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Global Initiative to Fight Human Trafficking



Anti-human trafficking manual for criminal justice practitioners

Module 9

UNITED NATIONS OFFICE ON DRUGS AND CRIME
Vienna

Anti-human trafficking manual for criminal justice practitioners

Module 9:

Interviewing child victims of
trafficking in persons



UNITED NATIONS
New York, 2009

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This publication has not been formally edited.

Module 9: Interviewing child victims of trafficking in persons

Objectives

On completing this module users will be able to:

- Outline some the reasons why suspected child victims of trafficking in persons who are potential witnesses in court may be more vulnerable than suspected adult victims.
- Explain the differences between an interview of a suspected child victim of trafficking in persons and that of a suspected adult victim at each of the stages of an interview.

Introduction

This module is intended to provide awareness of some of the particular issues that interviewing child victims of trafficking in persons raise.

It is not intended to be a training package in interviewing vulnerable child witnesses in general; children should as a matter of duty and practice be interviewed by a specially trained professional. It is acknowledged, however, that in some locations trained staff may not be readily available or it will not be practicable or possible to train interviewers. For these circumstances some basic suggestions are made that can help improve your prospects of conducting a successful interview with child victims. It must be emphasized, however, that wherever possible staff should be trained in this speciality and you should always deploy the very best resources you can when interviewing a child victim of trafficking.

The United Nations Convention on the Rights of the Child defines children as persons under eighteen years of age. Some adolescents may both behave in a mature way and look mature. However, as long as they are under the age of eighteen they are legally regarded as children and must be treated as such.

In cases where the age of a victim is uncertain and there are reasons to believe that the victim is a child, the victim should be treated as a child until his or her age is verified.

In general, resolution 2005/20 of the Economic and Social Council of the United Nations, entitled “Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime”, outlines the rights of all child witnesses-victims.

Basic principle: Consideration needs to be given to the best interests of the child at each stage of the process. All actions have to be based on the principles of protection and respect for human rights as outlined in the United Nations Convention on the Rights of the Child and other international instruments.

Many of the basic principles of interviewing any vulnerable witnesses are applicable to child witnesses. Child victims of trafficking may be more vulnerable than adult victims of trafficking. Some of the reasons for this are:

- Child victims may be naturally compliant: an instruction from an adult may be followed without question;
- With a lack of life experience children may consider abnormal conduct normal. Similarly, children may not know the words to describe what has happened to them;
- There may be nowhere or no one for a child to go back to. Many child victims of trafficking are unaccompanied when recovered. It may be impossible to trace relatives or they may be dead or displaced;
- Even when traced, parents may not want the child back. Children may be seen as a burden to very poor parents or the parent may be ill. In some locations it is regarded as a shame if you are a failed migrant. The child may be well aware they are not wanted at home;
- The child may not want to return to his or her family. In some cases children have experienced one of the most profound betrayals of trust: that committed by a member of their own family, sometimes their own parents, when the child was given to the traffickers.

These issues have implications at all phases of the interview process.

The suggestions below follow the same format as module 8: “Interviewing victims of trafficking in persons who are potential witnesses”. It highlights where there are similarities and differences in interviewing adult and child victims of trafficking.



Self-assessment

Below what age is a person considered a child?

What are the reasons why suspected child victims of trafficking in persons who are potential witnesses in court may be more vulnerable than suspected adult victims?

Planning and preparation

The basics

What is the story so far? Objective, written plan and planning meeting

The same considerations as outlined in module 8: “Interviewing victims of trafficking in persons who are potential witnesses” are important when planning and preparing for an interview of a potential child victim of trafficking. Additionally you should discuss any proposals to use certain special interview techniques in the interview. Comments below give more guidance on this.

Location

General advice about the location used for interviews applies equally to children. Children should not (as a rule) be interviewed where they live, whether that is a private home, children’s home or shelter. The exception to this is where child specific shelters have a special interview room set aside; this is the case in a number of countries.

Likewise, interviews should never be conducted at the location of exploitation or where the child was found.

Rooms should be made as child friendly as possible. This starts with basic things such as the removing physical dangers and preventing external disturbances such as phone calls or visitors.

The decoration and furnishing of the interview room should be as welcoming as possible. This could include the use of warm colours, soft carpets, providing toys appropriate to the child’s age and gender and some coloured crayons and paper. Do not provide too many toys as it may distract the child.

Interviewers should carefully weigh the pros and cons of the use of toys during an interview—on the one hand the risk of distraction and on the other hand a likelihood to improve the child’s situation and response. The interview should preferably indicate that other children have been there before. Technical office equipment should be limited to that required for the interview such as recording equipment.

Arrangements should be made to transport the child and any accompanying person(s) to and from the interview location.

