Effective Communication Techniques: Strategies for Interacting With and Representing Child Victim Clients

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Welcome

Meg Garvin: Hi, everyone. I am Meg Garvin. I am the Director of the National Crime Victim Law Institute (NCVLI). Very excited to welcome you all to this Webinar today: *Effective Communication Techniques: Strategies for Interacting With and Representing Child Victim Clients*. We have a number of folks joining the Webinar right now, and we are really excited to have representation from across the country participating in this Webinar. I am going to launch it as part two of a three-part series on *Effective Legal Representation of Child Victims*. NCVLI is working with OVC TTAC and OVC in collaboration to provide training and technical assistance to the country on effective legal representation.

Meg Garvin: So I am going to do a little bit of the housekeeping and introduce our amazing three presenters for today. And then I will turn it over to attorney, Rebecca Khalil, from our office here to run the show.
The Office for Victims of Crime’s Legal Assistance for Crime Victims Initiative is a comprehensive, capacity-building effort to expand the availability of pro bono/no-cost legal assistance for victims of crime. The initiative aims to ensure that all victims of crime have access to quality representation on legal issues that can arise following victimization.

Through this effort, OVC TTAC and the National Crime Victim Law Institute (NCVLI) are working collaboratively to offer training and technical assistance for attorneys, particularly those currently providing legal assistance to victims.

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Meg Garvin: This training, as I said, is part of a three-part series that is being done in collaboration with the Office for Victims of Crime’s Training and Technical Assistance Center, OVC TTAC. If you have not yet visited OVC TTAC’s website, I really encourage you to do so as they have a wealth of information, and you can request personalized training and technical assistance from them. Our collaboration with them is part of the Office for Victims of Crime’s Legal Assistance for Crime Victims initiative, which is a comprehensive capacity-building effort to expand the availability of pro bono and low bono, or no cost, legal assistance for victims of crime. The initiative aims to ensure that all victims of crime have access to quality representation on legal issues that can arise from victimization. This presentation is a part of that collaboration.
National Crime Victim Law Institute

Meg Garvin: And before I turn it over, I want to introduce our presenters. Actually, let me move the slide along really quickly, and first introduce you to NCVLI as a frame for the presentation. NCVLI is a nonprofit based in Lewis and Clark Law School in Portland, Oregon. And our mission, as you see on the screen before you, is to actively promote balance and fairness in the justice system through crime victim-centered legal advocacy, education, and resource-sharing.

Meg Garvin: What is really important about the work that we do and the focus of our work is providing legal services directly to victims of crime. Meaning that the victim is the client throughout the process through which we are representing them. And that becomes a really wonderful moment and challenging moment when you are talking about child victims. So this entire training today is focused on direct representation of child victims. And Becca Khalil is going to talk about the difference between child victim legal representation and guardian ad litem representation. That is the frame for this. So we are really excited to talk about direct representation of child victims and the unique hurdles that we face when doing that.
Meg Garvin: So, the three individuals who are going to help you today unpack how to be an effective lawyer and how to effectively represent child victims are Dr. Jerry Yager, Bethany Roberts, and Rebecca Khalil.

Meg Garvin: This is just an utter privilege for NCVLI to host this training. I am going to start with Rebecca Khalil, who is my colleague and dear friend here at NCVLI. She has been an attorney with NCVLI for many, many years. When she first came on board, she launched and ran our Safeguarding Child Victims Rights initiative for 2 years, as NCVLI developed its own expertise on how to work with children and provide effective legal representation. And she is a tremendous lawyer working on issues across the country.

Meg Garvin: Bethany Roberts is an attorney with Barber Emerson, L.C., in Lawrence, Kansas. She is formerly the managing attorney with Kansas Legal Services in Topeka, Kansas. And NCVLI has had the privilege of working with her over the years. And if you do not hear it today, you should get to know Bethany a little bit because her sense of humor is truly amazing, and she is going to be a great teacher today as she has worked on children in the law issues for a long time.

Meg Garvin: Dr. Jerry Yager has been a partner of NCVLI for many years helping NCVLI as we developed our child victimization curriculum. He has more than 30 years experience in the assessment and treatment of neglected and abused and traumatized children. He joined the Denver Children’s Advocacy Center in 2011 to pursue his passion of educating professionals who work with children about the impact of abuse and neglect on the developing brain.

Meg Garvin: There is much more to each of these presenters. But what I can say to you is every time I listen to them, I learn something. And I think that you each will learn something through
today’s presentation, and walk away a better lawyer or advocate for kids because of the expertise of these three amazing people.

How to Ask Questions

Meg Garvin: Before I officially turn it over, just the logistics here. At the end of the Webinar, you are going to be asked to fill in a survey, and we ask that you turn that in as we are constantly trying to improve our services and our training and technical assistance efforts. We would really appreciate your input. In addition, as I mentioned twice already, this is the second in a three-part series of Effective Representation of Child Victims. So you can use the survey to provide some additional feedback for how we can make part three even better.

Meg Garvin: You are currently muted, but you can ask questions during the presentation. And the way you do that is, on the right-hand, well, on your toolbar, it could be on the right or the left, there is a section that says “Questions,” and you can enter a question there and it will be submitted to the presenters. And then, at the end of the Webinar time period. Rebecca will pose the questions to each of the presenters, or answer them herself if it is appropriate for her to do that question.

Meg Garvin: And, finally, two points. You will receive an e-mail at the end of the Webinar that has the PowerPoint slides attached to it, so you will have those to review afterwards. And, hopefully, as you go along with us today, if you have any questions about those, you can followup with us either through the question part of the Webinar or afterwards.

Meg Garvin: If you do experience technological difficulties during this Webinar, the phone number to call is on your website there, or on your web screen there, 1‒800‒263‒6317, or www.gotowebinar.com. Those are the ways to access resources for technological problems. As
NCVLI, you are probably as technologically savvy as we are. But the GoToWebinar folks can help fix most problems.

Meg Garvin: And the very, very last point before I turn it over is the number one problem that happens during Webinars is that your own cell phone is causing interference. So if you could turn off your cell phones, that will reduce almost all of the problems and background noise that we have or that you will hear. So please do that. And, with that, I am going to turn it over to Rebecca Khalil and her two great colleagues to present this Webinar.

Rebecca Khalil: Thank you, Meg. Hi, everyone. This is Becca Khalil. I am one of the staff attorneys here at NCVLI. And, as Meg mentioned, I have had the pleasure of sitting in on trainings both by Jerry and by Bethany in the past. So I think you guys will get a lot out of this Webinar.

Poll #1

Rebecca Khalil: But, before we launch into the actual materials, now that you know a little bit about us, we would like to hear a little bit about you and who is on the line. So you should see on your screen, a poll has popped up asking you what area of law you currently practice. And we have a couple of options. We have criminal law, civil law, family law, and then, as always, that you are not a lawyer but you work with victims. We often get advocates and law enforcement members on our Webinars, and we welcome you. It is great. Everything hopefully that we say will be accessible to anyone who is not a lawyer, so please do not leave even though this poll is asking specifically about lawyers. We will give you 1 more second to go ahead and vote.

Rebecca Khalil: All right, let us go ahead and close that out and see who we have got on the line. So it looks like – good thing I said please do not leave – we have got about 75 percent of you who are not lawyers, which is wonderful. Welcome. We have got a contingent of criminal attorneys,
and some folks who practice general civil law, as well as some family law lawyers. So, welcome. We have got a really good selection, it looks like, of folks who practice and who work with victims in a number of different settings.

POLL #2

Rebecca Khalil: And then we have one more – we have one more poll for you. We would just like to know, seeing as this Webinar does address communicating with child victims, have you taken any classes or Webinars on this topic before? And this is just a simple yes/no poll. I am going to give you 1 more second.

