about when the person may be available for interview, that information should also be documented.

Documentation should be factual. Those observations may be important evidence of a caregiver's failure to provide care, or a suspect's use of medication to keep the victim quiet and compliant, or the method an abuser used to gain control of a victim's assets.

If a victim resides in a care facility, timing of the interview may need to consider the facility's schedule so victims do not miss meals, therapy sessions, medications, and activities and so the facility can provide a quiet space for the interview or staff to assist the victim during and after the interview.

If a victim is employed or attends school, timing of the interview should be guided by the victim's schedule and preferences. If a victim will need assistance from a staff person, interpreter or communication facilitator, the interview will need to be scheduled around that person's availability.

Victims may also function better at certain times of day. Medications can improve energy and functioning or cause drowsiness or other side effects. Fatigue may mean victims need to nap. Interviewing should be built around times the victim is most alert. For some that is mid to late morning; for others it is the afternoon. Avoid guessing and check with the victim or people around the victim who are familiar with the victim's routines.

Victims may lack the stamina for a lengthy interview so it may be important to conduct more than a single session. If there are multiple sessions, avoid repeating questions directly related to possible criminal conduct already fully covered in earlier sessions unless there is a

particularized need to do so. Consider devoting the first interview to introductions, rapport building, and setting expectations.

Location of the Interview

The victim's medical needs may determine the location of an interview. Victims who are medically fragile or require 24/7 care usually will need to be interviewed where they live. Similarly, many victims living in long term care settings will be unable to travel.

Victims with dementia should be presumed to be able to be interviewed to some extent. They may become confused or disoriented by unfamiliar locations.

If the location will be somewhere not controlled by law enforcement, some of the issues for consideration are:

- The purpose of the interview
- Should the interview be memorialized and if so, how (notes, audio or video tape)
- Who should participate in the interview
- Who will conduct the interview (e.g., Will there be a forensic interviewer, a joint interview conducted with APS, will a prosecutor participate)
- Whether a support (and/or medical) person will be present
- Availability of a private location
- If a forensic interview, will the team be able to observe from another room?
Communicate with the forensic interviewer?
- Ways to maintain the confidentiality of the victim's information
- Protecting the victim's safety. Other victims may be able to be interviewed at a location selected by law enforcement.

Purpose of the Interview

Assuming that a victim may be able to be interviewed to some degree, what is the goal of the interview?

Many victims who are elderly and/or live with disabilities can be fully interviewed in the same way a younger crime victim would be. Interviewers should monitor for fatigue, sensory impairments, and human needs (e.g., bathroom, medication, food) that may affect the quality of the interview.

Some victims may not be able to be interviewed about the facts due to advanced dementia or other cognitive or medical conditions. Even in such cases, it may be worth attempting an interview; not to discover facts or to prove a crime element, but to overcome a likely claim of consent, to demonstrate that the victim could not understand a document they signed, to show how obvious their impairment would have been to the suspect, or to show their vulnerability to undue influence. It is suggested that investigators discuss with the prosecutor whether to conduct such an interview.

In some cases where the available evidence is very strong, it may be possible to focus the interview on basic facts such as: what happened, where did it occur, when did it happen and how many times, who is the perpetrator, are there any witnesses or other victims, does victim need medical care, and what needs to be done to protect the victim. These interviews may be especially helpful when the victim is hesitant, likely to recant, fears retaliation, is dependent on the perpetrator, is trying to protect the perpetrator, or provides care to the perpetrator.

Forensic interviews should be conducted by a trained and certified forensic interviewer experienced in trauma, violence, and abuse. The forensic interview (FI) is a structured conversation about events the victim may have experienced or witnessed, in order to obtain information that may be helpful in a criminal investigation, to assess the victim's need for medical treatment and psychological care and the safety of their living arrangements, and to obtain information to corroborate or refute allegations of abuse and neglect. (Cite to NCALL). FI have historically been used to interview children and some adults with disabilities but rarely to interview an older adult.⁴

While not all older victims of abuse and neglect may require a forensic interview, all interviews benefit from using forensic interview techniques including not asking leading or suggestive questions, asking the victim to describe all they recall about an event and then exploring the parts of the description in greater detail, **are trauma-informed, and victim-centered and victim-guided.**

Victims with Dementia and Cognitive Conditions Affecting Recall

When possible, review any medical records that have screened for or assessed memory and recall issues. When building rapport or before getting into the key aspects of the incident, it may be helpful to ask the victim about memory issues and what kinds of things are difficult to remember. Such information can guide the interviewer in deciding how and what to ask about the incident. Be sure to reassure the victim that it is ok to not recall every detail.