Time

Preferably, children should be interviewed as soon as possible after their identification as possible victims of trafficking.

However, interviews should not take place until the basic needs of the child have been addressed, including health, sleep and food. Doing this is not only the right of the child but also helps you obtain the best possible evidence.

Length and possible breaks of the interview should be set by the pace of the child and adapted accordingly. If needed, interviewers should schedule a number of days to conduct the interview.

Assessing the victim

Assessing a child's suitability for interview requires a person with particular training and skills such as a specialized social worker or paediatric psychologist.

In some countries legislation prevents children under the age of 14 from testifying, and permits using recorded interviews as evidence. Even where this does not apply, the best interests of the child should be a main consideration. Assessing children's suitability to serve as witnesses requires considering their individual needs and skills, including language, health, maturity and their personal ability to deal with the events.

You may wish to consider inviting an expert to witness the non-verbal communication of the child during the interview.

How is the interview going to be recorded?

Similar considerations apply to both general trafficking victim-witnesses and child victims. In some jurisdictions there may be a legal requirement to interview vulnerable child witnesses on video.

Where it is not a legal requirement, video is the best option as it is not intrusive, helps relax witnesses and can reduce the need to go over the witness's account again.

Check that all technical equipment is working properly before you start the interview.

In cases where a handwritten report is required, it may be advisable that a person listening to the interview in another room records the interview in writing or uses a voice recorder.

Never forget to fully inform the child about what you are doing and why and how the record is going to be used.

Transcribe the written statement in the child's language.

Who should interview the victim?

In all trafficking cases it is desirable that interviewers specially trained to interview vulnerable people are used. This is even more important in the case of child victims.

Build trust with one or two interviewers and translators. Do not change interviewers and translators unless it is absolutely necessary. Changes are likely to confuse or scare the child.

Look for signs from the child indicating distrust or fear of the interviewer/translator. It is good practice to use interviewers and translators from the same or a similar cultural

background as the child, but always consider the child's reactions and his or her best interest.

Consider the gender of the child and what the most appropriate gender of the interviewers should be.

Interviewers must be familiar with the child's name, age, language, cultural background and health condition. Interviewing children requires a lot of very careful preparation.

The presence of a social supporter during child interviews is commonly a legal requirement around the world. In general the practice is that social support is often provided by the witness's parents or guardians. In interviews of child victims of trafficking this may be difficult because it is unlikely you will have access to the parents or guardian.

Care should be taken about who you use as a social supporter. No one who is or may be connected to the crime of trafficking should be used. Where someone presents themselves as a relatives to the child victim, they should not automatically be used. You have to be conscious and wary of such an offer: it may be that they were involved in the crime in the first place. Check all information before deploying them.

Similar considerations apply to using interpreters in child interviews as apply in adult vulnerable victim interviews. Module 10: "Interpreters in trafficking in persons investigations" gives further guidance.

Check your domestic legislation. If victims with special needs should be interviewed by specialists, remember that child victims of trafficking are vulnerable victims so should only be interviewed by specialists. Even if you do not have legislation requiring you to use specialists in child interviews use them where you can. When you do not have access to trained interviewers consider how you might get training for yourself or staff.

In situations where law enforcement training is not available, consider if you can get support from a victim service provider, including NGOs. Many NGOs who work in the anti-human trafficking field give victim interview training to their staff. This may not be ideal for law enforcement but could help.

Whenever you approach NGOs, do so in accordance with your national and local policies.

In circumstances where you do not have specialist child interviewers available try to use any member of your staff who has previously interviewed child witnesses successfully. Use this module to raise their awareness.

Duration and breaks

Children are likely to need more breaks than adults and this should be built into your plans.



Self-assessment

What are the differences between an interview of a suspected child victim of trafficking and that of a suspected adult victim at “Planning and preparation” the stage of an interview?



Case exampleⁱ

In 2006, a Western European national who had previously been convicted of sexual crimes against children in his own country was convicted of child sexual abuse in South East Asia. The man was found naked in a guesthouse with a 13-year-old boy whom he had been sexually abusing for close to three years in exchange for financial support to the boy’s family. The case could have been tried in Western Europe but was tried in South East Asia under the domestic law, thereby sparing the child victim, who may have been required to testify, the additional distress and discomfort resulting from overseas travel and sending out a clear message that the South East Asian country was stepping up enforcement of its domestic legislation against sexual exploitation of children. The man received a prison sentence of 18 years—the longest received for such an offence.

Combating Child Sex Tourism: Questions & Answers 2008, ECPAT.

Engage and explain

A key difference between an adult interview and child interview is that the language used should be adapted to the age of the child.

Use open, friendly gestures that are culturally appropriate to the child from the moment you meet them. Social supporters may be able to advise you in some cases.

