

2010 NEW JUVENILE DEFENDER TRAINING

Communicating with Child and Adolescent Clients, Witnesses, and Victims



Blair Brown Interview #1

- What were Atty Brown's goals for this initial interview w/his juvenile client, William?
- What could Brown have done better?
- Anything problematic about Brown's approach to discussing the alleged offense?
- How did William likely feel after the interview?
- How is this experience likely to impact William's future communications w/his atty, his behavior in court, etc.?



What Do We Want to Accomplish When We Meet with Our Client?

- We want to learn information
- We want to educate the client
- We want to build trust





Prepare for the Interview

- Understand the charges
 - Know & understand the elements
- Analyze the Grid
 - Know the possible penalties and be able to explain them
- Get discovery
 - Petition, police report



Stages of the Interview:
How to start?

- Introduction: meet with parents and child and explain need to meet w/client alone
- Why meet with client alone?
 - Juvenile's fear of parents' reaction
 - Parents may take over interview
 - Might want to find out things about the parents
 - No parent-child privilege in N.C.
- How to explain this need to the parents?
 - Explain role of atty in delinquency cases
 - Share info re charge, consequences, court dates
 - Emphasize the absolute need to talk w/child alone



Initial phase alone w/client:
How to put child at ease and establish trust?

Be aware of the child/adult & atty/clt hurdles:

- You are a stranger: your client may be suspicious/uncomfortable/nervous around you
- Adolescents want to please adults/tell us what we want to hear and what they *think* we want to hear
- Children and adolescents need affirmation
- Attys are not automatically respected: seen as part of the system
- Atty's role may be confusing to the child

Initial phase:

How to overcome the hurdles?

- Keep things simple: language, vocab, content
- Explain why personal info is important
- Be patient and interested in all info given
- Be encouraging
- Show you care and will work hard for client
- Offer to do something concrete to help and FOLLOW THROUGH!
- Explain atty/client relationship & importance of privileged communications
- Explain roles of atty and client



More things to keep in mind talking to client

- Don't be condescending
- Don't be judgmental
- Be empathetic
- Break down the questions instead of asking for conclusions.
- Be aware of masking
- Listen



Most Importantly

- **Be Yourself!!!**



**The substance of the interview:
questioning the client**



- How to talk about the offense?
 - Be neutral/show you don't assume client was involved w/offense
 - Review client's rendition & ask narrowing questions
 - Fill in additional details & elicit explanations
- Client's social history:
 - Home life, education, work record, prior delinquency history

**Closing remarks to client:
legal advice, contact info**



- Tell client: Don't talk w/police or anyone else about the case!
- Tell client to refer anyone who asks about the case to YOU, the atty
- Emphasize that they don't shouldn't talk to the police about any new case
- Have client relay any new info to you, the atty
- Provide contact info for you: business card
- Write down the next court date, where & when to meet, etc.

Tie up loose ends with parent:



- Further discussion w/parent:
in presence of client and w/permission of client
- Get factual info known only to parent:
 - Client's history
 - Factual info re offense: parent may be alleged victim, alibi witness, percipient witness, present during interrogation
- Sign release forms

Keep in mind:



- Discuss what client should wear to court
- Explain role of your note-taking
- Ethical considerations: you can't lie, misrepresent facts, suborn perjury, but you have no obligation to provide 'bad' facts
- Questions often asked, not easily answered:
 - How old are you?
 - How many cases have you handled/tried/won?
 - I want a lawyer of a different gender/race/age, etc.

Adolescent psychology 101: Cognitive development (how one learns)



Adolescents have trouble anticipating the consequences of their actions:

- They fail to plan and get caught up in unanticipated events;
- They minimize danger & don't consider worse-case scenario;
- They can't adapt & think they have only one choice;
- They act under the influence of alcohol and drugs;
- They act out of fear/threats;
- They have difficulty understanding Miranda;
- They can't assist the defense in a meaningful way

Identity development (how one sees oneself)



As adolescents, their identities are just being shaped and formed:

- They need approval of others;
- They may have no support for a positive ID;
- They are easily intimidated by others;
- They see the offense as unintentional and inconsistent

Moral development (how one learns right from wrong)



- Adolescents can be very moralistic, but lack “impulse control” & thus can’t apply those moral values at the time of the crime;
- Substance abuse can prevent “empathy” at the time of the crime;
- They act out of an exaggerated sense of being threatened (“It was me or him”).

Trauma: interferes w/all types of adolescent development



- Delinquency can be related to physical/sexual abuse, loss, and exposure to violence that interferes w/development:
- Depression: a common reaction to trauma but rarely diagnosed in adolescents
- Aggression: can be a defense against helplessness felt by traumatized children
- Unaware of pattern of self-protection in the face of a perceived threat
- Trauma can delay development: cognitive, moral, and identity.

Competency: what is it?



- Can your client consult w/you with a reasonable degree of rational understanding and a rational as well as factual understanding of the proceedings against him?
- Does she understand the nature of the charges and the potential consequences of the charges?
- Does she understand the trial process, participants’ roles, & accused’s rights in the process?
- Does she have the ability to participate with and meaningfully assist counsel in developing and presenting a defense?
- Does she have the ability to make decisions to exercise or waive important rights?
- If you answered “no” to any of the above, consult w/your faculty supervisor about filing a motion for a competency evaluation and request for competency hearing.

Blair Brown Interview #2



- What did Atty Brown do well?
- Room for improvement? If so, in what areas?
- How might you handle things differently with William?

Questions? Contact me!



Professor Tamar Birckhead
UNC School of Law
919.962.6107
tbirckhe@email.unc.edu