Make sure the interview location is quiet and calm. Remove distractions such as bulletin boards with clutter and turn off televisions, radios, and cell phones (or set them to vibrate).

When interviewing victims with dementia, do not discount their claims of abuse because they seem implausible. Do not expect that they will be able to provide information in chronological order; instead ask what stands out for them about the event and then build out what they recall from that initial strong memory. The clearest or strongest memories may be sensory so think about asking what the victim heard, smelled, or felt.

⁴ There is currently a pilot project funded by DOJ/FBI to develop a training curriculum and course on FI for Older Victims of Abuse and Neglect. The pilot course will be held in May, 2022. **Refer to SAFE**

Providing memory cues such as what were you doing before the incident may be helpful. People who are unable to fully describe in words what occurred may provide useful information in response to a request to draw or show you a critical object.

Keep questions short and sentences simple. Use concrete terms and avoid “why” questions that may require abstract reasoning.

The Alzheimer’s Association suggests using the “TALK” protocol when interviewing persons with dementia. These tips may also be helpful when interviewing victims with developmental disabilities.

Take it slow

Ask simple questions

Limit reality checks

Keep eye contact

Take it slow includes approaching the person slowly and from the front and speaking slowly and in a calm, low voice.

This is important because a person with dementia may perceive events as happening faster than they are. What the interviewer may think is a normal speed may be perceived as an attack. Approaching from the front reduces the element of surprise. Talking slowly and calmly increases the victim’s opportunity to understand what is asked and may reduce anxiety.

Asking simple questions is helpful because a person with dementia has trouble processing information. Simple yes/no or one-word questions are more likely to be answered. Expect even simple questions may take time for the person to answer. If a question must be repeated avoid changing even a single word because the word change can cause the person with dementia to begin processing all over again.

Limit reality checks includes not correcting the person and redirecting when necessary. This technique is useful because a person with dementia may, in his or her mind, return to an earlier time in life and truly believe they are right. Efforts to correct the person may breed distrust and increase anxiety.

Keep eye contact and use nonverbal communication is helpful because people with dementia react strongly to body language. Eye contact may enable the interviewer to build trust and rapport through eye contact, nodding and friendly open posture.⁵

⁵ National Clearinghouse on Abuse in Later Life (NCALL) (ND), Interacting with People Who Have Dementia: The TALK Protocol, available at <https://s3-us-east-2.amazonaws.com/ncall/wp-content/uploads/2020/03/20102315/AlzAssociationTALKprotocol.pdf>

Victims with Sensory Difficulties

Older adults and people with disabilities may have vision, hearing and mobility difficulties. Each of these can each affect the interview. Interviewers should determine prior to the interview if the victim has such a difficulty, how they address it, and if they rely on others or devices in order to communicate.

If the person has vision difficulties assure that they have their eyeglasses or contact lenses. If they will need to read anything be sure they are in a font large enough to be read (but note if a document at issue in the case is in a smaller font is readable). Position away from glare and near good light sources.

If the person has hearing loss determine if they use hearing aids or other assistive devices. Make sure devices and aids are in working order and are worn or used. Victims may attempt to read the interviewer's lips so make sure the interview setting has good lighting and the person is not looking into glare. The interviewer should position themselves so that the person being interviewed can see and read their lips. Avoid shouting or distorting words as these may make it more difficult for the victim to understand what is said.

If the victim appears to answer non-responsively the interviewer should consider if the question was heard accurately rather than assuming that the person has a cognitive impairment.

Mobility issues can affect where the interview is conducted. Can a person who uses a wheelchairs or cart or needs a gurney or bed be interviewed get to an interview site? Can they navigate corridors and doorways? Can they "recreate" an assault? Will they need an attendant who will need to be present in the interview room and how will that person's presence affect the victim and the quality of the interview?