Rebecca Khalil: All right, let us go ahead and close that out. So it looks like almost, a pretty good – a pretty good distribution of folks who have taken classes before and those who have not. We think that if you have not taken anything before, we think this will be a lot of really good new information for you. And if you have taken a class on this before, this is fantastic. So hopefully you are going to hear things that are new or different than what you have heard before, and different tips or techniques that can be helpful. And if you are hearing things that you have learned before and want to learn something more indepth, just a reminder to use your chat box or your question box to send us any additional followup questions. And we are happy to get to those to make sure that we address some of the topics that you might not hear or you might have heard before and want to go a little deeper into.
Learning Objectives

After participating in this webinar, you will be able to:

- Describe why effective communication is crucial to legal representation of child victims
- Identify select ethical implications relating to effective communication
- Articulate key strategies for effectively interacting with child victims

Learning Objectives

Rebecca Khalil: So what is going to go – what is going to happen on this Webinar today? So the learning objectives. After participating in today’s Webinar, you are going to be able to describe what effective communication is important and crucial to legal representation of child victims. You will be able to identify select ethical implications or ethical issues relating to effective communication. And you are going to be able to articulate key strategies for more effectively interacting with child victims.
Disclaimer

Rebecca Khalil: So just to note a little disclaimer before we start. For those of you who are attorneys, this might seem familiar. For those of you who are advocates, you might have interacted with attorneys who are working in both these roles. But we want to make sure that everybody on the line is sort of on the same page when we are talking about representing child victims and what we mean.

Rebecca Khalil: So we have – there is basically, as an overview, two different types of representation – legal representation of child victims that commonly happens, and there are two very different roles. There is the traditional attorney role, and then there is the guardian ad litem (GAL) role. And there are a lot of different benefits and drawbacks of each of these roles, and they really function very differently. I am going to go over just a few of the highlights briefly right now. But if you would like to learn any more information about this, we do have a publication on NCVLI’s website in our Law Library under the “Child Victim” heading that goes into this information more indepth with footnotes and things, if you want to learn a little bit more about the differences between traditional attorney representation and GAL representation.

Rebecca Khalil: So GAL representation, this may be an overview, but just to make sure we are on the same page. So GAL representation, if you are a guardian ad litem for a child victim, it is your duty – and most jurisdictions established this sort of thing by statute – to advocate for the best interests of a child. So your advocacy on behalf of the child is based on the lawyer’s judgment, as your judgment as a lawyer, and not on the child’s judgment. And as is probably obvious, these two things sometimes are the same, a child and their attorney may think that the same thing is in their best interest, and sometimes these interests diverge. The lawyer may have a different idea what is in the child’s best interest than the child has. And, as a GAL, the lawyer then advocates for the child’s best interest as they understand it to be, with consultation with other experts and things dealing with the child.
Rebecca Khalil: So some say that this type of representation arises out of society’s obligation to protect children from any possible immature or bad judgments that they might make by virtue of their age or inexperience. And often one of the benefits of GAL representation is that you can avoid these sort of things, and, by statute, oftentimes jurisdictions provide explicitly for compensation for attorneys who are acting in a GAL role.

Rebecca Khalil: So GALs are contrasted with traditional attorney representation of a child. So, unlike the GAL who is obligated to advocate for the best interests of a child, the traditional attorney role, that attorney advocates just as they would for any other client. They follow the expressed wishes of their client, so they advocate on behalf of what the child wants to have happen. This is really an empowerment model, allowing the child to direct their representation and direct and influence the extent and participation of what they want to do in connection with a criminal case if we are talking about victims’ rights specifically.

Rebecca Khalil: The American Bar Association has issued a publication expressing a clear preference for traditional attorney representation of child victims in all but the exceptional case, such as with pre-verbal children who cannot direct their own representation. And the National Association of Council for Children agrees that traditional attorney representation is the preferred model in many cases. In most circumstances, traditional attorney representation does provide child victims with more of an empowerment and more of a role to determine what rights they want to assert, how they want to assert them, and to have a more active role in directing their participation in a criminal justice process. So that is what we are going to focus on for the remainder of this Webinar is primarily on the traditional attorney representation of a child victim.

Why is Effective Communication so Important?

To provide effective representation:
• Your client will need to understand his or her options
• You will need to have a clear understanding of your client’s wishes

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Rebecca Khalil: So why is effective communication so important? And this is sort of the “no duh” moment. Why are we talking about this? We are talking about this because if you are a lawyer or an advocate working with a child victim, and you want to provide them with effective representation, and even respond to their concerns and questions in a way that is going to be most helpful, you need to be able to explain to the child victim what their options are, and you need to make sure they are understanding those options and what their preferences are, and, if you are their attorney, what their directions are in terms of what they want you to do to advocate on their behalf. So communication is really the basis for everything we are going to be getting into when you are representing a child victim, which is why we are spending an hour talking about that today.

Rebecca Khalil: And so, with that, I am going to turn the presentation over to Bethany and Jerry, and we will return at the end again with all of your questions that you submit to us.

Dr. Jerry Yager: Hello? Can you hear me?

Rebecca Khalil: We can. Hi, Jerry.

Bethany Roberts: I can hear you, Jerry. This is Bethany. Good afternoon, everyone.

Dr. Jerry Yager: Hi, Bethany. How are you?

Bethany Roberts: Good.

Dr. Jerry Yager: So what Bethany and I are going to do today is we are actually going to talk about each of the slides and give our perspective together. So, Bethany, I wonder if you could just begin to kind of maybe cover some of the ethnics issues?

Bethany Roberts: Sure. Absolutely. Let me take over here. Actually, Rebecca, if you would just advance us. I could not get it to advance.
Ethics Alert: Model Rule 1.4 Communication

Bethany Roberts: The first ethics rule we are going to talk about is the – is communication. The American Bar Association (ABA) has Model Rules of Professional Conduct that each state sort of adopts their own rules or uses the ABA’s, the American Bar Association’s, Model Rules.

Bethany Roberts: The first one we wanted to talk about was the duty of communicating with your clients. The basic rule says that you need to promptly keep your client informed of all of the decisions and circumstances of the case, consult with your client about all of the objectives, keep the client informed, comply with all of their requests for information, and make sure to explain the matter to the extent reasonably necessary to permit the client to make informed decisions. These same rules apply whether your client is a sophisticated adult who may be at a lawyer to, you know, a 4-year-old child if you are representing that child in the traditional attorney role. And so it is very important to have sort of these effective communication skills so that you are able to, if you are the lawyer, able to ethically meet your duty to communicate with your client, in the same way that you would regardless of their age. Sorry, I cannot get the slide to advance. There we go. Sorry, everyone. There we go. So hopefully you will be using the skills that we are going to address in this training to help meet this ethics rule.

Bethany Roberts: One of the things that was just discussed was the difference between a guardian ad litem and an attorney. And in most states, the attorney has confidentiality with their client, and we are going to be addressing that. If, for some reason, you do not, if you are a mandatory reporter, or if your scope – 1.2 is the American Bar Association’s rule on limited scope – if your scope is limited, you need to make sure and explain that to the child.

Bethany Roberts: Many times, verbal explanation of what of your role and what your expectations are for the client are not enough. And so there are a lot of handy flyers or books or – I actually just have sort of a one-page sheet that summarizes all of the things that I talk with a
client, a child client in our first appointment. And some of those we are going to be going over in a little bit. But sometimes just having that communication is not enough. A flyer or a handout or something like that can be really helpful.

Bethany Roberts: One of the keys in the attorney-client privilege is that they trust you, and it is paramount to the relationship. And so in that first interview or the first time, you need to make sure that child does not feel that you are untrustworthy or judgmental, or that you are unable to relate to their experience. Otherwise the child might censor themselves and not give you the information you need in order to effectively represent that person.

Bethany Roberts: In the course of this relationship, you have to give legal advice or advice. Some of it, the client will not want to hear. And if the child trusts you, it is far more likely that they will be able to hear the bad news or, you know, the good news, be respectful of what you think the legal positions are, without feeling that you are just another enemy that is sort of out to get them. The attorney-client relationship is predicated on trust, and the client is far more likely to make sound decisions and act in a way that is in their best interest if you have the communication in the relationship, that you are able to trust each other moving forward.

Bethany Roberts: Jerry, do you have something you wanted to add about communication?

