

A Picture Is Worth a Thousand Words: Incorporating Child Pornography Images in the Forensic Interview

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Research has been conducted, articles have been written, and opinions have differed with respect to abuse disclosures by sexual exploitation victims. After analysis of the most recent research studies done, London, Bruck, Ceci, and Schuman (2005) wrote that “evidence indicates that the majority of abused children do not reveal abuse during childhood” (p.194). Further, London explained that most sexual abuse victims who have made some type of tentative disclosure to someone would disclose the abuse when asked by an interviewer. This research did not take into consideration those victims who have not disclosed abuse even when evidence of the abuse exists. Palmer, in her article “Just One Click from Abuse” (2004), observed that little research has been done into the impact on victims who have been exploited in images; however, based on her research, she has found that “being filmed or photographed by their abusers makes children even more reluctant to reveal their ordeal” (p. 1).

The advancement of technology has resulted in the recovery of evidence in cases where there has been no previous disclosure of abuse. This leaves the victim with little control over the disclosure process. At least partly because of the permanency of the images, it is believed that photographing and video recording create added incentives for victims to conceal abuse. This phenomenon begs the question, How does the use of technology in the course of sexual exploitation affect the interview process? Should forensic interviewers continue conducting interviews pursuant to previously established protocols, or is it time to incorporate this type of evidence into our interview process to meet the needs of these victims? This article is based on over 10 years of experience in presenting evidence to victims by the Federal Bureau of Investigation’s (FBI) Child/Adolescent Forensic Interviewers (CAFI). It discusses the rationale for doing so and recommended techniques for introducing child pornography (CP) images during the forensic interview.

Forensic interviewing protocols for suspected victims of sexual exploitation have been developed, recommended, and widely implemented. Most protocols are based on research and utilize

specific phases to facilitate reliable and detailed disclosures. The FBI forensic interviewing protocol was modeled after the State of Michigan protocol (1998; Poole & Lamb, 1998). The goal of the forensic interview is to obtain a statement from a child or adolescent in a developmentally sensitive, unbiased, legally defensible manner that will support accurate and fair decision making in the criminal justice and child welfare systems (State of Michigan, 1998). The forensic interview is one piece of a comprehensive investigation. Technology has had a significant impact on the manner in which victims are exploited. The findings from a national study on Internet crimes against children stated that “the domain of technology-facilitated crimes against children has been characterized by two features: rapid growth and changing dynamics” (Wolak, Mitchell, & Finkelhor, 2011, p. 1).

This article also states that in addition to rapid growth of these cases, there was a significant increase in the use of video by offenders to communicate with victims and to produce CP. Although some professionals disagree about whether CP should be referred to or used in an interview setting, no current research documents the long-term impact to victims. However, a few studies provide insight into the mindset of these victims.

Impact on Victim Disclosure

The “Just Click It” (Palmer, 2004) study examined victims that were in therapy at the Barnardo’s Children’s Charity. The study revealed that abusive images may have the following impact on victims:

- Victims feel like they are seen as letting the abuse happen.
- Viewers may believe that victims enjoyed the sexual activity because offenders made victims smile in the images.
- Victims feel that others believe they could have stopped the abuse but didn’t.
- Victims experience “shame” at being involved and fear they may be recognized in the material by family, peers, and so on.

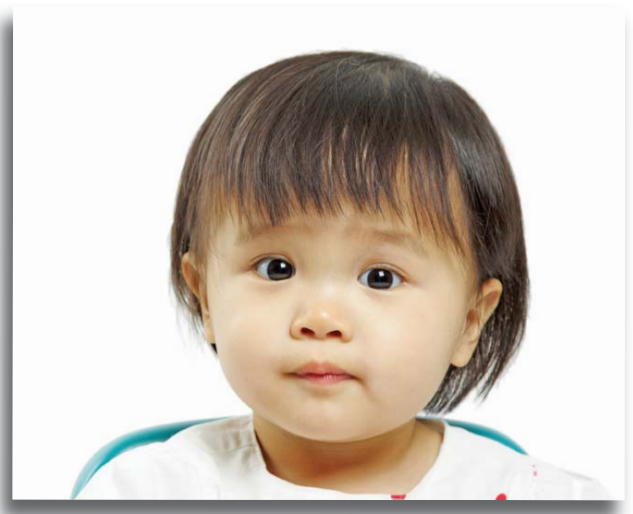
- All of these factors may impact victims and their willingness to disclose during the forensic interview.