Victims Who are "Non-Verbal"

Persons with disabilities are at increased risk of victimization. They may be preyed upon because they are perceived as vulnerable and less able to communicate what has happened. The presence of a disability should not preclude attempting to interview the victim and does not mean the person is an unreliable or inaccurate reporter of their victimization.

Some disabilities do restrict a person's means of communication. If told that the victim is "non verbal", the investigator should determine what that really means. Does the person speak with a very limited vocabulary, in which case they may still be able to respond with yes or no answers. They may also be able to use picture boards or other aids to communicate. Others may communicate using a computer or other assistive technology.

In short, if told that the victim cannot "speak", the investigator should determine how the person communicates, if they need a facilitator, interpreter, or other to assist, and how the

technology works. The investigator should become familiar with that technology or tool and adjust the interview to incorporate any modifications.

Accommodations

Under the Americans with Disabilities Act and other legislation, crime victims are entitled to reasonable accommodations to enable them to access the location of the interview, communicate with the interviewer, and have full access to justice.

With older adults and people with disabilities, in addition to meeting needs described above, accommodations may include:

- Amplification
- Use of real time technology so the victim is able to hear and see questions and respond in real time
- Assuring that interview rooms and areas that must be traversed to reach can be accessed by a person using a wheelchair or cane
- Permitting victim to be accompanied by service animals
- Providing support animals (also called courthouse or therapy dogs)
- Taking regular and more frequent breaks
- Assuring that victim has needed medical equipment such as oxygen, wheelchair, etc.
- Assuring that technology used by victim to communicate can be brought to and used during the interview
- Conducting interviews in settings that do not trigger problematic responses such as fluorescent lighting, background noise, busy environments
- If person must be physically guided to the interview location, giving advance notice of all actions and moves in order to provide time for person to understand and adapt to changes or movements.
- Slowing down the interview process, including logistics, questioning, and other aspects of the interview.

Working with Interpreters/Translators/Facilitators

Law enforcement regularly works with language translators. They may also work with sign language interpreters for people who are hard of hearing or deaf. They may also need to work with translators and facilitators when victims have disabilities and as a result use less familiar forms of communication in which they work with translators and facilitators. For example, a facilitator may assist a person who needs arm support in order to type responses to questions or tap a person's shoulder or leg to redirect their attention back to the interviewer's question.

Law enforcement should learn about the victim's form of communication and the translator's/facilitator's experience and training. Key is assuring that answers reflect the victim's experience and not the thoughts of the facilitator. It is suggested that the law

enforcement official consult with the state's attorney prior to conducting such an interview to prepare for possible challenges.

Law enforcement is encouraged to speak privately with the facilitator or translator to discuss the facilitator's role and law enforcement (and the facilitator's) expectations, concerns about showing the victim's responses are not influenced by the influencer.

Supporting the Victim

Interviews about criminal victimization are stressful, no matter what the possible crime. When the victim is an older adult or person with a disability, and the perpetrator is someone they know, love, or trust the interview is especially difficult. Personal relationships, practices, and secrets can all be exposed and the possibility that information revealed during an interview can result in the loss of the relationship with the abuser, other family members, or trusted others who enrich the victim's life all be barriers to disclosure and candor.

Victims may be entitled to the presence of a support person during law enforcement interviews or may benefit from that support even when not required by law. Law enforcement benefits when the support person's presence encourages the victim to speak openly and when the support person can help the victim to "debrief" and recover from the emotional toll of the interview.

Support persons should not be suspects or close associates of the suspect. Their presence may not only be intimidating but also result in disclosure of the information the victim has provided.

Ideally, support persons are advocates from victim services programs. They may be part of criminal justice agencies, community-based programs, or medical providers. What they hear in the interview can make the witnesses so they cannot offer confidentiality as to the interview. They should meet with the victim in advance of the interview and explain their role, identify victim concerns, and describe the interview process. During the interview they should not speak for the victim or direct the victim in how or when to respond. After the interview they can assist the victim by providing follow up information, connecting the victim to services, or answering questions about the process.