Dr. Jerry Yager: Probably the only piece I would add to that is the concept of trust versus the concept of safety. For many of your clients, based on their relational history, trust is going to be a very, very difficult thing to achieve. And so, we are going to talk about a number of things in terms of what you are going to be doing to increase safety. And then once the child is safe, they have the capacity to then begin to develop some trust. The second piece of that is to always remember that the child, or even teenager, is going to be relating to you based on their own relational history, and it is not about you personally. So when you are carrying out your ethical responsibilities, you have a client who is interpreting them based on their own experience. And it is really important for you, as we kind of talk about some of these communication skills, not necessarily to be organized by how they are responding to you, but by some of the professional, ethical, and practices that we are going to kind of work on. That is all I wanted to say about this.

Bethany Roberts: Yes. It is important to explain to your client all of the legal options at every step of the legal process. Important to be clear, concise, and honest about the limitations of the system. I think that is something that we fail to do with child clients a lot because we want them…It is very hard to talk to a child and say, “There is no legal solution for the problem that you are facing.” I mean, that is hard to tell an adult victim. Having that conversation with a child victim can be very challenging. It is also really important, particularly important with children victims, to never make any promises, especially those that you cannot keep, but I sort of say, blanket, do not make any promises. I think it is very important never to talk down or to treat that person as if they cannot understand because they are just a child. These are very serious matters, and so I think treating them and acknowledging that this is uncomfortable to talk about, this is serious, this is hard. I mean, I think all of those are very important things to sort of acknowledge when you are meeting.

Bethany Roberts: One of the things I just want to add, this small, little caveat, is that sometimes we do not necessarily think of the ramification of the words that we are saying when we are talking. And so, being just more cautious of that when you are talking with children victims. Saying something like, “Call me whenever you need to, and we can talk about this,” implies that you are always available to talk, which may or may not be true. Saying, “I will return your call soon,” has a completely different sort of meaning to a 13-year-old who is used to getting instant
gratification in text messages every, you know, 5 seconds, than it would for sort of a traditional client. And so, just sort of setting out your expectations and sort of making sure that the client understands that at the very outset I think is key for communication.

**Ethics Alert**

*Client-Lawyer Relationship*

Model Rule 1.6 Confidentiality of Information

- (a) A lawyer shall not reveal information relating to the representation of a client
- (b) A lawyer may reveal information if necessary:
  - (1) to prevent reasonably certain death or substantial bodily harm; or
  - (2) to prevent the client from committing a crime or fraud that is reasonably certain to result in substantial injury to the financial interests or property of another; or
  - (3) to prevent, mitigate, or rectify substantial injury to the financial interests or property of another that is reasonably certain to result or has resulted from the client's commission of a crime or fraud; or
  - (6) to comply with other law or a court order.

**Ethics Alert: Model Rule 1.6 Confidentiality of Information**

Bethany Roberts: Let us move on to confidentiality here. So the next ethics rule…Jerry, I think you have control. Could you…?

Dr. Jerry Yager: Well, I do not. That is, I am trying to figure out…

Bethany Roberts: Okay.

Dr. Jerry Yager: Oh, okay, here we go.

Bethany Roberts: Oh, okay.

Dr. Jerry Yager: Here we go.

Bethany Roberts: So, talking about confidentiality, this is very important to explain to your client that communications to you are protected by an ethical rule for attorney-client…confidentiality or attorney-client privilege. Describing it in very simple terms and explaining. I like to explain sort of, “Everything you tell me is a secret between you and I, and I can only disclose it under certain circumstances,” and sort of talking about what those are. “I can only do it if you give me permission first.” I really like to point that out. A lot of times, for children victims, they have had that, “You have to keep this a secret,” or, “You cannot do that.” And so, giving them the power to say when you can disclose something can be very empowering in my experience for children victims. And so, I really like to have a conversation about that.
Bethany Roberts: It is very important to not accidentally disclose confidential information for child victims. It is easier to do for child victims than it is, I think, for any other type of client that we work with because there are so many other individuals trying to participate in that relationship. It might be a guardian ad litem, it could be parents or grandparents or a guardian or even the court trying to do what is in the best interest of our client. And so it can be very tricky to make sure that you are maintaining that confidentiality, but it is very important.

Bethany Roberts: I think it is also important to have the conversation around confidentiality of who your client does not have confidential information with. So if they are also meeting with a therapist saying that this would be confidential or this is not, or this is a social worker appointed by the court and so what you tell that person, here is the ramification of that. So having that holistic conversation about confidentiality is very important with children victims. Jerry?

Dr. Jerry Yager: Yeah. The only thing I would add to that is oftentimes when you deal with victims of crime, their perpetrator told them to keep things secret. And so the concept of secrecy versus privacy is a very important thing to help them understand. That when we are – when you are talking, what you are talking about is private, and if they choose, they want to talk about something, they can. So, really, you want to be in some ways differentiating yourself in a way from those adults who have hurt them in the past. It is a very important piece of creating that rapport and creating that sense of trust and safety for them in terms of those things. So this whole concept of you kind of being respectful from a legal perspective, but also in terms of the privacy of that conversation and relationship is very important to kind of do. But if there is something that they need to tell, how they can actually tell that you are not telling them they need to keep a secret. It is just an important piece to keep in mind because that word, even in therapy, is a very, very powerful message that they received from the people who have harmed them.

Bethany Roberts: Right. Okay.

Dr. Jerry Yager: We will change slides.

Bethany Roberts: Yes, I got it.

Dr. Jerry Yager: Oh, you got it?
Ethics Alert: Model Rule 1.14 Client With Diminished Capacity

Bethany Roberts: Diminished capacity. The American Bar Association has a specific rule in working with clients with diminished capacity. You might be thinking that children are not necessarily, you know, some 16-year-olds are sharper about the legal system than, you know, adult clients we work with, and that is absolutely true. Children, by definition, are included under this rule. But the key is that we, the lawyer, have the burden to make sure that our client understands the system, the legal issues, and our roles and responsibilities. That is our burden as the lawyer is to modify our language to become informed about developmental stages, to make sure that we are being appropriate. It is our burden to make sure that we are meeting our clients’ needs. It is not the clients’ job. So we cannot do a one-size-fits-all language to explain what a criminal prosecution looks like because my description of that is going to be different, depending on the specific client that I am talking about.

Bethany Roberts: And that is basically what this rule says. It is our ethical duty to meet the need of our client, whether they are 4, 14, or 44. And so, I just wanted to make sure we discussed that rule to ensure that we realize that we really have the duty to be meeting with our clients on a regular basis, explaining the process such that they can understand and make informed decisions about the case. And doing that for a child victim can be incredibly empowering and have a huge impact on the way the case proceeds. Jerry?

Dr. Jerry Yager: Yeah, I think we will just keep going because we will talk more about this as the slides move on. Do you have control?

Bethany Roberts: Sure. Is that one next?

Dr. Jerry Yager: That one is next.
Bethany Roberts: Okay, I think that must be yours.

1. Child-friendly explanations of what to expect from the child victim’s attorney
2. Developmentally appropriate explanations of what the child victim can do in the event the child victim’s attorney engages in misconduct
3. Misconduct rules are also binding on counsel for the defendant

Dr. Jerry Yager: I think Bethany kind of highlighted the need really for increased awareness and knowledge and skills in dealing with children and adolescents around these, rather than, “Here is how I do it,” and basically the client has to adapt to that. You are going to really get in a spot to really being, in some ways, assessing the person that is sitting in front of you, and then adapting how you present information to both their chronological age, but also their developmental age. And then, in the process, understanding that their capacities are what we call state-dependent. So when they are feeling safe, their ability to use language, to be able to socially interact with you is going to be very different than when they are dealing with things that are frightening or overwhelming, and you are going to have to be sensitive to adjust your interactions to their different states, both when they meet you, but also through the process. And we will keep going.

Dr. Jerry Yager: I do not know if you want to say anything more about that?
Communicating With Child Victims

Bethany Roberts: No. Oh, sorry. So let us get down to the nitty-gritty of communicating with children victims.