In her July 2010 presentation at the University of Regensburg 6th International Summer Conference: Research in Forensic Psychiatry, von Weiler suggested, "What enables victims to disclose abusive images is the professional letting them know that [he or she] know[s] about the images, as well as [demonstrating] a trusting relationship and patience" (in von Weiler, Haardt-Becker, & Schulte, p. 214). This presentation was intended for therapeutic service providers working with victims of child pornography. However, the same could be said for the rapport-building phase of the forensic interview, that is, interviewers should establish trust and have patience with the victim. Von Weiler's presentation and Palmer's "Just Click It" study indicated the issues that may be roadblocks in the victim interview.

Historically, other kinds of evidence have been introduced in the forensic interview. For example, it is not uncommon to use chat logs, text messages, diaries, medical evidence, police reports, subject confessions, or victim disclosures during the interview process. However, it seems that professionals, including those in the fields of interviewing and law enforcement, have strong and widely differing opinions regarding the use of CP images as evidence during an interview. Some have questioned why this is necessary, especially when someone else (e.g., parent or guardian) can identify the victim. During several presentations conducted by FBI CAFIs, members of the audience have been asked to discuss how they feel about this process. When pressed on this issue by the presenters, most professionals in the audience expressed being uncomfortable with the images and therefore assumed that victims would feel the same way.

A forensic interviewer's role is to conduct the interview in an unbiased manner. Even though the entire investigation or interview process, or both, could be traumatic to victims, criminal justice professionals do not forgo these processes out of fear of inflicting potential trauma. Instead, FBI CAFIs use a research-based, interviewing protocol and questioning continuum that are designed to minimize secondary trauma to victims. The FBI CAFIs have considered several questions while conducting these types of interviews: Is showing an image any more "traumatic" than asking victims to verbally tell the interviewer what happened? Is recall easier for victims when they have an image in front of them?

FBI CAFIs have observed that in cases in which evidence has been found before a disclosure is made, victims failed to disclose the abuse during a protocol-based interview without the use of the evidence. In a study conducted by Sjöberg and Lindblad (2002) in which they looked at children's descriptions of sexual abuse and the process of disclosing, the authors surmised that there was a "significant tendency among the children to deny or belittle their



experience." They concluded, "Professionals will most likely never be able to identify all cases of sexual abuse on the basis of children's narrative" (p. 314).

There is no research to support the assertion that use of evidence will automatically trigger a disclosure of abuse. Therefore, interviewers must consider anecdotal information. It is entirely possible that the victim was not ready to disclose or had no intention of disclosing. This creates a dilemma: What if the interview is conducted, the victim does not disclose, and the interviewer is opposed to presenting the evidence? What is the next step? Do interviewers allow a victim to leave the interview knowing that he or she is still burdened by a secret? Do interviewers refer the victim to sexual abuse therapy when the victim never disclosed abuse?

Using Images During Interviews

Presentation of the images during the interview process may prompt a disclosure. For example, a 4-year-old denied any abuse during an initial interview. Video evidence was discovered a few weeks later, and the victim was re-interviewed even though some of the professionals involved in the case believed she was too young to remember the abuse. When evidence was presented, the victim made a full disclosure and included significant details about how the abusive act felt to her body. Disclosure associated with the presentation of evidence may alleviate the victim's concerns about when, and if, she should report the abuse. Most important, the disclosure may help initiate the healing process.

Some critics ask, Why not simply inform the victim about the image or have someone else identify the child in the image? The phases of the forensic interview are intended to make a victim feel comfortable enough to disclose what may have happened. Some victims find it very difficult to verbally describe what happened to them. Interviewers are trained not to react to what they hear. If

interviewers refuse to show images because of their own discomfort or assumptions, then what is being conveyed to the victim? Is it that somehow this is more shameful than verbally telling us what happened? Showing the images to the victim in a neutral and nonjudgmental manner may help the victim feel less shame and embarrassment. It also provides the victim with the opportunity to learn that law enforcement is aware of the images rather than discovering this information for the first time in a courtroom. FBI CAFIs have conducted interviews prior to the discovery of evidence in which the victim did not disclose abuse. As the investigation proceeded, the images were recovered, and FBI CAFIs conducted second interviews using the images. In one particular case, conducted by a CAFI, the 7-year-old victim was asked “how come he [victim] didn’t tell [the CAFI] about the pictures [during the previous interview]?” The victim said he was “afraid [the CAFI] would think he [victim] was a baby” because he was wearing diapers in the images of him being victimized.

