

# Youth Interview Challenges and Solutions

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# When Do We Interview Clients?

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- Stationhouse Consultation
- Initial Cellblock Interview (detention)
- Initial Client Interview (office)
- Follow-up Fact-based Interview
- Plea Discussions
- Disposition Preparation Interview
- Prepping the Client to Testify

# What's Challenging about Interviewing a Kid?

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- Cognitive Differences
- Psychosocial Maturity & Decision-Making
- Stress Influences on Decision-Making
- Suggestibility
- Lack of Knowledge and Experience
- Identity and Social Development
- Mental Health Issues

# How Do We Overcome These Barriers?

## Learn about the client

- Gather records – school, mental health, medical
- Talk to family, teachers, counselors, etc.
- What is the client good at?
- At what time of day does the youth process better?
- Trauma history?



# Language Deficits and Impairments

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- There are many types of language deficits and impairments
- Impact every aspect of a child's life:
  - Development
  - Relationships
  - Learning
  - Mental Health
- Pragmatic Deficits = social exclusion
- Affect representation, competence to stand trial, and placement options
- Educate judges, court personnel, treatment providers, and legislators!!



# How Do We Overcome These Barriers?

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## Develop Trust

- Invest Time!
- Follow the client's lead; don't ignore her agenda
- Let the client tell his story uninterrupted, then go back and ask clarifying questions.
- Demonstrate empathy
- Explain why!
- Listen

# How Do We Overcome These Barriers?

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## Avoid Judgment Language/Tone:

- *Why were you out past curfew?*
  - What did you do last night? What time did you get home?
- *Why aren't you going to school?*
  - How do you like school? Why or why not? Is there something that makes you want to miss school?
- *Have you been smoking weed?*
  - What do you think the drug test is going to show?
- *Have you been doing what you're supposed to?*
  - What do you think your PO will say in court?

# How Do We Overcome These Barriers?

Don't say "Trust me"; Demonstrate it

- Interview clients without parents
- Talk to clients, not at them
- Actively Listen
- Be aware of your body language
- Be aware of how you are making the client feel.



# How Do We Overcome These Barriers?

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## Promises

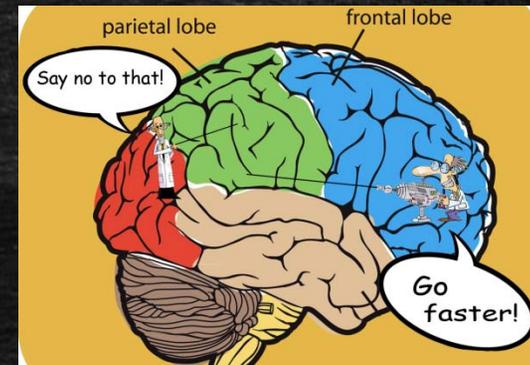
- Never make a promise you can't keep.
- Keep every promise you make.
- Make a few easy promises to show you can keep them.



# How Do We Overcome These Barriers?

## Accommodate Developmental Difference

- Help youth connect immediate concerns with long-term goals
- Use kid-friendly language
- Break things down into easy parts
- Use visual aids
- Get clients to explain it back to you
- Practice with clients if they need to speak in court

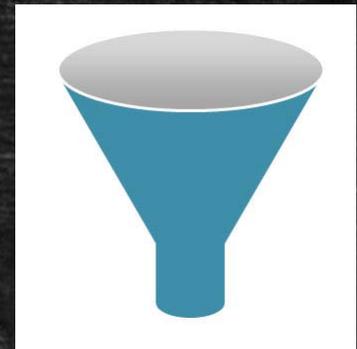


# Enhance Youth's Ability to Remember Info

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## Funnel Method of Questioning

- Start with open-ended questions
- Use narrower follow-up questions



## Avoid Suggesting Answers



## Initial Client Interview

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- Where does your first interview of the client occur?
  - Be conscious of environmental stressors
  - What are your clients likely thinking about or worried about?



# How Do We Overcome These Barriers?

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Kids will have their own distractions

- Want to talk about innocence/facts of case.
- **Fear of unknown**
- Frustration/anger over arrest
- **Fear of/frustration with parents**
- Want to go home
- **Problems at school**
- Embarrassed by / frustrated with being the focus of unwanted attention all the time
- **Fatigue, hunger, medication, drugs, homeless, etc.**

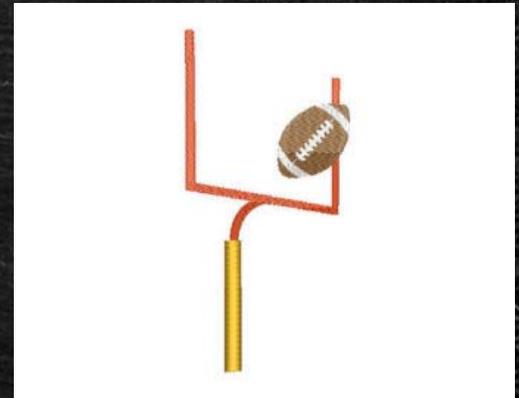


# Initial Client Interview

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What are the GOALS of this first interview?