Distinguishing Client Interactions from Forensic Interviews

**Forensic Interviews**

- Designed to gather evidence by eliciting detailed facts and information about any crimes committed against the child victim
- Often testimonial in nature

**Client Interactions**

- **Client interactions are not forensic interviews**
- The attorney does NOT need to know every detail
- Rights and options are central
- Designed to facilitate communication with the child victim, who is the client
- Focus on obtaining educated client direction regarding rights and options
Distinguishing Client Interactions from Forensic Interviews

Dr. Jerry Yager: Okay. So I think it is really important to understand the difference in...When we are here at the Advocacy Center involved in a forensic interview, our primary goal is to obtain information from the child on the alleged offense, the disclosure that is going to be used as evidence in the court. We are not concerned about really the child’s emotional reaction. We are not as concerned in terms of the long-term impact on them. Although, one might say you should be. But really – and the interviewers are – but really what we are trying to do is get information to be able to use as evidence for them. You, as an attorney, are not in that same role. And so, you are in a role that you are both trying to create the best opportunity for your client to be able to effectively communicate with you, either to kind of going back to the initial of meeting their wishes, or making some assessments of what is in their best interest.

Dr. Jerry Yager: So, you do not necessarily have to understand or get all of the information, but you have to, in some ways, be creating a safe relationship where this person can trust you to, in some ways, act in their best interest to represent you. And that is really important, and some of that, as we are going to talk about, is very concrete of having them both understand the limits of your relationships of confidentiality and their rights and options along the way in a developmentally age-appropriate fashion. That you are going to not assume because I told them once that they are going to remember that. So you are going to continue to bring that basically up, and you are going to be in a spot to facilitate that discussion. And as we go along we will talk about some of the things that you are going to be kind of looking at.

Dr. Jerry Yager: But it is really important that you understand that, in one situation, people are going to be trying just to obtain information from them. In another situation, you are going to be trying to kind of create a relationship that both is going to serve them and also, in some ways, that you can create some sense of safety, that you can be in the best position to represent them and their best needs. Bethany, want to say anything?

Bethany Roberts: I would, just briefly, because learning for me the difference between forensic and clinical was huge as an attorney. You know, forensic being designed to sort of find out the answers to a legal question, whereas clinical is, you know, treatment and, you know, ongoing therapy. That sort of thing. And so, learning the difference was very important. And then sort of adapting that to my attorney role of – forensic gathering would be, you know, trying to get to the truth. Asking the questions to try and find the answers. Whereas when I am representing a client, it is hearing their story. It is not necessarily what is true, but what is true for that client. And then finding out what they want to do with that information and advocating for that. And I think that is a really big difference that is challenging for us sometimes with child victims because we, by our very nature, just become paternalistic towards the children and want to protect them and do what is in their best interest, as opposed to listening and really hearing what they want to do and what is their interest.

Bethany Roberts: And, frequently, I will not ask all of the detailed questions initially. It is not… I am not doing a forensic interview when I represent a child. I, you know, say, “Here, tell me your story,” and then we will ask more as I need to. But I do not – and I know that is off on the slides – but I do not need to know every detail of who said what, did what, when, at the outset as opposed to the forensic interview. So I just wanted to add that one little piece before we moved on.

Dr. Jerry Yager: Perfect. Perfect. Makes a whole lot of sense, Bethany.

Bethany Roberts: Great. Let us talk about setting. Oops, too far.
Dr. Jerry Yager: Oh, we missed setting. There we are.

Setting

- Age appropriate
- Child friendly
- Minimal distractions
- Private

Bethany Roberts: I can first. Just one of the things I think that is important in talking about the setting, you can see the slide there, to have age appropriate, child friendly, private. Some of the things that are a little at the outset of that is thinking about who is bringing the client to your appointment or taking from the appointment. That can be very important if you are worried that a parent might persuade, threaten, coerce the communication.

Bethany Roberts: Also, just practical obstacles I think are important to mind. Are you, if you meet at the school – which is sometimes a great place to meet, sometimes terrible, you have to know your kid – but if you are meeting at the school, are you pulling out of Algebra which the kid has a really hard time with anyway? You know, just sort of making sure that you are being sensitive to all of those issues.

Bethany Roberts: And then, sort of, when your client comes to the office, make sure if they are driving or public transportation, detailed directions, requirements. Like do you require an ID to check in? How do you enter the building? Are they going to get reimbursed for parking? You know, just all of those sort of nitty-gritty issues that an adult might be able to sort of problem solve, but you might need to help do that with a child. Go ahead, Jerry.

Dr. Jerry Yager: Yeah, I think those, the setting and their relationships, starts… When you are meeting with a child, a child is going to – our brains create associations, so if you are a stranger and a stranger has, in some ways, committed a crime, that child’s brain is already going to
identify you as a threat. One of the ways in which to, in some ways, trick their brain is that when you go out and you talk to somebody that the child knows, a teacher or you talk to a parent, just for a little while, that child automatically is making associations between you and somebody that they feel safe with. And so, it is not necessarily what you are actually saying sometimes, although if there is a parent that is doing it, for them to understand. But you are trying to, in some ways, get that child to immediately associate you with somebody who they perceive as being safe and being a resource to kind of looking at that.

Dr. Jerry Yager: The same thing can happen sometimes is when you bring them in to talk with them, if there are things for them to play with or if there are things for them to draw with – and we will get on to some of that – is that what you are ending up doing is you are creating a more internally-pleasant state. And when they are in that state, they begin to associate you with that. If you come in and you immediately start to engage in something that is distressing, they are going to have a hard time differentiating between what you are creating in them and what you would like to accomplish. So I think creating some of this, and that is really important to their age. So for little ones, sometimes it is not about verbal, it is about playing with them or having things in your office that are doing it. Sometimes for adolescents it is about engaging in things they like or things they were doing. If you know they play sports or something, just spend that time in those interactions in terms of thinking, “I have got to create an internal state for this client to be able to feel safe and to access the information I am later going to ask them for.”

Dr. Jerry Yager: So, where you do it, minimal distractions, that you are clearly attending to them, that they are important, that their information is important. But they are more important than their information. I think that is what Bethany said that sometimes she does not even begin to talk about and get details, because you are communicating the importance of the person in front of you rather than what this person has to tell you. Anything else, Bethany?

Bethany Roberts: Yeah. I like having an activity. I think that that is really helpful until you get to the teens. I really like to have something, word searches. I know I told Jerry, I carry sort of a – I call it my GAL kit, but it works for a child attorney too. It has like Play-Doh and markers or colored pencils and random pieces of paper and word searches, and, you know, a variety of different things. And I will not pull out the whole thing and be like, “Pick something.” I will pre-pick one thing that is all that is available to do, because I really want a distraction but I do not want multiple distractions, if that makes sense. I want us to have an activity that we can do. If we are talking about something terrible, that I can sort of say, “Oh, look over here for a minute,” and then we will come back to it. But I do not want too many distractions where we are not able to focus on what we need to get done. And so that is sort of a fine line and sort of tricky, but I think it goes – it plays into settings. I really like a neutral location, if I can, like school or even my office or sometimes – I just the other day I went on just a walk with a kid, like we walked around the neighborhood. Just something that is neutral and, I do not know, has some different associations.

Bethany Roberts: The other thing that I do a lot that Jerry mentioned is I will – if I talk about that protective person that I have already talked to, something like, “Oh, hey, yeah, they said how much that you like baseball. I like baseball too,” blah, blah, blah, or whatever it is. Or, “I cannot understand soccer, I have never understood that off-sides rule, that is silly.” Like any of those sort of, you know, keys to just sort of set up the setting.

Bethany Roberts: Okay, let me move us to the next one.

Dr. Jerry Yager: Perfect.
Bethany Roberts: Jerry, let us talk about parental involvement in the interview.

Dr. Jerry Yager: Okay.

Bethany Roberts: There we go. Ooh, wrong way, sorry.

Who’s in the Room?

Parental Involvement?

- Consent required
- Legally required
- Aligned
- Participation
- Safety planning

Who is in the Room?

Dr. Jerry Yager: So why do not you start from the legal perspective, and then I will talk about…

Bethany Roberts: Sure. And different states sort of have some different rules on this. Typically, you are not required to have – if you are the attorney for the child – not required to have consent. If you are the prosecution, you probably are required to. So is it required? Would you feel better about it? And then if the parents want to sit in on the interview, are they aligned with the child, or are they not? Is the child going to curtail what they tell you based on, you know, the parent being there?

