Investigating Sexual Assault Against People with Disabilities

Part 4: Preparing for the Detailed, Follow-Up Interview with the Victim

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December 2015
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Recommended Citation

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**Sgt. Joanne Archambault** (Retired, San Diego Police Department) is the Chief Executive Officer for EVAWI. In 2003 prior to founding EVAWI, Sgt. Archambault worked for the San Diego Police Department for almost 23 years, in a wide variety of assignments. During the last 10 years of her service, she supervised the Sex Crimes Unit, which had 13 detectives and was responsible for investigating approximately 1,000 felony sexual assaults each year. Sgt. Archambault has provided training for tens of thousands of practitioners, policymakers and others – both across the country and around the world. She has been instrumental in creating system – level change through individual contacts, as well as policy initiatives and recommendations for best practice.

**Shirley Paceley** is the founder and director of Blue Tower Training in Decatur, Il. Blue Tower has resources in 48 states and 15 countries; she has spoken in over 30 states as well as in Iceland and Guam. Ms. Paceley has worked with people with disabilities for 40 years and has a Master’s degree in Clinical Psychology. She is on the Editorial Board of Sexual Assault Report. Ms. Paceley is a Project Advisor to the National Center for Criminal Justice and Disabilities. She also served on a national roundtable to develop a national strategy to end sexual abuse of children with disabilities.

Ms. Paceley developed the WE CAN Stop Abuse Curriculum for people with developmental disabilities and authored My Body My Choice as well as numerous book chapters and articles, music CDs, and DVDs. Ms. Paceley serves on the Illinois Imagines Team that facilitates systems change to enhance the response to survivors of sexual assault who have disabilities. Ms. Paceley also serves on the Illinois Family Violence Coordinating Council Responding to Survivors with Disabilities Committee which developed the first and only model statewide protocols for law enforcement and prosecutors in responding to victims with disabilities. Ms. Paceley also serves as Project Coordinator of Ensision Illinois, which addresses domestic violence in the lives of
people with all kinds of disabilities. Ms. Paceley also provides inspirational trainings and coaching. She also published the book, Living Joy-Fully.

Christine Herrman has over two decades of working to end violence against women. She started her career as a victim advocate and community services coordinator at a domestic and sexual violence program in her hometown of Ketchikan, Alaska. In that role, she provided prevention education and victim services to communities in the area, including towns, logging camps, Native villages, and settlements. Christine attended law school at Duke University, where she established a collaboration between the local rape crisis center and law students to provide advocacy services to sexual assault victims. After graduating from law school in 1999, Christine returned to the Pacific Northwest, where she served as a prosecutor in King County, Washington, focusing on sex crimes and crimes against children. In 2008, Christine assumed leadership of the Oregon Attorney General’s Sexual Assault Task Force, a statewide nonprofit organization that provided training and technical assistance to professionals in Oregon and nationwide on prevention of and response to sexual violence. Christine recently joined the Vera Institute of Justice in New York City as Project Director in the Center on Sentencing and Corrections. In this role, she is working on national technical assistance and research projects related to the conditions of confinement of vulnerable individuals, including one addressing the overreliance on segregation and one providing assistance to facilities implementing the Prison Rape Elimination Act. Christine is a member of the board of directors of the Oregon Crime Victim’s Law Center, and a member of CounterQuo.
This is the fourth installment in our series on successfully investigating sexual assault against people with disabilities. In a previous installment, we discussed how to develop an investigative strategy in various types of cases involving a victim with a disability. We also offered a number of suggestions for investigating a case specifically involving a victim with a cognitive disability, including how to evaluate the victim’s general capabilities in daily life and the specific capacity to consent to sexual acts.

In this installment, we discuss one of the most important components of a sexual assault investigation – the detailed, follow-up interview conducted with the victim. Much of this information pertains specifically to victims who have a disability affecting cognition or communication, but some material is also relevant for victims who have other types of disabilities. In general, our goal is to provide a number of factors to consider when preparing for the interview, to ensure that the individual needs of the victim are met in advance.

**When to Schedule the Follow-Up Interview**

In general, we recommend that the detailed, follow-up interview is scheduled a day or two after the assault was committed (or initially reported), to allow time for the victim’s acute trauma levels to subside. However, when the victim has a disability it is often necessary to wait even longer, so the investigator can conduct background research, prepare for the interview, and access any community resources available.

Interviews should be scheduled to accommodate the victim whenever possible. Participation in the criminal justice process is difficult enough, without creating additional challenges associated with employment, child care, or other life arrangements. By accommodating the victim’s needs and schedule, your efforts can go a long way toward supporting their participation in the process and holding more offenders accountable.