Law enforcement should consider meeting with the support person separately from the victim to review expectations, how the interview will be conducted, and the role of the support person. This is especially important if law enforcement has not worked with the support person previously.

Joint Interviews

Some agencies encourage or permit law enforcement and APS to conduct joint interviews of the victim/APS client. Potential benefits of joint interviews include reducing the number of times a victim is interviewed which may reduce the possibility of inconsistent statements and victim retraumatization, conserving agency time conducting repetitious interviews. APS

interviewers may be perceived as less threatening and as having greater expertise interviewing older adults and people with disabilities. On the other hand, APS and law enforcement have different roles and goals so the needs of one may not be fully addressed in a joint interview. Joint interviews require coordination to schedule and likely take longer to conduct.

Law enforcement should check agency policies and practices when considering conducting joint interviews.

The Illinois Elder Abuse Protocol supports use of joint interviews with APS. “Law enforcement and adult protective services will coordinate victim and witness interviews whenever possible. Initially, it may not be possible for a law enforcement officer to have an adult protective services caseworker present when the officer conducts preliminary interviews; however, at the later stages of the investigation every effort should be made to coordinate interviews.” (at page 13)⁶

II. Barriers to the Interview

Consider barriers to a successful interview as part of preparation. Barriers can be physical, language, attitudes and biases, prior experience, history, etc.

Physical barriers have been discussed in the prior segment. Language may prevent communication if the person to be interviewed and the interviewer do not have interpreters/translators available. Victims may speak a dialect not often spoken in the community and for which there are few sources of interpretation. Consider how a victim’s privacy and the confidentiality of the victim and the case can be protected if using a local leader or member in a small or closed community. Will the translator have allegiances and will the victim face reprisals for cooperating? Will the victim feel it is safe to answer questions at all or fully. There are similar risks if the interpreter is a family member. As alternatives, are there other communities that can provide more neutral translators? Other agencies? Can you use a language bank or line?⁷

The interviewer’s inexperience interviewing an older person or someone living with a disability can also be a barrier. In such situations, talk with a colleague with more experience before the interview. Consider having someone else with more experience participate in the interview. Or, if there are observers or team members outside the interview room ask them to suggest questions or lines of inquiry. If APS is participating in a joint interview, that person may have more experience working with clients like this victim. Consider having APS start the interview and build rapport and explore aspects of the victim’s situation. Then the officer can ask their questions trying to model APS approaches that have proven useful.

Attitudes and biases can certainly pose barriers. They can come from the victim or the interviewer and be based on historical responses, more recent events that brought groups into conflict, ageist beliefs (e.g., the interviewer is so young and reminds me of my granddaughter; the victim is so old – they must

⁶ Illinois Elder Abuse Protocol, Law Enforcement Component, Chapter 1, available at https://illinoisattorneygeneral.gov/seniors/Law%20Enforcement%20Protocol%20for%20Elder%20Abuse_rev13.pdf

⁷ Language banks may require a paid membership and the translator usually will not be available to testify in a court proceeding.

have dementia and will not be a reliable witness). Immigrants may fear loss of a sponsor or deportation if they participate in the interview. People who identify as LGBTQ may fear being “outed”, being discriminated against, losing their homes, being further victimized, or not being believed based on their identity. They may fear that by exposing abuse their entire community will be labeled as abusive.

For some, prior victimization by governmental officials may create distrust and an unwillingness to participate in an interview. For example, some victims may have come from countries where law enforcement killed people from different groups or if a bribe was not paid. American Indians were forcibly removed from their ancestral homes and forced to enter boarding schools, punished for speaking their native language, and involuntarily sterilized. And black and members of the military were long subjected to segregation, all acts by governments.

Interviewers can begin to address barriers by recognizing their own attitudes and values and how they can affect the case and the interview. They can ask others who watch or participate in the interview to watch for indications and intervene. As for victim barriers, how interviewers set the tone, describe their goals, and communicate with respect and empathy can reduce the victim’s concerns. Asking the victim at the beginning, during rapport building, and at times when the victim seems to be less responsive “What is happening? Do you have concerns? Please tell me what you are feeling? Are you ok?” can all communicate concern and your victim-centered focus.