Bethany Roberts: The other thing that I always point out is that confidentiality, that ethics rule is broken if you have a third party in there. And am I able to adequately holistically safety-plan for my child victim if there is an adult in the room? Sometimes it is helpful. Sometimes it is harmful. And so you are really going to have to feel that out. I always say, “Oh, I am so glad you are here with little Johnny. Let Johnny and I meet first and talk for a few minutes, and then if we need to have you come in, I will come back out and get you.” Because I want to explain my role, his role, the rights and responsibilities that each of us has and confidentiality before we have a third party in the room. Jerry?
Dr. Jerry Yager: Yeah, I think those are really important pieces, and I think that for the non-offending parent, one has to remember that somebody else has hurt their child, and they are in a spot where even though in their logical brain they understand your role, they may not feel safe allowing you. And if they do not feel safe, that child is going to pick it up, verbally or non-verbally, it is not safe.

Bethany Roberts: That is an excellent point.

Dr. Jerry Yager: And so, the time you spend helping the parent understand who you are, what your role is, why you would like to meet with them for a little while to explain some things, and also is that there is no secrecy, that whatever happens, your child, if they choose, can talk with you about that, and if you choose to let them come in the room, that is okay. But you have to spend as much time reducing the stress and threat to the parental figure, because once they feel safe and give consent, the child will much more readily engage with you. If they are anxious and non-verbally communicating it is not safe, you are going to be in some ways in conflict with that parent.

Dr. Jerry Yager: The other piece is sometimes kids will verbally tell you they are safe and they want their parent in, but their behavior and their bodies are going to be saying the opposite. And so, you as their attorney or therapist have to figure out how to manage those situations to kind of looking at that. And I think that explaining and saying that what we talk about is confidential in here, and that you do not have to tell, is really important. And explaining that almost as if, you know, we are planning a surprise party for your mom, that is something you would not want to tell your mom because [unclear] where if something...So really helping that child begin to differentiate between who you are and that, in some ways, your role is not in conflict with their parent’s role to kind of looking at those. That is really difficult for a child to understand, and that even in therapy, I usually at the end of a therapy session will spend a few moments talking about, “Here is some of the things that we did,” without going into details. “Here is some of the ways, if something comes up for you during the week, you can call, you can do it.” But really relieving the parent’s anxiety about that, because really leaving them with a stranger is, at this point, is really very frightening for a parent. So I think both kind of protecting the confidentiality, but understanding the dynamics that goes on when you are dealing with a child who has been the victim of a crime.
Developing Rapport

Bethany Roberts: Yeah. Let us talk about building that rapport in that first meeting, because we have to develop that quickly. Jerry, what are some of your tips there?

Dr. Jerry Yager: So, for me, I am really trying to assess the child and trying to assess them in terms of – one is how old are they, right? So what could I be expecting? Is this somebody who I am getting a sense seems to be older than their age, they seem to be mature? Or is this somebody I am thinking, you know what, when I am with them they seem like they are a much younger child. And so, I am going to be, in my mind, being what I call age respectful, but developmentally sensitive. Very different things. So I am going to be very respectful because I am not going to say, “Oh, you are a little – you are little and I am going to do it,” but at the same time, I am going to change my language, I am going to change how I am interacting, I am going to change what I bring into the room in terms of things to play with and kind of [unclear]. I am going to change how long I take to kind of create that sense of safety, to kind of looking at that.

Dr. Jerry Yager: My experience has been that the first, really, minute to two sets the tone for a lot of this. So how you interact with the child as soon as you – how you are interacting with the parent really begins to set the tone for that. So I think that here on the slide it is talking about it. If I start, in some ways, interrogating the child, asking them yes and no questions, the child is going to immediately either want to give me what I want to hear or not give me something because they do not know what I want. So really creating an opportunity to create a space for your client to tell you their story, for your client to share things with you. They are going to get a sense of that you are really interested in them, and that you are doing that both at a conscious level of what you are saying, but also at a visceral level that they are really important in terms of taking the time to kind of look at that. And I think the more you kind of go through this, the more you are going to have a sense that when I ask questions, I am going to be very much geared towards – I am not as

- Introductions and developmentally sensitive explanations that help clarify the legal context can reduce uncertainty
- Early interactions can set the pattern of avoiding monosyllabic yes-no responses
- Time spent in narrative practice

Developing Rapport

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interested in the exact answer, I am interested in creating space for them to talk. When we talk and we feel like we are understood, we begin to settle down and kind of relax.

Dr. Jerry Yager: So a lot of that is about meeting the child at his developmental age, and then creating the space for them to be able to share their story with you, as opposed to you trying to get their story out of them. Bethany?

Bethany Roberts: Yeah, a lot of times I will ask them sort of, “Do you know who I am and what my role is?” Because that gets them talking, and if they just say, “I do not know,” then I will do a little introduction. I mean, maybe a handful of times I have had that happen. Usually somebody has prompted it and they will say, “Well, I think you are this person,” or, “I heard I was meeting with you,” and they will talk to me a little bit about that. But it takes the pressure off because we are just sort of talking about me and who I am and what my role is first, and they are talking, and it gets them sort of comfortable, you know, holding the floor. Because, really, they are going to be doing the majority of the talking in our interview.

Interacting With Child Victims

- Tracking Non-Verbal Communication
  - Facial expression
  - Prosody
  - Gestures
  - Proximity

- Work hard to track your own internal states and stay connected in a mindful way to your own body and mind. Being as aware as possible of one's own breathing, posture, and voice tone can help you stay within your window of tolerance.

- Tracking Sense of Regulation—Child’s ability to remain at least partially in the present while they share their story (one foot in the present while they talk about the past).

- Track what is occurring interpersonally with engagement and disengagement. Don’t be avoidant and don’t be intrusive.

Interacting With Child Victims

Bethany Roberts: Let us talk about some of that non-verbal communication and how important that is, Jerry.

Dr. Jerry Yager: Right. So I think some of your clients are not going to have any difficulty. They are going to come in and they are going to talk to you and you are going to do it. Really, what we are trying to get to is when you get to those difficult clients that you look at. Right? So two things are going to happen with a child who, in some ways, is not feeling safe. When we are not feeling safe, we switch out of a social engagement stance and we move to a defensive stance, and we rely on certain strategies to kind of scan the environment for potential safety. So one of the things that goes on is that the client’s facial expressions are going to communicate way more than their
words, the tone and prosody of their voice, how they are saying things, their body language, and also where they are sitting in proximity to you.

Dr. Jerry Yager: Well, the same thing happens when you are talking, is if you begin to become, in some ways, really serious and really engaged in wanting to look at them, they are going to be reading your facial expressions. And people who are stressed have a decreased ability to accurately read facial expressions. So people who are stress or people who have been hurt or have a history of poor caretaking, they have a tendency to read neutral facial expressions as threatening. And so, for the client, you are going to become attuned to their non-verbals. For you, you are going to get much more – you are going to have to, in some ways, increase the labeling of what you are feeling and what you are thinking for them to get an accurate perception of those things.

Dr. Jerry Yager: There is...What happens when you are with clients who are in a defensive place, who are frightened, who are anxious, who are defensive, they are going to act in ways to actually create a similar state in you. So you are going to begin to become anxious, you are going to begin to become, in some ways, questioning yourself to kind of look at it. And what you have to begin to do is, in the room, become very mindful of what you are feeling, and then intentionally about what you are trying to do. Not to be organized by the child’s behavior. So if the child is withdrawn to kind of do it, we can actually begin to talk way more than we need to, or we can actually withdraw way more than we need to as well. So it is really become attuned to what you are feeling and thinking, and then make some decisions based on the outcome.