1. Introduce yourself, explain your role, and explain the attorney-client relationship.
2. Explain upcoming proceeding
3. Get information for release argument
4. Get a cursory overview of the facts



# Introducing Yourself

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# Introducing Yourself

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- Use developmentally appropriate language.
- Take your time.
- Don't assume they understand.
- Use kid-friendly analogies.
- Be approachable, friendly



# Introducing Yourself

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- √ Explain who you are; what your role is.
  - Your lawyer, person who is here to stand up for you, your voice in the court.
- √ Explain who you work for and what that means in the context of the case.
  - You are my client; I work for you.
  - I don't work for the judge, prosecutor, or MOM.
  - Expressed-interest representation means that you call most of the shots, but I give you advice.
  - Everyone else who has talked to you has their own goals. What you want is my goal.
- √ Explain confidentiality and why it is important.
  - Everything you tell me stays between us, unless you want it shared
  - I can lose my job if I break that promise

## Context-Specific Interviews

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## Concluding the Interview

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- Don't talk to the police or prosecutor; send them to me.
- Don't talk to family/friends about the case.
- I'm not going to talk to anyone (except)...
- What does client need to do between now and next meeting?
- What will I be doing between now and next meeting?
- When is next meeting?



# How Families Impact Interviews

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# Rules and the Law

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- **M.R.P.C. 1.6: Confidentiality**
  - "Lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent..."
- **M.R.P.C. 1.14: Client Under A Disability**
  - "maintain a normal client-lawyer relationship with the client."
- **Cabello v. State, 471 So.2d 332 (MS 1995)**
  - Recognizes a limited parent-child privilege
  - Not a parent-child-attorney privilege



# How Families Impact Interviews

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## Interviewing child alone

- Explain your role to parents and seek their cooperation
- Work with client to plan out a post-interview conversation with parents
- Sometimes parents just need to vent

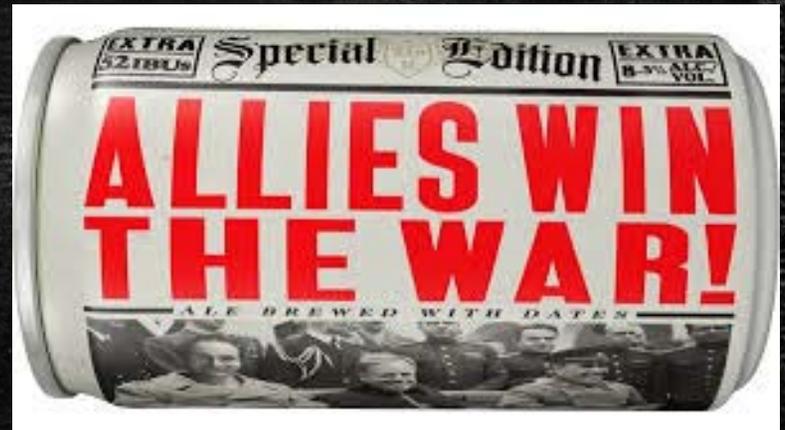


# How Families Impact Interviews

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## Keeping family as an ally

- Supporting client in and out of court
- Helping family understand roles of others
- Strategize engaging with others
- Release of information
- Tips on investigation/disposition
- Help engaging a distant client



# Effectively Engaging Families

## Juvenile Defense Attorneys and Family Engagement Same Team, Different Roles



When a child gets arrested, the entire family is implicated and some family members are even brought into the juvenile court process along with that child.

For families, this can be a difficult and confusing experience that leaves them unsure where to turn for answers and guidance. For defenders, there is often a tension between upholding the legal and ethical obligations they owe to their child-client and responding to the needs of their clients' families. This can result in an adversarial relationship between defenders and families that is often unnecessary and which can be damaging to the defense case and the child.

The reality is, however, that in the vast majority of cases when families adequately understand the role and responsibilities of the defense attorney and defenders are sensitive to the family's needs, the two can work together as a team to create the best outcomes for youth accused of crimes. It is important to recognize that there may be times when it may be ethically inappropriate for defenders to engage certain family members, such as when a parent is the alleged victim or family members are insistent that the child be incarcerated. When this is not the case, however, teamwork between families and defenders can benefit a child's case at each stage of the delinquency proceedings, from arrest and intake, to detention, trial preparation, disposition, and into post-disposition.\* Families and defenders each have a role to play, and when both understand those respective roles and learn to work together, they can be a formidable force for protecting children.

\*For more detailed information on the delinquency process, and juvenile defenders' obligations throughout this process, see the *National Juvenile Defense Standards*, available at: <http://www.njdc.info/pdf/NationalJuvenileDefenseStandards2013.pdf>

## Forensic Exercise

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- Jonathan Lopez
- 15 years old
- Charge: Distribution of Cocaine
- holding cell at the Courthouse just prior to the detention hearing.

1. Introduction
2. Explanation of Confidentiality
3. What's going to happen next