III. Conducting the Interview Considerations

Interview Segments

Most interviews begin with introductions and rapport building which should continue until the victim appears more relaxed, calm, and less anxious. If during the interview the victim becomes upset it may be helpful to return to rapport building to restore calm.

Rapport building is a time to build trust and increase the victim’s willingness to provide information. It is also the interviewer’s opportunity to assess the victim’s level of education, communication style, how they show anxiety or fear, and obtain some information about cognitive functioning. Even when a full interview will be conducted later and the current interview is a preliminary one to determine if a crime occurred, if so, where and when, who committed it (perpetrator information), are there any witnesses, is victim safe, and does victim need immediate medical attention, spending a moment building rapport can be helpful.

An a more extensive interview, once rapport is built, the interview then turns to the reason for the interview and what happened. It is preferable to have the victim narrate everything they can tell the interviewer about the incident under investigation. Questions should be open-ended such as “please tell me everything that happened from when you got up this morning until you called the police”. The interviewer should listen and avoid interrupting. The interviewer then goes back to key parts of the narrative and seeks more information. For example, “You told me that a man in a plaid shirt came into the room, tell me everything you can recall about the man in the plaid shirt coming into the room” or “You said the man who

came into the room had something in his hand, tell me everything you remember about the man and what he had in his hand”.

Once the broad question is answered the interviewer may need to go back to more specific parts of the information, repeating broad questions about more and more narrow topics. Leading questions should be used, if at all, to confirm information. The questions should include ones that explore defenses or justifications.

One topic or incident should be completely described before moving to a different event.

Once you have asked all your questions, ask the victim if there is anything else victim wants the interviewer to know? Are there questions that the interviewer should have asked and didn't?

As the interview is concluding consider asking the victim if they have any questions for the interviewer. If the victim asks what will happen next, do not guess. If you do not know, say so. “I'm not sure. It isn't up to me to decide what happens next.”

If you will do something you can tell the victim that. “I will write up a report about our conversation and discuss it with my supervisor.” Do not describe what you think might or could happen or what someone else is likely to do or might do.

End the interview by thanking the person for speaking with you and providing guidance about what to do if more information is recalled. Avoid demonizing the suspect or antagonizing the victim as you or someone else may need to speak to that victim again on this or another case. When describing the suspect's conduct focus on what was done and not on your feelings about that or about the suspect. The victim may still have strong emotional connections to the suspect and investigator comments about the suspect or their character may undermine the criminal case and the victim's willingness to participate.

Make sure that the victim's safety needs are addressed and link to appropriate services.

Types of Questions

As already highlighted, open ended questions that encourage narrative answers are preferable. Some of the most effective questions include: “Tell me more about that...” and “I'd like to hear more about...”.

Leading or suggestive questions should be used only to confirm your understanding of what has been said or when open ended questions cannot be used because of a victim's medical or cognitive situation.

If the victim cannot be interviewed except by leading questions consider techniques to confirm that the victim has answered the question. Two ways to do that are:

First, ask the leading question and get the answer. Continue the interview and then return to the question but ask it so if was initially true the correct answer is now false. For example: Was

the man wearing a solid blue shirt? A/True or yes.. Later on, ask “So do I understand correctly the man was wearing a yellow shirt?” Answer should now be “no” or false.

Another way is to ask was it “A”, was it B, or was it something else? If the person responds something else, was it “G”, was it “H”, or was it something else? If the person chooses something else, then “Was it X, or was it Y, or was it something else...etc.

Techniques to Keep the Interview Productive — Active Listening

There are many techniques to keep the person engaged and to communicate that the interviewer is paying attention to what the victim is saying. These active listening techniques include:

- Minimal Encouragers, such as nods, smiles, “I see”, “I understand”, and other non-verbal cues
- Open Ended Questions—discussed above
- Mirroring/Reflecting, such as “So you feel...” or “It sounds to me as though...”
- Emotion Labeling such as “you sound upset”
- Paraphrasing—“What I think you said was...”
- “I” Messages—I do not appreciate when you yell at me and call me names”
- Effective Pauses—use silence
- Summarizing—So you have told me ...do I understand correctly?