Dr. Jerry Yager: The other part about it, as I mentioned before, is that the child’s ability to remain engaged with you and to actually use the part of their brain that uses language to communicate is state-dependent. So a child may come in with you, you may do a great job of establishing rapport, you may do a great job when you are talking about soccer and your sidelines and [unclear]. And then, all of a sudden, you shift over to talking about something that is difficulty. What you are trying to be able to gauge in the room is can this child talk to you about what is going on but stay with you in the room? If the child, in some ways, begins to react to the story as if it is rehappening, or begins to shut down and withdraw, that is a good sign that what you are beginning to get to is more, is way more than the child can kind of manage. So you want to go back again to kind of reestablishing safety, you want to go back again to kind of looking at that. You may actually want to say, “I am not going to get that until the next time I meet with the child, or kind of look at it.” And if it is really, really difficult, then you may want to be making some assessments in your head about, “Maybe I need to kind of think about what kind of support this child needs in terms of mental health issues or whatever.”

Dr. Jerry Yager: But really, when we are talking with somebody about difficult things, we want them to, in some ways, be reflecting back to when that happened, but be there in the room with you. And that part is really important because, just like all of us, we want to be able to socially engage and talk with you, but we also need time sometimes to disengage and think about what the questions are, think about what is going on, and process with that. And that you, as the adult in there trying to work with them, are going to have to become really attuned to when does a child want to engage with me and when are they trying to disengage with me, not so much that they are being avoidant or they are being resistant, but maybe they are becoming overwhelmed and they are trying to cope with that. And I think that that is really important in any relationship that you are in, but particularly with younger kids who rely on adults to kind of help regulate them, or younger adults who have, in some ways, been discounted or minimized or marginalized by significant adults in their lives. You have to stay very attuned to where that child is at, both historically, but also currently in this interactional process that you are looking at. Bethany?
Bethany Roberts: Yeah, I think one of the things about our non-verbal communication that is important, or at least I have had success with, is really sort of your level. And by that, I mean your height and where you are at. If you are meeting at a desk and I am on one side and the child is on the other, it is very challenging to have sort of an intimate conversation with the child. But if we are – if it is a younger child and, you know, we are sitting on the floor playing cars and talking about stuff, I have had a lot more success with that. So beware of your surroundings and your non-verbal communication I think is very important in having the success in the interview.

Bethany Roberts: The other thing that I, personally, struggle with is asking the question and then not answering it, and letting it sort of sit in the room for a moment, and giving the child the opportunity to formulate an answer and to answer it. We tend to – me, in particular, and probably some others – do not like that empty space, that quiet is very challenging to just let it sit there. And so, asking the question and then waiting.

Bethany Roberts: The other thing that I do is I am very honest with the child that I am meeting with about my feelings and my emotions about it. If we are talking about something that is terrible, I think it is okay to say, “This seems really hard to talk about, I am sorry we have to.” And I think it is okay to say, “That is really uncomfortable,” or, you know, “I know we do not want to talk about it, we do not have to today, but we are going to the next time.” I mean, I think it is okay to sort of acknowledge the uncomfortable, the sad, the – you know, any of that. Just sort of acknowledge that that is a fair feeling, and whatever sort of emotions they have about that is that it is their emotion and they get to have it. And by you doing that, it sort of establishes that for the child as well.

Dr. Jerry Yager: Right, right.

Using Language Children Understand

- Clarify terms in advance
- Use short sentences
- Use simple grammar
- Use examples, if helpful
Bethany Roberts: Let us talk about the language. We talked about this a little bit with the language that they understand as part of the ethics rules. But more particularly, sort of developmentally-appropriate language. Jerry?

Dr. Jerry Yager: Yeah. So understanding, both socially but cognitively, a 5- to 8-year-old is in the world in a very different way than a 13- to 17-year-old. The younger child is in a very – what they are focusing on is what is physically present, what they physically see, what they can physically touch. They measure time and the issue is it is dinnertime, it is time for sleep, it is time to brush your teeth. The structure and organization of their world helps them to organize their thinking. So when we ask them information, really we want to be asking information that they can kind of be able to respond to. So we cannot be asking them, “So, hypothetically, what do you think somebody was thinking?” They cannot answer that question. They are not capable of answering those kind of questions. So we want to ask information that is developmentally sensitive to them.

Dr. Jerry Yager: We also want to understand that their capacity to process in a sequential way multiple kinds of questions is really difficult. So we want to use very short open-ended questions with easy to understand grammar, so that they – and then once they answer that, we can give them the next part of the question. Rather than giving them a multiple part question that they have to somehow hold in their working memory to kind of be able to answer, and then use some of that. So that we are going to be, in a way, really tailoring how we are interacting, both to their chronological age, but also understanding if they are under stress they may actually be functioning at a younger developmental age than they are. So I am going to really work to simplify the questions I am asking, and really make sure that I am not necessarily asking them questions like, “So, tell me exactly when this happened. It happened Thursday before noon or Friday?” They have a hard time kind of putting things in timeframes to kind of looking at that. So really holding those things in your mind in terms of how you are interacting with them. Because, one is you can lose them, and two is they are going to shift out of telling their story to trying to read you and give you what you need. So, Bethany?
Instructions That Improve Communication

Bethany Roberts: Sorry, I did not mean to change the slide on you there. I think these instructions are very important to your interview. And I do this in every client interview that I do, regardless of age. So I think the youngest I have had is a 3-year-old where I represented the child, and then for the adult victims that I represent. I give these instructions. I tell them that it is okay to not know the answer to the questions I am asking. If I said, “Was it last Thursday or last Wednesday? Was it at 2 o’clock,” and you do not know, I do not want you to guess. It is very important for you to just tell me you do not know. Sometimes, you know, I ask a question poorly or I say something that is incorrect, and it is okay, please tell me that that is wrong. If I told you right now that these walls in my office were blue, you would say, “That is ridiculous. These are clearly yellow walls.” I mean, you cannot see them, but I can. And so, and it is also okay to say that you do not understand my question. Sometimes, as a lawyer, I get all worked up and I use this legal language that I do not even know what I am asking sometimes, I get so backwards. And so I think it is very important to make sure that every client understands sort of these three things. They are very key to develop that relationship and trust ongoing.

Dr. Jerry Yager: One last thing on this is one of the things to be thinking about is ask the child, “If you do not know something and you have a hard time telling me, how would you signal me that you do not know something?” Children, first of all, children who have grown up in homes, they do not know they can disagree with adults. Two is sometimes we get talking and they do not know they can interrupt adults. And three, so kids, for school they get very good, lots of history about raising their hand when they want to get something, or signaling. So I, even in therapy when I am working, even with adults I do this, I say to them, “There may come a time when we are talking that you do not have the words to tell me. How could you tell me, how could you show me that you think I made a mistake?” So that I really not only go over this verbally, but I go over it and say, “Here is the signal. What is the signal?” And I have the kids, sometimes they stomp their feet, sometimes they will put their hand up to kind of look at it. But I really spend a
lot of time with my clients helping them to know that I am empowering them that they can regulate the process of this discussion. That is a hard thing for a child to do to an adult. So spending that time up front really benefits long-terms.

Minimizing Closed-Ended Questions

Bethany Roberts: Yeah. Okay, closed-ended. Briefly, I mean we talked a little bit about that with the open-ended. But, especially in that first interview, making sure you do not ask the closed-ended questions. One of the things I like to do is, in the first interview where we are talking about – we have gotten past all the introduction, we have a rapport, is I say, “You tell me, tell me about it. What happened? Why are we here? Tell me about what happened.” And, you know, just sort of let them tell their whole story from beginning to end without taking any notes and without asking any questions. And sometimes it is, you know, three sentences long, and sometimes it is an hour. I mean, it just completely depends on your kid. But I can use that window, one, to get what they think the story is about, and, two, to sort of gauge some of those other things that Jerry was talking about – developmentally-appropriate language, you know, how can I be responsive to them. And then I will ask a series of open-ended questions that are more specific. And then we will just sort of get more and more narrow to the end. But that is what I have to say about that. Jerry?

Dr. Jerry Yager: Yeah. I would just kind of say that when you ask closed-ended questions, you are communicating immediately there is a right and a wrong response. Any of us. And they are going to either not know the right answer and give you…or they are going to look to your face and try to figure out what it is you want, because that is a safety issue for them. When you ask an open-ended question that there is no kind of right and wrong answer, it is, again, another way to kind of create safety that you are giving them an opportunity to explore, and you are interested in what they are thinking rather than for them to do it. So, even though we started talking about safety, every one of the things we have talked about is constantly building on a sense of safety.
and a sense that you are really interested in what is going on inside of them, rather than them having to figure out what is going on inside of you. And lots of the kids you are going to work with have survived being able to be hypervigilant to what adults are feeling and thinking, so that they are going to be able to kind of wanting to do that.