In the majority of interviews conducted by CAFIs in which evidence was presented, the victims were aware that the images had been taken (i.e., they had been conscious and awake). CAFIs have seen a small percentage of victims who have no awareness of the images for reasons such as they were sleeping, drugged, or the images were taken by use of a hidden camera. The victims who were aware of the images seemed to have good cognitive recall about the event when looking at the image. They were also able to identify other perpetrators and victims present for the picture or video that were previously unknown to law enforcement (LE). This type of information may not have been obtained if someone else had identified the images or if victims had simply been told about the images rather than being shown the same.

There are victims who will not disclose even when evidence is presented in the interview. Should this occur, FBI CAFIs encourage interviewers to cease presentation of the images. A victim’s unwillingness to acknowledge the abuse may indicate that he or she is not ready to disclose the victimization. However, having displayed only one image gives the victim the benefit of knowing that investigators have found the images and the victim no longer has to keep this secret. In some cases, victims have requested to speak with CAFIs at a later date, and others have started to discuss the abuse in therapy.

Presenting child pornography images in the forensic interview should be given careful thought and consideration prior to implementation. Only specially trained interviewers or law enforcement personnel should present this material to victims. Additionally, we recommend that the number of law enforcement personnel who view the images be limited to those who have a specific need to view the material.

The Technique for Presenting Evidence

There are a few items to consider as interviewers or law enforcement officers prepare to present child pornography images in the forensic interview. First, interviewers need to have a comprehensive understanding of the evidence that exists prior to scheduling the interview. Second, interviewers should ensure that a copy of the evidence is available for the interview. Third, if the victim is in a safe place and there is no known acute incident of abuse, interviewers may want to consider delaying the interview until they will have access to the necessary evidence. As computer forensic exams can be lengthy, this may mean a delay of several months. An alternative is to conduct a primary interview, knowing that a second interview may be needed if evidence is located on the seized media at a later date.

Careful consideration should be given when selecting the images to be used in the interview. The interviewer and the law enforcement agent should be the ones to decide upon such images. It is recommended that no more images than necessary be used in the interview, and selected images should reflect activity that supports the potential state and federal criminal charges. This process minimizes the amount of material shown to the victim and limits the display to only those items necessary for the criminal investigation. Consideration should be given to not include images in which the victim is smiling to avoid needlessly upsetting the victim, as referenced in the “Just Click It” study (Palmer & Stacey, 2004). The CAFIs *recommend not showing videos to a victim* as these are more difficult to control in an interview. It is suggested that the investigator instead create still images from the videos. It is also recommended that interviewers avoid the use of images of body parts without faces unless the interviewer is asking the victim to identify peripheral details in the image, such as bedding, furniture, and so forth. As with all evidence, the images should be brought to the interview by the assigned law enforcement investigator and returned to the investigator after the investigative interview.

Since many victims in exploitation cases have not yet disclosed their abuse, they may not know why they are being interviewed. It is important to inform victims at the beginning that the interviewer has some pictures he or she may want to talk about. Mentioning this ahead of time gives victims a clue as to why the interviewer wants to talk to them and may help lower the victims’ anxiety.

Interviewers should conduct a forensic interview in accordance with the protocol utilized in their jurisdictions or the protocol they have been trained to use. Interviewer experience and discretion becomes critical when deciding to utilize the images. It is standard practice for the CAFIs to ask children about pictures that people in their lives take of them (“Tell me about pictures that people take of

you.”). The response may be about school, vacation, and family pictures. However, it may lead to victims disclosing something about the images before the interviewer has shown them.

If the victim discloses information about what is depicted in the images, the interviewer can proceed with showing the images to the victim to confirm what she has already disclosed. The decision may also be made at that time not to show the images or to show only part of an image for confirmation. If the victim denies that any pictures or videos were taken, the interviewer could prompt the victim by saying, “Remember I told you I had some pictures I wanted to talk with you about today? I am going to show you the pictures and then ask you some questions about them.” It is important to approach this in a nonconfrontational manner. When it is clear that the victim will continue to deny, the interviewer should not continue to ask questions but instead consider that this is a good time to introduce the images.