Interviewers should explain why the interview is taking place and what its purpose is in a language that is appropriate to that particular child. Failing to tell the child what is happening may cause stress and affect the quality of their cooperation.

Information given should also include anything relevant about the location, why the interview is needed, why technical equipment is there and how it works and what will happen to the record of the interview.

Be honest with the child and do not make promises that cannot be kept. Include information on the risks and the realistic advantages of making a statement. Make sure, however, that the child knows that everything done is in his or her best interest and that everything will be done to prevent any harm coming to them.

Make the child feel that he or she is in control by giving comprehensive information and allowing small choices, but do not put responsibility on the child. Explain that the interview is not an interrogation.

If at all possible the interviewers should not wear uniform in an interview. This applies to all interviews with vulnerable victims, but especially so with children.

Clearly introduce all the people in the room and explain why they are there. Again, this is general good practice but is particularly important to a child.

Check that the child understands what you have said. Do not simply interpret meaning into statements. Use as much as possible simple sentences and words, however, but avoid using “babytalk”.

Carefully consider the use of leading questions; preferably do not try to lead the answers in a particular direction.

Do not ask too many things at once; go through the questions one by one.

Do not put pressure on the child: explain that there are no “right” answers and that there is no hurry to complete the interview.

If you have a social supporter who is trained or experienced in interviewing or talking to children, ask them what they would consider appropriate language to be for the child you are dealing with. Keep checking with them as you go through the interview, and check with colleagues who may be assisting in the interview.



Self-assessment

What are the differences between an interview of a suspected child victim of trafficking and that of a suspected adult victim at the “Engage and explain” stage of an interview?

Account

No interviews with vulnerable victims, child or adult, should be seen as interrogations. The purpose of the interview is to help the child disclose information to contribute to the investigation.

Children should not, where possible, be asked to repeat their account. To some extent this may conflict with the process of asking for free recall, then ask questions probing the responses.

In some cases the account, particularly free recall, may be very brief and may describe events in ways that may not make it clear what has happened.

Even though an initial free recall account can be very brief developing that account can provide information that, taken with other evidence, may support a prosecution.

Children may also be particularly susceptible to suggestion, compliance and acceptance. This can be especially acute in trafficking cases where children may have had to comply to survive over a long period of time.

The child may want to be liked and give only answers they think will please the interviewer. It should be emphasized it is appropriate to give any answer accurate to the child's recollection of events, including "I don't know".

Use video recording (see above) wherever possible to reduce the need to repeat certain questions.

Video will only reduce the need to repeat the account to a certain extent; you will still need to probe the account. Good quality note taking in the free recall stage will help plan probing questions effectively so that you need to visit each topic once.

If you are using video you may chose to take a break in the interview and review the tape to plan probing questions. You may also consider reviewing the tape to interpret the non-verbal communication of the child, potentially with the help of an expert.



Case example

You may find the following example distressing. However it does illustrate the type of account you may hear in the interview of a child who has been sexually exploited. While this is a case where the child was victimized by her father it is relevant to trafficking for sexual exploitation cases.

Information was received by Indian police that a six year old girl had been sexually abused by her father. When interviewed it became apparent she had been orally raped, but she would only describe this in terms of being fed by her father.

Interviewers developed her account to some extent but she never explicitly said her father had raped her. The girl was severely traumatized, did not know the words that described the act and had been told by her father that he was feeding her.

Problems were encountered in the case when members of the judiciary asked what the girl meant by her account. They expressed the view that it may be difficult to secure a conviction on the account alone.

Prosecutors and investigators used a child psychologist to explain the victim's account to the court. The result was the father was found guilty and received a sentence of life imprisonment.

Where the account is very brief, be very careful about pressing the child too hard for further detail. You run the risk of traumatizing the child further and destroying any chances of getting any information.

Even a very brief account or one that uses only the child's private description for acts can be valuable evidence. Consider how you might use expert witnesses to interpret this evidence. The example at the end of this section illustrates successful use of this approach.

Where accounts are very brief or where limited information is given, consider stopping the interview. You may be able to review the position at some point in the future together with those responsible for caring for the child such as an NGO or social worker.

Compliance

Similar considerations apply with child witnesses as apply with adults. With children there is a heightened danger of compliance.

Agreement and conforming

As with the comments in the "Compliance" section, there is a greater risk of a child witness agreeing and conforming to what you say.

Styles of questioning

Again similar considerations apply as in the case of adults. Closed and leading questions should only be used with children after very careful consideration.

Special interview techniques

A number of special interview techniques, also known as cognitive interview techniques, have been used around the world when interviewing children. These use concepts such as changing perspective and the use of objects to help the child give his or her account.

Special interview techniques should only ever be used by those trained in their use. They should not be used unless the prosecutor (where there is a separation between investigator and prosecutor) is aware and agrees to their use.