The interviewer can also acknowledge that the interview is difficult and show empathy and understanding by statements such as

- I know this is difficult
- I am sorry to have to ask this...
- I can understand that...
- I really appreciate your effort to answer these personal questions

Memorializing the Interview

Decide early how you will memorialize the interview. The most easily challenged is notes because they are never as complete as the interview was. Notes cannot capture how the victim reacted, moments of emotion, anger, or body language. And if the victim is later legally unavailable, notes will not “introduce” the victim to the judge or jury.

If the officer is wearing a body camera, the interview will be captured and the emotion of the moment, excited utterances, and how the victim appeared when law enforcement first

responded can be powerful evidence. But in the heat of early response to a crime, questions are often brief and the victim is not able to thoughtfully and calmly respond to extended questions. Victims may not be able to be interviewed due to medical condition or trauma and the setting may not be a physically and psychologically safe place to attempt a complete interview.

Conducting a more formal interview usually offers the opportunity to capture the interview on audio and/or video tape. Local practice with prosecutor suggestions will typically guide the method for memorializing the interview. The interview content may not be admissible at trial, especially if the victim does not testify.

If the victim is not likely to survive to a trial or is cognitively unlikely to be allowed to testify an effort should be made to memorialize victim information, not for its truth but to offer evidence to rebut a likely defense such as consent by showing how confused the victim was and how apparent that confusion was to suspect.

An outline for such an interview was created by Deputy District Attorney Page Ulrey of King County, Washington, and Dr. Bonnie Olsen, a neuropsychologist at the University of Southern California.

Interviewing People with Disabilities

People who are described as “non-verbal”

- Does person have any vocabulary?
- How does person communicate? How do they get their needs met?
- Can person respond to yes/no questions

Preparation for the Interview

- If working with a MDT, does team have a disability specialist
- Talk to collaterals about how person acts, acts when stressed, and suggestions for reducing stress, and communicates
- Determine if person uses assistive technology, translator and assure available at the interview
- Do not touch the person or their technology unless encouraged/directed by the person being interviewed

Dealing with Stress

- Tell person at beginning that you will take breaks and person can ask for a break whenever they need one
- Bring materials to interview victim can use if person becomes stressed, e.g., drawing paper, pens and pencils, stress balls
- Take a break when signs of stress such as rocking, pacing, vocalizing

Interview Tips

- Treat as an adult
- Speak to the person, not the interpreter
- Minimize distractions
- Avoid “why” questions as they may imply blame –not concrete
- Use age-appropriate language
- Do not force eye contact
- Sit at person’s level, do not tower above or so person looking at officer’s gun belt
- Do not expect person to provide a chronologically ordered account

Questioning

- Acknowledge something has happened to person in order to create an empathetic and an open and non-judgmental environment
 - “I am sorry that this has happened
- Address any fears or self blame
 - I can understand your fears
 - This is not about what you did...this is not your fault...
 - Repeat back what you heard person say to confirm you understand accurately
 - You said...Is that correct? Did I understand you correctly?
- Provide guidance in how to respond to questions

- Tell me everything you are able to recall, even if it seems unimportant. Such information may trigger memory of more important information
- Frame questions in trauma-informed ways
 - What are you able to remember about this experience?
 - Do not ask person to start at beginning—tell me what you are able to recall
 - Ask about sensory impressions—sounds, sights, smells, and feelings before, during and after the experience
 - Explore how experience affected person physically and emotionally
- Good questions
 - Tell me more about...
 - What did you do next...
 - What were you feeling...
 - What were you thinking... (not why didn't you run away?)
- Keep interviewing moving along using active listening skills
- End by thanking the person, telling them what to do if they recall more, and what will happen next (that is under interviewer's control)

Sources:

National Alzheimer's and Dementia Resource Center (2019) Intellectual and Developmental Disabilities and Dementia: Practical Strategies for Professionals, Section 5: Communicating with Individuals Living with Intellectual and Developmental Disabilities and Dementia, available at: <https://nadrc.acl.gov/details?search1=169>

VERA Institute of Justice (2020) Supporting Crime Victims with Disabilities On-Line Training Toolkit, National Resource Center for Reaching Victims , available at <https://www.reachingvictims.org/resource/supporting-crime-victims-with-disabilities-online-training-toolkit/>

Victims with Disabilities: The Forensic Interview-Techniques for Interviewing Victims with Communication and/or Cognitive Disabilities (DVD and Guidebook), (2012) NCJ 234678, available at <https://ovc.ojp.gov/library/publications/victims-disabilities-forensic-interview-techniques-interviewing-victims>

Interview Guidelines for Victims with Questionable Capacity

*Try to interview victim alone. If they wish to have someone with them, make sure that person is not a potential witness on the case.

