



National Criminal Justice Training Center
of Fox Valley Technical College



What You Need to Know About Presenting Evidence in Forensic Interviews

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Caveats

- We are going to discuss a topic that we spend two days on in training
 - <https://ncjtc.fvtc.edu/trainings/TR00314763/presenting-evidence-in-child-forensic-interviews-2>
- TRIGGER WARNING!
- Seek out as much information as you can on this topic
- There is some consensus but not everyone is on the same page
- You are responsible for your own practice
- You practice in a jurisdiction

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Forensic Interviewing: What and How?

- "Forensic interviewing is a specialized skill. It is part of a larger investigation and used to gather evidence about what a child may have experienced or witnessed in cases involving allegations of maltreatment, exploitation, neglect, or other crimes."
- "In keeping with the APSAC Code of Ethics, the interview should be conducted "in a manner consistent with the **best interests of the child**." The goal is to provide a trauma-informed opportunity for a child to talk about their experiences while minimizing negative impact. At their core, forensic interviews are non-leading, non-suggestive, non-blaming, and non-shaming."

(APSAC Practice Guidelines: Forensic Interviewing of Children, 2023)

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Purpose-Driven Interviewing

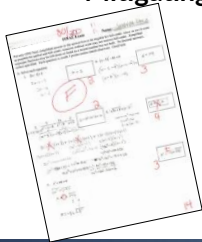
- *Knowing our why*
- Going beyond a model's script and training and practicing with intention
- Delivering *ethical* and *legal* interviews
 - Balancing protection and prosecution and doing what is in the child's best interest
- Not just doing things because that is how it has always been done



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Mitigating Negative Experiences



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What Presenting Evidence Isn't

- This isn't about confrontation
- No "gotchas" or set ups
- We aren't forcing disclosures
- It isn't an interrogation
- We don't force youth to look at evidence
- We don't engage in leading and suggestion



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Tell me about riding the gondola.



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What Presenting Evidence Is

- A springboard for narrative
- Having the youth put valuable information in context
- Alleviating the youth's burden
- Maximizing corroboration and details
- Offering predictability through anticipatory guidance, choice, consent and control



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Not All Evidence is Conclusive

- Because evidence is only one piece of the puzzle, narratives are essential for putting that evidence in context—or linking the child to the crime

Example 1: A picture is one very brief moment in time...a mere click that documents a single moment from a larger experience. It can be 1/8000th of a second or faster. We want to understand the whole experience.

Example 2: A suspect confession...



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Do all of your texts make sense?

- Sometimes we need help from the youth to understand something
- We can learn much about grooming and manipulation and abuse dynamics when we have youth narrate about evidence

Body	Status
Come outside with me	Sent
@ i say hi and hula and oh well	Read
I got so confused I wasn't even home	Sent
Let	Sent
NOM	Read
Oh also	Read
I'm so confused	Sent
@ again i said sorry after you said something	Read



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What about AI?

Balancing Origin and Best Interests of the Youth

- If you already know the origin of the image is AI, the point is moot; we focus on best interest of the youth
- If the image is from the youth's phone, you have a question strategy, regardless of whether it is AI
- If the youth is aware of the image, the issue is origin
 - We tend to get more concerned about denial
- Where we have to be careful is when the youth isn't aware of the image and we aren't sure of the origin



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Goals of an Interview John Yuille



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The Origin of Choice, Consent & Control

- Survivor voices
 - Phoenix 11 and others
 - NCMEC survivor round table
 - Canadian Centre for Child Protection
- Giving back what was lost



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Choice, Consent & Control

- Choice: offer options when possible
- Consent: create a feeling of empowerment by allowing youth **to voice** their active willingness to participate in the process; seek informed consent from adult survivors or assent from child survivors
- Control: respect personhood and autonomy, be transparent and honest, limit the # of eyes



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Only those on the MDT
with a need to know
should be looking at
sexually explicit images.

Minimize exposure to
team as much as possible!