Dr. Jerry Yager: So, again, these are really important, and you are not going to get it 100 percent right. So if you ask the closed-ended question and you then become aware of it, that is fine, just go back and reframe it to kind of look at that. The worst part is not being aware and continuing this during the process. This is all about practice.
Implications for Victims’ Rights

Bethany Roberts: Okay, Jerry. Our last one here.

Dr. Jerry Yager: Okay. Go ahead, Bethany.

Bethany Roberts: I think this is just sort of our summary is to make sure that you have thought about each of these things when you are meeting with – before you meet with a child, so that you are prepared to explain sort of their rights, responsibilities, the implications of their choices.

Bethany Roberts: You want to make sure that you know what the victims’ rights laws are or rules, responsibilities for your area so that you can adequately tell the child about that.

Bethany Roberts: If the child needs any accommodations, we actually have a judge in Kansas City with his jurisdiction close to us who has a dog in the courtroom all the time. And so, is that an accommodation that is there? Are they allowed to take, you know, if they are going to be testifying, what does it look like? Going in ahead of time. Making sure the accommodations are there for them in the courtroom and your office, wherever you are meeting with them.

Bethany Roberts: And, again, local resources. Do you know the advocates that are close? Do you have one nearby? Is a parent a good resource, a therapist? Whatever it is for your child client.

Bethany Roberts: And then, making sure that you address whatever rights or protections that you can pretrial. Are we doing, you know, are we doing an in-camera interview of the child? What are we doing in order to protect, you know, medical records, or whatever the rights and responsibilities for the child that we can do.
Bethany Roberts: I think that that sort of summarizes our presentation on communicating – effectively communicating with child victims. Do we have any questions, Becca, that we should address?

Continuing the Conversation

Open to all participants in either this webinar or the previous webinar addressing the impact of trauma on child victims—

Next webinar:

Interactive online discussion to collaborate, pose additional questions, and share ideas about how to better and more effectively represent child victims.

Continuing the Conversation

Rebecca Khalil: We did get a couple of questions. But before we get there, I want to just briefly mention the third Webinar in the series. We had, the first one addressed the impact of trauma on child victims, which Jerry led and which was wonderful. This one addressed communicating with child victims, Jerry and Bethany, also wonderful. The third Webinar is going to be a little bit different in structure, also wonderful, but it is going to be an opportunity for folks who have watched the first two Webinars to interact in a more engaged way and collaborate a little bit in terms of strategies and issues that have come up in your representation of child victims. So keep an eyeball on your e-mail. We will e-mail everyone who has attended the first or the second Webinar about this, and the information will also appear online. So you should be able to find this information. We will give you a heads up, it is not going to be for about 6 to 8 weeks from now, but we will give you the information so you can register for that also.
Questions?

Rebecca Khalil: So, turning to questions. We got a couple of questions, which is great, and I want to make sure that we get a chance to answer those. If you still have any questions you would like to submit, go ahead and just write them in so we can get them in time. If we do not have time to get to everybody’s questions, we will reach out to you afterwards as well to make sure we can get that information to you.

Rebecca Khalil: So one question we received, I think it is directed at you, Bethany. The question is: Can you distinguish a GAL from the role of CPS, or Child Protective Services?

Bethany Roberts: Sure. In a lot of jurisdictions, the guardian ad litem is an attorney. An attorney who is appointed by the court to represent what is in the child’s best interest to the court. And so they are sort of assessing a legal issue of what is in the child’s best interest. So it could be about custody, it could be about testifying, any number of issues. Whereas CPS’s role is sort of the state’s role in – we all have an interest in making sure that children in our community are safe and protected. And so the CPS case worker or social worker, depending on your jurisdiction, the CPS’s role is to provide services and interventions as necessary to help protect the children.

Rebecca Khalil: Thank you. We have another question, I believe this one is directed towards Jerry, but, Bethany, also chime in if you have more information. We had somebody write in asking: What are some concrete suggestions for what you can do if you are talking with a child and they start to shut down?

Dr. Jerry Yager: So, part of it is you can begin to kind of – one is just label it in the room. “This is really hard for you, right? This is hard content, to kind of look at that, right?” The other piece is if they have shut down because they are done talking, if they have shut down because the content is
too hard, I try to actually get them up. So Bethany talked about physically walking sometimes. Sometimes getting up and changing body posture is a really important way to kind of reactivate the system to kind of look at that. Sometimes talking about what we call grounding, which would be, “What do you see in the room? What do you hear? What kinds of things?” So I really reorientate. If we are in a place that is dark, I may turn – I may actually open a window so the light comes in.

Dr. Jerry Yager: What I am trying to do is get them reconnected with their own senses and reengaged in the process. So I am going to leave the content, and focus on more in terms of them to kind of look at that. So we…So this concept of grounding, basically thinking about the five senses. Is there any way I can start to reengage them in their sensory experiences? Things they hear, things they see, things they smell, physical movements. Sometimes kids can actually push down on the floor and feel their feet grounded on the floor, literally grounded. So I begin to make contact with them and get them back into the room when that is going on. And then I kind of note that to kind of look at what was happening when they kind of disengaged to kind of managing some of that. So that is really important is was it the content that was going on that we were talking about, or was it the time we spent doing it, or was it in some ways something that came up that was inside of them that they could not talk about? But I really get them back into physical, sensory connection with myself and the environment.

Bethany Roberts: Yeah, I do fairly similar. I mean, Jerry and I talked about this prior, but I do sort of a – I am like the dog and up, and I am like “Squirrel!” And I distract and I look over here and we will talk about a movie or a book or, “Oh, my goodness, what are you doing with that Play-Doh?” I do not know, something completely different for a little bit. And then I will circle back to whatever the issue is. And it may be that they are just done for that day. I mean, really, and I think it is okay to acknowledge that, “Hey, it looks like we are done today. Why do not we, you know, when we meet again we will start, try again.” But sometimes you are done, but I think that distraction and then circling back around, or grounding, as Jerry called it, is very important.

Rebecca Khalil: Great. Thank you. I have another question that I believe is directed towards Bethany. The question is: How do you convince others that being a traditional attorney for a child, rather than a GAL, is an appropriate role when everyone else might be assuming that the child is too young?

Bethany Roberts: That is something that happens on a regular basis and those of us who advocate for an attorney having their own child – that was backwards – a child having their own attorney is very challenging. One, the empirical data and all of sort of the big groups now support this. And so I think going in armed with the American Bar Association, the Academy of Matrimonial Lawyers, the National Child Council Association – like taking in all of this like supportive data can be really helpful. But then you just sort of have to educate your courts and get them on board, and tell them about why the role is different and why it is important for the child to have a voice. And one of the things that I frequently tell people when I am doing the education is we are not saying the child gets a say, because that is what everybody gets worked up about is, “Why does the child get to pick?” Or, you know, “The child does not get to just have – get to automatically pick what is going to happen.” And so I say, “No, we are not letting them – they have a voice in the courtroom. They do not get the ultimate say in the courtroom. That is still up to the court. But they get buy-in in the process just like we do for any other sort of case.”

Bethany Roberts: We know that if people go into the courtroom and they feel heard, that they are more respectful of the court system, that they understand the court ruling, and they are more compliant with the court’s ruling. And so giving child victims that same buy-in has that level of
importance in it. And so I guess I rambled on, but most importantly I think is arming with the empirical data and sort of the experts in the area who are doing that. Then really taking the opportunity to educate your court outside of a particular case, if you can. You know, if you are appointed a GAL, accept the appointment, and then say, “Hey, Judge, I was appointed a GAL on this one. Hey, next time can we try this? I have really, you know, I have heard a lot about it. All of these groups are talking about it. I would like to try this and see how it works.” That is my suggestion.

