
 **CHAT**


*Favorite lesson from yesterday?
Or, what you're most looking forward to today?*

CONNECTING YOUR MICROPHONE
To connect your microphone, identify the Microphone icon at the top of the screen and click on the drop-down menu. Once you connected, the icon should turn green. Please keep your mic muted at all times, unless you are speaking.



CONNECTING YOUR WEBCAM
To connect your webcam, identify the Camera icon at the top of the screen and click on the drop-down menu. Once you connected, the icon should turn green. Please keep your webcam turned off at all times, unless you wish to have it on while speaking.


RAISING YOUR HAND TO SPEAK TO THE GROUP
If at any time during the event you'd like to say something using your mic, please raise your hand and the speaker will call on you. To raise your hand, identify the icon at the top of the screen that looks like someone raising their hand. You can click on this same icon to lower your hand. In the same drop-down box, you can "agree," "disagree," "step away" too.

 **ACADEMIC IMPRESSIONS** ¹


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#aiTIXAdvInvestigator


**UNDERSTANDING WITNESS TESTIMONY
CHALLENGES**

 **ACADEMIC IMPRESSIONS** ²

2

 **CHAT**


What are some of your challenges related to analyzing witness testimony?

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#aiTIXAdvInvestigator


FILLING THE GAPS: ANALYZING INCOMPLETE TESTIMONY

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AGENDA


- I. Overarching Principles
- II. Do You HAVE to Confront? What Does Confrontation Mean?
- III. What Type of Witness Do You Have?
- IV. Witness Type Techniques
- V. Demonstration (Time Allowing)

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OVERARCHING PRINCIPLES

- You don't have a bet on this race.
- You don't have to "win" the interview.
- You don't have to make the witness defensive.

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MUST YOU CONFRONT?

- Is the inconsistency or contradiction relevant?
 - If it's a "lie," then lies and motives to lie are usually relevant.
- Are "rape shield" questions allowable? Ask, are they relevant?
- But what about fact you have to share investigation before final?

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WHO IS YOUR WITNESS?

- Hostile
- Clearly lying/grossly inconsistent
- Traumatized
- Drama Monarch
- Trickle Witness

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■ WHAT ASPECT OF CREDIBILITY?

- Oath – How seriously are they taking their role in investigation?
- Perception
- Recollection
- Communication
- Bias/Interest/Motive
- External Credibility Issues

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■ HOSTILE WITNESS

- Likely bias/interest issue
- “I get the sense that you don’t want to participate. I get it. These situations are never anyone’s first choice. Can you help me understand your reluctance?”
- Make clear the stakes, that non-participation doesn’t help who they’re aligned with.

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CLEARLY LYING

- Once you understand someone is likely lying, start pinning down surrounding details – no confrontation yet.
- Key is you **MUST** know the evidence you prepared to review with that witness so you can do this.

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CLEARLY LYING

BEFORE YOU CONFRONT

- Nail down all surrounding details.
- They should commit to the details of the “story.”
- It’s hard to maintain a lie with a lot of details.

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CLEARLY LYING

- Make them commit to details of narrative.
 - So, this happened first?
 - This never happened?
 - Sam was(n't) there at all that night.
 - Avery was there.
 - No one had anything to drink.
 - No one touched anyone.

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CLEARLY LYING

Confronting - Style

Reasonable Person Alert!!!

- Start from a place of confusion
- “I’m struggling with [X piece of evidence], can you help me understand how it fits with what you’ve said?”
- “I think most people looking at this would think it showed Y, would you agree? Why/why not?”
- “Can you give me your perspective on why you wrote this?”

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CLEARLY LYING

Confronting – Substance

- Have you ever said X to someone?
 - Yes? GREAT! Dig in.
 - No? Maybe confront.
- If someone said Y about that, how would you respond?
- Break it down: “You told me one. Then you told me three. Right? Doesn’t it seem like there’s something missing in the middle?”

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CLEARLY LYING

Confronting – Substance

- Video/audio/photo contradiction
 - Review their version of events.
 - “I’ve reviewed this video, and it appears to me that [Sam was right there]. Can you help me understand why the video shows that, but your statement contradicts it?”

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CLEARLY LYING

- Don't sweat the response, just record it
- Can remind them of the importance of the process and being truthful

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CLEARLY LYING

What happens if you're not prepared enough to confront?

**THEY WHO FIGHT
AND RUNS AWAY
LIVES TO FIGHT
ANOTHER DAY**

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■ TRICKLE OR RELUCTANT WITNESS

- E.g., person will provide one-word answers, shrug, or not remember
- Take breaks – give them time and be patient
- Ask questions they **do** know to get them warmed up – first, get them talking about subjects they like/know better
- Gently ask them what is going on with them that they are reluctant to talk (with empathy/compassion)
- Another day is better? – unknown if something is going on in their life



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■ TRAUMATIZED

- Give them time and space
- Make them comfortable
- Ask rapport building questions
- Offer services for support
- Offer to reschedule
- Offer non-verbal methods where you can (pen/paper to draw)
- Recognize that you may not be the right interviewer for this witness
- FETI
- Don't get a pass - job is to gather relevant evidence!



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QUESTIONS

Jill and Jean will respond to the challenges that you brought up related to witnesses.