Once these objectives are met, the interview should be scheduled for as soon as practically possible. This is done to prevent memory loss on the part of the victim, but also to defend against any claim that someone unduly influenced the victim’s statement (e.g., family members, caregivers, or other professionals involved in the case).

**Conduct Background Research**

To begin preparing for the interview, start by conducting background research on the victim. Depending on the type and severity of the disability, this might include talking with family members, caregivers, social service professionals, and other people who know the victim, to find out about the victim’s living situation and work environment, as well as their abilities, habits, likes, dislikes, etc. In other words, you need to evaluate whether the victim's disability impacts her/his ability to understand and communicate. This will provide critical information regarding any accommodations that might be needed, including communication aids and services. It is also important to get a sense for how victims typically function, as well as how this might change when they are under stress. You will also want to ask care providers about any medications the victim may
be taking. This information may determine when the interview should be scheduled. Other steps can also be taken to increase the victim’s ability to participate successfully in the interview. For example:

Many individuals with disabilities need to follow a strict schedule for taking their medication, and for resting, exercising, and eating. It is important to accommodate this regimen as you make plans for the interview. Some individuals with disabilities adhere to a strict time schedule and become upset or distressed when changes in their routine occur.

Therefore, it is best to know if these factors exist and to schedule the interview for a day or time when the victim will be less distressed or distracted. Those who know the victim best can provide information about the victim’s schedule and can offer your insight about the level of flexibility you will need to exercise to complete the interview (Office for Victims of Crime, 2011, p. 15).

In general, the goal is to discover whatever information is available that will help you and the victim during the interview – and to avoid anything that might be harmful.

**Write Key Interview Questions in Advance**

If the victim has a disability affecting cognition or communication, the next step is to write key interview questions in advance. If the interview questions are not written ahead of time, investigators have to formulate them “on the spot,” as ideas occur to them. As a result, they will likely revert to their standard patterns of communication, which are not likely to be effective for victims with cognitive or linguistic challenges.

If the victim has a difficult time understanding the questions and/or providing accurate responses, this reduces the chance that a thorough investigation will be conducted. This in turn makes it difficult to corroborate the victim’s statement, which lessens the odds of successful investigation and prosecution. Regardless of whether misunderstandings are on the interviewer’s part or the victim’s, they are likely to be seen as inconsistencies and used by the defense as a basis to challenge the victim’s credibility.

Follow-up questions will still need to be asked spontaneously during the interview, based on information provided by the victim, because investigators cannot anticipate the exact course any interview will take. These questions can be reviewed by someone who knows the victim personally or has professional expertise in the victim’s specific type of disability. Based on this review, the questions may need to be revised, to increase the likelihood that the victim will be able to understand the questions and provide a clear response. This process of review and revision has the potential to significantly improve the victim’s ability to participate effectively in the interview and provide accurate information.
Evaluate the Need for Accommodations

For a sexual assault victim with a disability, an appropriate accommodation might mean the difference between being able to participate in a successful investigation and prosecution – versus one that ultimately fails to provide the victim equal access to the criminal justice system. A number of factors are therefore worth considering. One is whether a specialist is needed to assist with communications, particularly if the victim’s disability is severe. If the victim uses some kind of assistive communication aid or device, it will be necessary to identify what it is and learn how it works before using it in the interview. If a sign language interpreter or other service is needed, a qualified person will need to be located as soon as possible to perform the task.

Sometimes an accommodation that would help a particular victim is well-known to that person and their caregivers. In this case, it may be quickly identified and mobilized. In other situations, however, family members and caregivers may have adapted their mode of communication with the victim for so long they are not even aware of what they are doing anymore. By observing victims when they communicate with family members or caregivers, it is often possible to gather a great deal of information about how to best communicate with them.

Consider Using a Forensic Interviewing Specialist

Another consideration is whether a forensic interviewing specialist should be used to conduct the detailed, follow-up interview. These specialists will most often be used to interview victims who have a severe disability affecting cognition or communication.

Forensic interviewing specialists are typically social workers or other child abuse professionals who are trained to use the skills and techniques needed to successfully interview young children. For example, they will ask questions in a way that can be understood by a person with limited cognitive abilities and experience, by using concrete language and avoiding leading questions. They are also trained to use tools such as drawings and anatomically correct dolls if this will help the victim communicate more effectively.

Because of their training and specialized background, forensic interviewing specialists may be able to more easily access and use communication devices. They may also be better able than the investigator to dedicate the amount of time needed to conduct the most effective interview with a person who has a cognitive or communication disability.