The FBI’s CAFIs use two methods for introducing images during an interview to give victims some control of the process. The interviewer can give the victim a choice about how he would like to be shown the images. The victim may choose to have the interviewer describe the image before looking at it, or he may choose to look at the image without description from the interviewer. While some have suggested that exposed genitalia should be covered before showing images to children, FBI CAFIs are reluctant to do so because it may convey that victims should feel embarrassed or ashamed.

Once the image is in front of the victim, the interviewer needs to proceed with forensically sound questions to gather information about who is in the picture and what is happening in the picture. CAFIs usually start with phrases such as, “Tell me about this picture” or “Tell me what’s happening in this picture.” As with

most forensic interviewing approaches, open-ended questions that encourage narrative responses should be maximized, and use of direct questions should primarily be used for clarification purposes. As the victim discusses each image, the interviewer should place a number on the back of the photo to indicate the order shown to the victim and write down brief notes about what the victim said, such as who is in the picture, who took the picture, and what it was taken with. On the one hand, interviewers should never force a victim to view the images. On the other hand, interviewers should not necessarily be deterred in continuing the interview simply because a victim shows emotion while viewing the images.

Victims frequently express emotions (e.g., crying, anger) during interviews in which evidence is not presented, and interviewers seldom stop an interview because of this. The same should be true for interviews in which evidence is presented. In some situations, victims cannot go forward with the interview and the presentation of evidence. Interviewers will need to use their skills and clinical judgment to determine when to stop. A FBI Cafi once interviewed a victim who had been previously interviewed twice without any of the known evidence being presented. When the FBI Cafi interviewed the victim, she cried while being presented with the images as well as when she described what was happening in the images. At the end of the interview, she drew a picture that said, “I feel much better about myself—you’ve inspired me to become a police officer.” This victim no longer had to live with the secret of abuse and exploitation; it was now out in the open, and she could start the healing process. At the conclusion of the interview, the multidisciplinary team (MDT) should discuss follow-up services pertinent to the victim’s needs. The FBI CAFIs utilize the expertise of the FBI Victim Specialist to help obtain support services for the victim and her family.

If victims do not know that images were taken because they were drugged, asleep, or the camera was hidden, we recommend verbalizing to them that images have been found, telling who took the pictures or videos (if known), and explaining what is in the images if a victim wants to know. There may be circumstances in which a victim has been drugged and does not realize the extent of his or her victimization. It is important for these victims and their parent or guardian to be informed about the abuse because a medical exam may be required. In one case involving multiple victims, the victims were drugged and unaware that they had been fully penetrated by the perpetrator until law enforcement found the videos.

It became very important to interview all victims not only to learn if they were aware of their victimization but also to inform them of the existence of the videos. Interviewers should remember, if a perpetrator trades images of a victim, these might show up in other cases, domestically and internationally. In the



United States, the Victims' Rights and Restitution Act (42 U.S.C. 10607) requires federal law enforcement officials to identify victims and affords victims the right to be notified of investigations and prosecutions and to receive assistance services. One can imagine their shock if no one has ever told them about the images and they are notified that they are now considered a victim in a federal case because a defendant is in possession of their image.

FBI CAFIs also show the victim images of other children in a case to identify those children. When this is done, only the faces of the children are shown to the victim and all pornographic material is obscured. Child pornography images should never be shown to parents or guardians out of respect for the victim. Rather, parents can be verbally informed that the images exist.

Conclusions

Technology has affected all of our lives in both positive and negative ways. Individuals who work in the field of child exploitation have seen firsthand the destructive ways that perpetrators use technology to gain access and to exploit victims. This article began by posing some questions about the use of child pornography images in the forensic interview setting. The FBI CAFIs have been presenting images in their interviews for the past 10 years. Their methods have been developed using research-based protocols and extensive experience. Other professionals in the field of forensic interviewing are beginning to address the special needs of these exploitation victims. In 2011, the revised State of Michigan Forensic Interviewing Protocol added "Guidelines for the Use of Physical Evidence." In 2012, APSAC updated its guidelines to reflect the changing needs of victims. Critics have weighed in on incorporating evidence into forensic interviews; some agree and others do not.

The FBI poses one last question: How do professionals conduct a forensic interview, have a victim deny the abuse when the abuse has been confirmed with evidence, and let the victim leave the interview still harboring a secret? Research needs to be conducted to increase understanding and ensure that the needs of child pornography victims are being met as part of the investigative interview. Until then, the FBI and other agencies will continue to refine the process by which interviews are conducted in these challenging cases and address the impact that ever-changing technology has on the victim interview.

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