**This is a guide only. While you don't need to ask each of these questions, be sure to explore each of these general topics.

Part 1: Review the General Rules

- State the day and time you are starting the recording (if required by your state law).
- Explain that you are there with your video camera to speak with her/him and record her/his answers.
- Ask if you have their permission to conduct the recording.
- Explain that if they do not understand a question, just to say so.
- Explain that if they don't remember something, that's it's okay—just say so.
- Explain that some of the questions are easy and some are difficult. It's okay if you don't know the answer.
- Explain that it is important for them not to guess at an answer, so if they don't remember something, just to say so.
- Explain that if at any point they need to stop, just to tell you that and you will stop the interview.
- Ask if she/he has any questions right now.

Part 2: General Questions to Assess Capacity

Orientation to Place

- Do you live here?
- How long have you lived here?
- What's the address of where we are right now?
- What city are we in?
- What state are we in?

Orientation to Time

- What day of the week is it today?
- What is today's date (including year)?
- Tell me what time you think it is right now?
- What did you do earlier today?
- What did you have for breakfast?
- Describe what you did yesterday.

Orientation to Events

- Who is the president?
- Who is the governor?
- Mayor?
- Do you follow the national or local news?
- What news programs or websites do you access for the news?
- What's the last news story you followed?

Orientation to People

- Who lives with you?
- Are you married/do you have a partner?

- Do you have any children?
- If so, where do they live?
- Who visits you here?
- Who (if applicable) helps out in caring for you?
- Names? Shifts?
- If you were in trouble and needed help, who would you call?

Finance-Related Questions

- Does anyone help you with your finances? Who?
- What kind of help do you need?
- How long have they been helping you?
- Why did they start helping you?
- How frequently do you go to the bank?
- Do you use a computer to manage your finances?
- Do you use an ATM machine?
- Do you have a credit card?
- Do you own your home or rent?
- Do you have a mortgage?
- About how much money do you have coming in each month?
- What is the source? (pension, Social Security, etc.)

[Consider asking if they do any of the activities that suspect was spending their money on, i.e., do you ever go to casinos, out to dinner, travel, etc.]

Medical-Related Questions

- How would you say your health is right now?
- Do you have any major medical illnesses?
- What are they?

- What treatment do you have for these?
- Do you take any medications?
- Do you have a regular doctor?
- What's the doctor's name?
- Where is his/her office?
- When did you last see this doctor?
- Were you in the hospital in the last year?
- What was this for? Did you have any surgery?

Part 3: Impact of Crime

- Do you know why we are interviewing you today?
- Can you describe briefly what happened to you?
- Can you tell us about how this has affected you? [describe what impact this has had on you]
- State the time and that you are ending the recording (if required by state law).

Tips on Interviewing victims Who Are Older Adults or Have Disabilities

Created by Candace Heisler

Topic	Suggestions
Be Prepared	<ul style="list-style-type: none"> • Determine if victim has any conditions that affect understanding, mobility, communication, medical needs, or speech production • Inquire if victim has personal ways to communicate or uses particular terminology when describing relationships, body parts, or actions • Determine if victim will need any accommodations and if so, make sure they are provided • Determine if victim will need any accommodations and if so, make sure they are provided • Bring copies of any documents or other items you want the person to discuss • Plan the interview areas and questions in advance • Consider if time of day may be a factor in scheduling the interview • Determine if a support person or anyone else will be helping the older adult during the interview
Setting the Tone	<ul style="list-style-type: none"> • Introduce yourself • Provide information about why you are involved • Incorporate victim-centered and trauma informed techniques into your interview, e.g., acknowledge their experience, tell victims they can decline to answer a question, ask to take a break; ask that a question be repeated
Building Rapport	<ul style="list-style-type: none"> • Does not have to be long or complicated. • Think about personal space and positioning • Build on older person's life experiences and try to find common ground—e.g., children or grandchildren; the neighborhood (My mom grew up near here...); military service (yours or a family member); interests; pets ("you have a cat; so do I. What do you like best about having the cat?") • Show interest in having the person tell you about themselves, interests, history.