*****Self care is extremely
important*****



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Employing the 5 Cs

Choice

Consent

Control

Communication

Checking In



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Give an example of a “check in”



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Assessing Child Readiness

- Being **child-centered** and **trauma-informed** means paying attention to what the youth is communicating (verbally and nonverbally) and understanding the impact of the process/techniques on the youth
- Readiness should be checked throughout the interview process but especially before presenting evidence and during/after evidence is used



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Managing Child Readiness

- The FI's job is to make uncomfortable things possible to talk about by creating an atmosphere of nonjudgment and openness
- Even in the best of circumstances, it might be too much for youth and they might deny
- The MDT should have a strategy to handle these situations that considers the youth's mental health status and safety



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Anticipatory Guidance



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The Use of Anticipatory Guidance in Forensic Interviews

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Abstract

Using anticipatory guidance, a method of providing a youth with information about what to expect, is an easily learnable skill that can enhance a youth's experience of the forensic interview. This article describes methods of reducing a youth's anxiety throughout the forensic interviewing process by using anticipatory guidance. Specific methods are described for anticipatory guidance during each phase: the pre-interview, interview instructions and expectations, narrative event practice, transition to the topic of concern, gathering details, asking a friend, communicating with the MDT, clarification and closure, and presenting physical evidence (if applicable). The goal of anticipatory guidance is to minimize negative impact for youth while conducting highly ritualized interviews. Anticipatory guidance enhances the forensic interview as something we do WITH youth instead of TO youth.



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Anticipatory Guidance in FIs

- **Proactive steps** that help identify needs and concerns to anticipate emerging issues **Check ins**
- **Letting someone know what to expect** (offering predictability and security) so they are informed and can make decisions about their behavior **Choice**
- **A respectful way to give the youth power** without adding foreboding/apprehension **Control**
- **A demonstration that the interviewer is honest, forthright and transparent** **Consent**
- **Conversation** about activities that increases positive outcomes. **Communication**



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Anticipatory Guidance: The Purpose

- To prepare the youth for what is coming next, thus reducing anxiety
- To increase engagement and trust in the process
- To acknowledge and respect choice, consent and control
- NCMEC *Captured on Film*
<https://www.missingkids.org/content/dam/missingkids/pdfs/Captured%20on%20Film.pdf>



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What do we mean by presenting evidence?

Let's do an overview.



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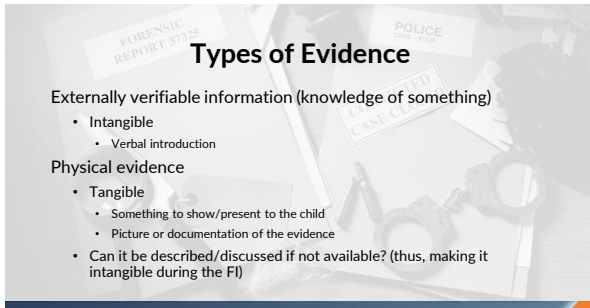
In What Types of Cases Can We Present Evidence?

- Physical Abuse
 - Intrafamilial Child Torture
- Drug-Endangered Children
- Witnesses to Violence
- Child Sexual Abuse
- Child Sexual Exploitation
 - Internet Crimes Against Children (ICAC)
 - Technology-Facilitated Crimes
 - Child Sex Trafficking



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Types of Evidence

Externally verifiable information (knowledge of something)

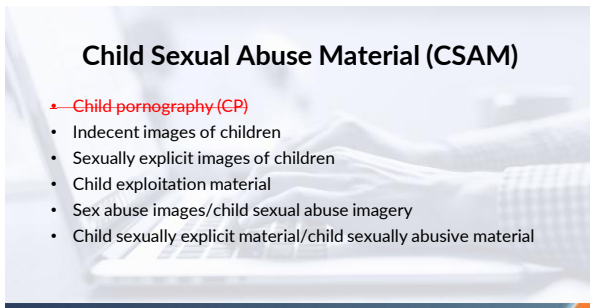
- Intangible
 - Verbal introduction

Physical evidence

- Tangible
 - Something to show/present to the child
 - Picture or documentation of the evidence
- Can it be described/discussed if not available? (thus, making it intangible during the FI)

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Child Sexual Abuse Material (CSAM)

- **Child pornography (CP)**
- Indecent images of children
- Sexually explicit images of children
- Child exploitation material
- Sex abuse images/child sexual abuse imagery
- Child sexually explicit material/child sexually abusive material