Rebecca Khalil: Great. Thank you. So next question, I believe it is for Jerry also. And the question is: What do you do if you thought the child victim was at one level of development because they are really good at adapting and acting, but you later figure out that maybe they are not as developmentally advanced as you thought? How do you back up and maybe try again?

Dr. Jerry Yager: You just do exactly that. You back up and you try again. That is going to happen whether – just like I said – in the actual time they are with you, they are going to be functioning at different developmental stages. I had a 32-year-old woman in my office the other day talking about something that was really stressful, and she was basically a 6-year-old in my office. So I needed to respond to her [unclear]. So this concept really is an ongoing assessment, and you are going to, without a doubt, be mis-attuned to the developmental place that they are at. So you are going to talk to them sometimes at a level that is too high, and then you are going to be trying to get them to understand, and then they are going to be...And so this is an interactional process that goes on, and the better you are at understanding and being attentive to the client in front of you, as opposed to, “Here is how I do it,” the more you can adjust it. When you are mis-attuned, there is going to be some type of temporary rupture in the relationship. So they are going to be either angry or withdraw. And when you repair that, and I think Bethany said, “Oh, you know what, I did not ask that question correctly. Let me ask it to you in a different way.”

Dr. Jerry Yager: When you can kind of own that you are kind of having a hard time to kind of figure out, you begin to have an interactional process rather than you trying to get information out of the kid or the kid is...You are engaged in this relational process that requires constant adjustment, both going into it, but also during the process to make sure that you are in some ways interacting at a way that is going to optimize your client’s ability to share with you their story, to share with you their wishes, and to share with you their desired goals. That is really what you kind of want to do. So do not be afraid to adjust your interactional process. And if you are struggling, I just sometimes say to my clients, “I am not really sure the best way to ask you. Here is what I am doing. Could we talk about that?” So just bring it to the process in a way that is kind of helpful for the both of you.

Rebecca Khalil: Thank you. We have a question specifically asking about the “I do not know” instruction. And they are saying: Sometimes we encourage children to say “I do not know,” but they insist on answering the questions even if they really do not know the answers. What else can we do to encourage kids to give an “I do not know” answer?

Dr. Jerry Yager: Bethany, do you want to say anything?

Bethany Roberts: I was just going to say... [laughter]

Dr. Jerry Yager: Okay, that is fine. You know, the part of the – when we started, Bethany outlined that the real importance between the concept of forensic interview and a more of a clinically-directed interview. When I am with clients, they change their mind oftentimes. They give me information, and then they change that. Right? And so, really, what I am much more
interested in, not just what the truth is, although I would like to get to the truth, but I am interested in why are they telling me this. And also, if that is what they are telling me, how is what they are telling me impacting them? So you are going to lay out all of these. But if I have a child who grew up in an environment where telling – expressing their emotions and telling really triggered an adult to become angry and aggressive or to withdraw, they are not going to tell you. They are going to figure out “What do I need to tell you to keep you happy?” I am just going to try to note that, and then the more I get to know my client, try to figure that out, as opposed to they are not being honest or they are being honest.

Dr. Jerry Yager: I really want to understand my client and why they are engaging in that. So if they are giving me information today that is different from yesterday, I may say to them something like, “You know, it sounds like a part of you is saying this happened, and today another part of you is saying this happened. Can we talk about those parts?” As opposed to, “Which one is right?” So I am really helping them, I want to help them integrate what is going on as much as I do want to get information. And I am a clinician, so you have a little legal difference, but in that process you have to kind of balance out between getting the information you need to represent them in court, getting the information to help them to kind of feel connected and understood, and finally, getting information in a way that is not going to retraumatize them. Because the last thing you want to do is hurt somebody through the process. So being able to hold all these pieces of them and helping them to kind of create a space to kind of look at it is probably the best suggestion I have for anybody dealing with kids, children, and probably adolescents as well.

Rebecca Khalil: Great.

Bethany Roberts: The other thing – oh sorry. The other thing I do is I tell them to ask me a question that I will not know the answer to and I sort of let them do an [invil?]. I mean I have had ridiculous questions, like weird science things and like – or stuff about, you know, them. Like they will ask me, “What did I have for breakfast this morning?” And I will be like, “I do not know.” “Exactly.” You know, like we just sort of, I do not know, lighten it up a little bit to discuss how that looks.

Rebecca Khalil: Great, thank you. So we have one more question. I think I have gotten all of them. If somehow I have missed one, or if you think of a question after this Webinar ends, we have got our e-mail address on the slide, and go ahead and send it to us there and we will get your question answered. The e-mail address is ncvi@lclark.edu.

Rebecca Khalil: But I want to go to the last question. And the question is, the question submitted says: I might have missed this at the beginning, but how do child victims get appointed council? How do children who are engaged through CPS have an attorney assigned to them to represent their interests as a victim or a witness in a criminal case?

Rebecca Khalil: And this – this is a fantastic question to end with, and it is also a fantastic place to continue the discussion. Because, as Bethany mentioned, some jurisdictions have a process set up where children are appointed a GAL when they start getting involved with the system. And that GAL could ask to be appointed as a traditional attorney or ask to have a traditional attorney also appointed to make sure that, if the child’s interests and wishes differ maybe from what the GAL might think is in their best interest, that those are also heard by the court. But it is really important, as we move forward, to make sure that every child and every victim who interacts with the justice system has an attorney that they can talk to to help make sure that their voice is heard. Right now that is not the case everywhere, and hopefully it is the case soon and we can get to the
point where courts are appointing and paying attorneys to represent these kids and help make sure that they have a voice in the process, an independent voice in the process, not just relying on pro bono council, which is fantastic. We get a lot of folks who volunteer their time to represent children, and NCVLI helps match up victims, child victims and adult victims, with pro bono attorneys who are able to do that work. But it needs to also be something that is taken care of in a really regimented way. So it is not just relying on the goodwill and spare time of attorneys, but recognizing that this role is important enough that these attorneys need to also be compensated for their time as well.

Rebecca Khalil: So, with that, please feel free to e-mail us any other questions. I did cover all of the ones that I received, unless I have missed something, which is not intentional if I missed your question.

Final Thoughts

Rebecca Khalil: We have a completion code on the slide. We will be sending you an e-mail after the completion of the Webinar, and it is going to include the slides that we showed today. It will include a copy of the article that talks about in more detail the differences between GALs and traditional attorneys for child victims. So that information will be there. And when the Webinar closes, a brief survey will pop up. And we ask you to please take a few minutes, it takes a minute or two max to fill out this survey. Let us know what you think, where we could improve, what areas you thought were particularly helpful.

Rebecca Khalil: You will see on the slide that there is a completion code here. If you would like proof that you have attended this Webinar, you will need to write down this completion code. It will not be included on the slide when we send it to you in the e-mail, because the e-mail goes out to everybody, whether or not they actually got on the line. So the completion code for this Webinar training today is 2015CVCOMMUNICATE. So 2015CVCOMMUNICATE is the
completion code for today's Webinar in case you need proof that you actually attended the Webinar.

Special Thanks

NCVLI gratefully acknowledges Dr. Jerry Yager for participating as a guest presenter in today's webinar and for creating some of the slide content displayed during this webinar.

NCVLI also gratefully acknowledges Bethany Roberts for participating as a guest presenter in today's webinar and for creating some of the slide content displayed during this webinar.

Special Thanks

Rebecca Khalil: We want to again thank our wonderful presenters today, Jerry Yager and Bethany Roberts. They were fantastic. Huge, huge hats off to them. They did a wonderful job. Every time we listen to them present, we learn something new. And we hope that you did today also. Thank you again for joining us, and keep your eyes peeled for part three of the Webinar series where you are going to get to, I guess, engage a little more interactively and indepth on these same issues related to child victims. Thank you again.

[End.]
The Office for Victims of Crime’s Legal Assistance for Crime Victims Initiative is a comprehensive, capacity-building effort to expand the availability of pro bono/no-cost legal assistance for victims of crime. The initiative aims to ensure that all victims of crime have access to quality representation on legal issues that can arise following victimization.

Through this effort, OVC TTAC and the National Crime Victim Law Institute are working collaboratively to offer training and technical assistance for attorneys, particularly those currently providing legal assistance to victims.

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