	<ul style="list-style-type: none"> • Continue building rapport until person shows reduced anxiety and stress
During the Interview	<ul style="list-style-type: none"> • Make sure person knows that you need their help and do not know what has happened (e.g., “I wasn’t here when this occurred so I need your help to understand what happened”) • Control your own non-verbal cues • Note the non-verbal cues of the person being interviewed • Start slowly with subjects that are not distressing. Tell me about yourself...does anyone live here with you...how do you feel about your son living here...are there things you enjoy about having him here...are there things that you are less happy about... • Move to more difficult topics • Try to end with something that is positive
Creating Structure for the Interview	<ul style="list-style-type: none"> • Victims often have had control of their lives taken from them. If a victim has PTSD they often have memory problems and cannot recall matters in a linear way. • Give the victim an overview of what areas you want to ask about • Give warning when changing subjects—“If ok with you I’d like to now ask you about...” • Reassure the person that if they recall something later in the interview you can return to that subject. “If you think of something we have already talked about just let me know and we will go back to that subject” • It is often helpful if there are multiple incidents to ask about the last, the first, “the worst” (in the victim’s view), and then any others the person can recall. “You have told me that you were hurt several times. Do you recall the most recent...can you tell me about it...Do you recall the first time...can you tell me about that time...” • Fully discuss each incident before moving to another. • Explore defenses or possible justifications (If I were to talk to your son (the suspect), what do you think he would say about what has been happening?)
Communicate Empathy and Compassion	<ul style="list-style-type: none"> • Show interest with your tone and body language—sit up and lean towards person

	<p>without invading personal space or endangering yourself</p> <ul style="list-style-type: none"> • Victims of long-term abuse are very attuned to tone of voice • Eye contact is helpful so long as it is culturally appropriate. Be aware that an abused person may have learned that eye contact is unsafe. • Ask questions slowly. Give time to respond and wait for the response. Be comfortable with silence. • Validate the experience—I am sorry this has happened; I can see this has been very difficult; This is not your fault. You are not responsible for someone else’s behavior. • Normalize difficult subjects (e.g., I need to ask you some very personal questions. They are not to cause you discomfort but to help me better understand what has happened...These are questions I have learned that I need to ask in situations like yours. Is that ok?) • Assure older person you are there to make sure they are safe
<p>Show You are Paying Attention</p>	<ul style="list-style-type: none"> • Use active listening skills—nodding; I understand...I see what you are saying; summarize what you have been told; Is this what you are telling me? Do I correctly understand? • Use clarifying questions once the person has told you their information about an incident rather than by interrupting them • Use encouragers—I know this is difficult; thank you for sharing that information • Offer support or consider taking a break if person becomes emotional
<p>Document The Interview</p>	<ul style="list-style-type: none"> • Take notes or record • Create written documentation of interview close in time to interview • Avoid unnecessary conclusions • Remain professional and objective --avoid personal reactions or labels • Make sure documentation is complete—will my written notes or report refresh my memory in 6 months or a year? How will it hold up in future court proceedings? Will it call into question my professionalism?

	<ul style="list-style-type: none"> • Will it provide another investigator with information they will need in case the investigator is unavailable? • Will others understand what action were taken and the reasons?
Ending the Interview	<ul style="list-style-type: none"> • Is there anything else you want me to know? • Do you have any questions for me? <ul style="list-style-type: none"> ○ Do not ignore questions you have not answered. ○ OK to say I am not sure what will happen next. Focus any responses on what you will do, not what could happen. • Thank the person for speaking with you • Let the person know how to contact you if they recall more information or have a question • If you have not addressed certain questions or matters, make sure to follow up on anything you promised to do or find out • Ask permission to have someone else contact them. (e.g., advocate; another investigator, APS, etc.) • Tell the person if you will be arranging for them to be contacted by someone else