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Child Exploitation and Obscenity Section (CEOS): Child Pornography Description

- Child pornography is a form of child sexual exploitation. Federal law defines child pornography as any **visual depiction of sexually explicit conduct involving a minor** (persons less than 18 years old). Images of child pornography are also referred to as child sexual abuse images.
- Federal law prohibits the **production, distribution, importation, reception, or possession** of any image of child pornography. A violation of federal child pornography laws is a serious crime and convicted offenders face fines and severe statutory penalties.
<https://www.justice.gov/criminal-ceos/child-pornography>

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Definition for “Sexually Explicit Conduct” in 18 U.S. Code § 2256

- Actual or simulated sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between person of the same or opposite sex;
- Bestiality;
- Masturbation;
- Sadistic or masochistic abuse; or
- Lascivious exhibition of the anus, genitals, or pubic area of any person

<https://www.law.cornell.edu/uscode/text/18/2256>



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What CSAM is NOT...(federally)

- Photos taken of a child's injuries by CPS or medical providers
- Pictures that *do not* show the naked genitals of the child's body (genitals are clothed/covered/cropped out)
- **We must treat pictures of children's bodies with dignity and security** (this especially applies to CSAM, but should apply in all situations out of respect to children's rights and privacy)



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Outside the Interview

- Care, custody, control (Adam Walsh Act)
 - LE should be actively paying attention to the entire interview process
 - FI should not wander
 - Evidence should not be left in interview room during break
 - Temporarily masked evidence should be copied/noted in masked state for the record
 - Sexually explicit material should not be kept at CAC (unless in the chain of custody)
- Informing guardian?



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Purpose-Driven Interviewing: Some Reasons for Introducing Evidence

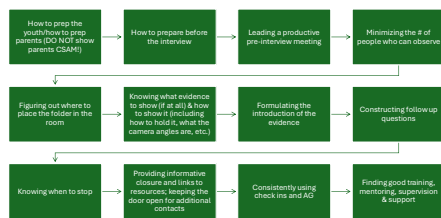
- Help the child understand the purpose of the interview
- Transition to the topic of concern
- Focus the conversation
- Minimize denial, removes "set ups"
- Identify someone/something
- Establish location
- Establish whether a crime has been committed
- Provide context
- Make it easier on the child to talk about something difficult



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Decision Points Regarding Presenting Evidence



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When Do We Offer Anticipatory Guidance Regarding Evidence?

- Before the interview
- At the introduction in the beginning of the interview
- At the point of reintroducing tangible evidence (the folder) or by framing first/asking second if the evidence is EVI
- Each time a new piece of evidence is presented
- If the youth ever presents their own evidence
- At the break and during closure
- Being clear about what will happen with the evidence after the interview is over



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Think of Techniques Your CAC Uses

Choice

Consent

Control



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Presenting Evidence Rules

- Be purpose-driven
- **Use narrative-inviting questions and prompts**
- Never force youth to look at graphic evidence!
- Be mindful, don't rush, listen
- Pay attention to trauma cues and behaviors and know what to do with them
- Have a follow-up plan in place for Tx
- LE must have care, custody and control of CSAM



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Things for CACs to Consider

- Know camera angle in the interview room and chain of custody* for video
- Educate MDT about presenting evidence
- Add questions to FI scheduling process about PE
- Get FIs trained/mentored/peer reviewed
- Review your CAC pamphlet and intake process for AG
- Discuss with prosecutor the jurisdictional expectations/limits (these will likely be cultural and preferential and not legal)
- Ensure legal practices with your team (care, custody & control of CSAM goes to LE)



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AI and Its Impact on FIs

- Know your purpose!
- To mitigate the concern of false imagery, preparation is crucial.
 - What is the origin/source material?
 - How did this case come to the MDT?
 - Is the youth aware of the image? Who knows about it?
 - Often multi-victim cases (Do you need several interviewers?)
- Decisions are made with child's best interest in mind.



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The FI is an unusual process...

- Our job is to make the process as easy as possible by:
 - Increasing transparency
 - Reducing anxiety
 - Offering predictability
- We empower youth by creating opportunities of choice, consent, and control through communication (including AG) and check ins.



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QUESTIONS

Thank you for all you
do to serve children
and their families!

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