SARRT Tip:
Protocols for sexual assault investigation should identify which types of cases with an adolescent or adult victim with a disability are appropriate for the services of a forensic interviewing specialist. MOUs can then be established between the relevant agencies. SARRTs can also work with forensic interviewers to ensure that interview rooms generally used for children are also appropriate for use with adolescent and adult victims.
When a forensic interviewing specialist conducts an interview, it can be monitored by the investigator and prosecutor, as well as any representatives from Child or Adult Protective Services or other social service agencies. These professionals can typically observe the interview through a one-way mirror or live video feed, so they can pass along questions to the interviewer using written notes, text messages, or a listening device in the interviewer’s ear. At an appropriate point, the interviewer can also take a break and ask observers whether they have any additional questions or issues that need clarification.

There is currently some debate regarding which types of cases should involve the services of a forensic interviewing specialist. In most jurisdictions, they are used only for forensic interviews with children. However, given their unique skills and expertise, it is reasonable to suggest that forensic interviewing specialists should also be used with adolescent and adult victims who have cognitive or communication disabilities that are severe or profound.

### Select the Appropriate Setting and Prepare to Record the Interview

The site for the detailed, follow-up interview should be selected with care. It should be safe and comfortable for the victim, as well as private, quiet, and free from distractions. It must also meet law enforcement requirements for officer safety and confidentiality. Other concerns include space considerations for wheelchairs and/or interpreters, as well as advocates or other support people who will be present (Office for Victims of Crime, 2011). However, the decision regarding where to conduct the interview will also be related to the question of whether it will be audiotaped or videotaped.

For most victims, the primary concern when selecting a location for the interview should be their comfort level. Victims will typically feel most comfortable in a setting that is safe and familiar, such as their own home. This is therefore the type of location where they will be able to participate most effectively during the detailed, follow-up interview. If home is the site of their abuse, however, a better choice might be the home of another family member or loved one. Another option is an agency or facility that has a room where victims will feel comfortable and secure.

When the interview is conducted in such a setting, it should be audio or videotaped or to preserve the best record. As the victim and investigator are getting to know each other and settling into the interview, the investigator can let the victim know this is happening and explain why. For example, the investigator could say something like:

> I am going to record our conversation today, so I can give you my full attention and not worry about writing down everything you say. I want to be able to listen to you carefully and know the information you provide will be accurately recorded. Okay? Great. I’m going to start the tape now.

When victims have a severe cognitive or communication disability, the entire scenario is quite different. In these cases, a forensic interviewing specialist will typically be needed,
and the interview should be conducted in a facility specifically designed for this purpose. This type of facility will be designed to be accessible for people with a variety of physical disabilities and be equipped for one-way observation and videotaping of the interview. In fact, observation and videotaping will likely be part of the standard operating procedure for conducting such an interview. This is done for a number of reasons:

- It provides documentation of the victim's responses, demeanor, characteristics, and other important data on the date of the interview. The trial may come many months or even years later, so the video captures the victim’s statement and ability to participate in the interview (Office for Victims of Crime, 2011, p. 14).

- The recording will also document the fact that leading questions were not asked, so it can protect against any later claim that the victim was unduly influenced during the interview.

Victims may or not may not be able to provide consent for videotaping, depending on the level of their cognitive impairment. Remember that the reason this type of interview protocol is being followed is because the victim has a severe or profound cognitive disability. However, every effort should be made to advise victims of this fact and explain it using the same general strategy outlined above. The language will likely be different, but the goal is the same – to help victims understand what is happening and why, and to allow them the opportunity to provide consent to the extent possible.

**Up Next**

There are many factors to consider when preparing for the detailed follow-up interview with a victim who has a disability. By learning more about individual victims and their disabilities in advance, you can ensure that any necessary accommodations are put in place prior to the victim’s interview and help to create an environment that meets the victim’s individual needs – this ultimately makes it possible to conduct a successful interview.

In the next installment, we continue the topic of the detailed follow-up interview with a sexual assault victim and provide a number of tips and tools to use to increase the likelihood of success.

**For More Information**

This training bulletin is an adapted excerpt from the OnLine Training Institute (OLTI) module entitled: Successfully Investigating Sexual Assault Against People with Disabilities by Sgt. Joanne Archambault (Retired, San Diego Police Department), Kimberly A. Lonsway, PhD., Shirley Paceley, MA, and Christine Herrman, JD.

For more information, you can register for the interactive training module in the OLTI, or you can print out the document in our Resource Library. Please note, however, that the document version does not include the review exercises or test questions that are
included in the OLTI. After successfully completing the module in the OLTI and passing the end-of-course test, you can also download a personalized certificate of completion.

References