Some approaches involve asking witnesses to move backwards through their account or consider what they might see if they were looking from a different position: these methods would not be acceptable unless the interviewer is trained.

A change in perspective may be acceptable when developing a witness's account by asking what the child could tell from a certain perspective or sense (e.g. if you were standing on the other side of the room, what could you see, smell, hear) in order to obtain an account.

These questions illustrate how you may ask a witness to tell you more about what a sense was telling them:

“You said that you saw a man beating the boy. What else could you see when that was happening?”

This might be developed further by questions such as:

“Who could you see there when the man was beating the boy?”

“What were those people doing when this was happening?”

“You said you saw the man beating the boy. What could you hear when this was happening?”

This might be developed by questions such as:

“The boy was screaming. Could you hear words?”

“What were those words?”

Do not use toys and other props to demonstrate what happened unless you have been trained in the method. Even where trained staff are used, this is a controversial technique.

Let children have a toy if this comforts them, but do not try to interpret what they do with the toy.

In some sexual exploitation cases it may be appropriate to use an anatomical drawing for the child to help the child indicate what happened.

Under no circumstances should the child ever be asked to demonstrate or indicate what happened on themselves, the interviewer or any other person present.

If you do use diagrams, or the child draws, you should record how this was introduced and what happened. Retain any material produced and exhibit it in accordance with your local procedures.



Self-assessment

What are the differences between an interview of a suspected child victim of trafficking in persons and that of a suspected adult victim at the “Account” stage of an interview?

Closure

Use the child's language (as far as possible) to summarize the main points of evidence in the child's statement. Check that you have understood what you have been told.

Where present, check with the second interviewer to see if they want to ask any further questions or clarify any points

Ask the child if they have anything they want to ask or add.

Tell the child what will happen next. Answer any questions in language appropriate to the child honestly and realistically. Don't make any promises you cannot keep.

Thank the child for their time and effort. Show you have taken their account seriously but do not thank them for making any disclosure.

If you think there might be further interviews, let the child know.

Give the child some time to relax after the interview has finished. The child should leave the interview feeling as positive as possible. You may consider discussing neutral topics that may have been mentioned at the "Engage and explain" phase or that the child has mentioned during the interview.



Self-assessment

What are the differences between an interview of a suspected child victim of trafficking in persons and that of a suspected adult victim at the "Closure" stage of an interview?

Evaluation


Evaluation should not be seen as something that is done only at the conclusion of an interview. There may be a number of points in an interview when it would be appropriate and useful to pause and evaluate what has happened.

General principles of evaluation of an interview are similar whether it is a child or adult being interviewed. You should consider involving the person managing the investigation, other investigators and any other relevant agencies (such as social services and NGOs) in the debrief.

In some case you may need to involve a specialist to help evaluate the information such as a child psychologist.

One possible difference between a trafficking interview and other vulnerable witness interviews is that in trafficking cases there is a greater possibility that you will need to have further interviews due to the complexity of these cases. The evaluation phase should be used to consider if this is needed in the case under investigation. Your evaluation should include details on the information obtained, the need for further questioning, etc.

Keep a record of the debriefing session and all decisions made.

	Self-assessment
<p>What are the differences between an interview of a suspected child victim of trafficking in persons and that of a suspected adult victim at the “Evaluation” stage of an interview?</p>	

Summary

A child is a person under 18.

Many aspects of interviewing child victim-witnesses of trafficking are similar to interviewing vulnerable adult victim-witnesses of trafficking.

Children may be more vulnerable in interviews because they:

- May be more compliant;
- Consider abnormal conduct normal;
- Do not know the words to describe what has happened;
- Do not have relatives, their relatives do not want them or they do not wish to return to their relatives.

Planning and preparation

- Rooms should be made child friendly;
- Length of interviews should be set by the pace the child is comfortable with;
- Children may need extra breaks;
- Wherever possible children should be assessed for suitability for interview by an appropriately qualified person;
- Transcribe the written statement in the child’s language;
- Wherever possible children should be interviewed by specially trained interviewers;
- “Social supporters” should be used wherever possible.

Engage and explain

- Language used should be adapted to the age of the child;
- Explanations should be clear and simple but you should avoid using “baby talk”.

Account

- “Free recall” in a child’s account may be very brief and vague. Even though an account may be brief it can form the basis of a successful prosecution with skilful development;
- Children are particularly vulnerable to suggestion, compliance and acceptance;
- Closed and leading questions should only be used after very careful consideration;
- Special interview techniques should only be used by appropriately trained people;
- Toys and props should never be used if you haven’t been trained. Even if you have been trained, the method is controversial.

Closure

- Any closing comments should be made in the language the child understands.

Evaluation

- Consider involving child psychologists or other specialists in the evaluation.



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