

Advancing the Defence Rights of Children

Roleplay 1 - 'Communicating with Children'

Instructions for Trainers

This training session is centred on a roleplay scenario in which a lawyer is meeting a child client for the first time following his/her arrest. The main objectives of this training session are:

- To help lawyers develop practical skills to build rapport and a trusting relationship with their child clients;
- To help lawyers develop skills on communicating with children their child clients;
- To help lawyers to advise and provide information to their child clients in a way that they can be understood;
- To help lawyers to assess the needs and capabilities of their child clients;
- To encourage lawyers to think about how best to ensure that their client's best interests are protected; and
- To help lawyers to manage relationships between the child and various different actors involved in the juvenile justice system (in this case, the police and the parent)

This is a 90 minute session, which is structured as follows:

- 1) Preliminary Discussions (10 minutes);
- 2) Roleplay (30-40 minutes) during which participants act out a scenario in which a lawyer is having a consultation with a child suspect in the presence of his/her mother - this session is divided in two, to enable two participants to take on the role of the lawyer;
- 3) Feedback (30-40 minutes) during which all participants discuss the main participant's performance and discuss the best ways of communicating with children and assessing their needs and capabilities; and
- 4) Using Child-Friendly Language (15 minutes) which is a brainstorming session in which participants identify words and concepts that are difficult for children to understand.

1. Preliminary Discussions

Trainers should begin this session by facilitating a discussion amongst all participants about the main challenges that lawyers might face when assisting child suspects and accused persons during police stations. Trainers may wish to decide how best to facilitate these discussions themselves, but a suggestion of the questions they may wish to ask are as follows:

- 1) What challenges do defence lawyers face in communicating with child suspects and accused persons?
- 2) What are the common mistakes defence lawyers make when communicating with child suspects and accused persons?

2. The Roleplay

The Set-Up

There are four participants in this roleplay, all played by training participants:

- Lawyer 1;
- Lawyer 2;
- The child client ('Marina' or 'Mo') to be played by an actor;
- The mother

The roleplay is divided into two halves. Lawyer 1 will be playing the role of the lawyer in the first half, and Lawyer 2 will be playing the role of the lawyer in the same scenario in the second half. The two lawyers have a different set of instructions:

- Lawyer 1's role will be to build rapport with the child, and to get information from the child
- Lawyer 2's role will be ensure that the child understands his/her rights, and to advise him/her.

Trainers should stop Lawyer 1 after about 15 to 20 minutes, and allow Lawyer 2 to begin his/her part.

The scene should be set up so that there is a table in the middle with one chair on one side of the table (for the lawyer), and two chairs opposite him/her (one each for the child client and the parent). Trainers should allow the participant playing the lawyer to rearrange the chairs and table, as they wish.

All participants with parts to play in this roleplay should be given instructions well in advance of the training session, preferably at least the evening before the training session takes place. Participants should be asked not to discuss their instructions and scenarios with one another prior to the training session.

Trainers should remind observing participants that they will be asked to give detailed and specific feedback on the roleplay, based on the questions for discussion.

The Scenario

In this scenario, a 15 year-old child has been arrested after being found with a quantity of drugs in his backpack. A small quantity of the drugs is his/hers, but the methamphetamines ('crystal meth') belong to his mother who was hiding it in his/her backpack, so that it could not be stolen by her boyfriend.

The client has language problems, meaning that s/he cannot read, write, or express himself very well, and his/her poor performance in school and placement in a 'special' class seems to suggest that s/he may also have minor learning difficulties which might not have been diagnosed. One of the tasks for the lawyer will be to identify these needs without patronising their client, and to adapt their interaction with their client so that they are able to communicate effectively.

Lawyers may also find it challenging to establish rapport with the child. The child has been brought up in a neighbourhood with a high crime rate, and does not trust lawyers and other actors in the criminal justice system. They will need to persuade the child to trust them, and they will need convince them about their role and their willingness to help.

A major challenge for the lawyer is to recognise that the mother's presence during the interview may not be desirable, and that she could be preventing the client from talking openly about what

happened. A part of this exercise will be train lawyers how to react when they start to suspect that the parent's presence is inappropriate.

Lawyers also need to take time to understand what the child's most pressing needs are, and to think about their welfare. They need to be able to find out from the child that his/her most immediate needs are to get some food and rest.

Breaks and Consultations

Participants playing the role of the lawyer in this scenario may wish to seek breaks or consultations to give themselves the opportunity to speak to the child or the mother in private. Trainers should allow them to do this.

3. Feedback

The objective of this training is not to rate the performance of the lawyer, but for all participants (both those who participated, and those who observed) to learn from the experience, and to discuss the best strategies for handling various challenges. Trainers should make sure that the feedback comes primarily from the participants themselves – their roles should be primarily to guide the discussions, as well as to provide commentary from an expert's perspective.

Participants observing the roleplay are given a list of questions to help them provide feedback. This can be used by trainers as the basis for facilitating the discussions.

Before any feedback is given, trainers should remind all participants (particularly those who observed the roleplay) of the following:

- Participants should be respectful, but also frank. If they saw something that did not go so well, they should point it out.
- Participants should be encouraged to give suggestions about what could have been improved, and how.
- Feedback should be specific, and participants should be encouraged to give examples, where appropriate.

Trainers should make sure that the participant playing the part of the lawyer is given the opportunity to comment on their performance first, and to reflect on what went well, and what could have been done better. The child should be asked to comment next, before the observers provide feedback. The trainer should be the last person to provide the feedback.

Discussions do not need to be limited to what happened during the roleplay, they could include discussions about alternative scenarios and issues raised at the beginning of the training session.

4. Using Child-Friendly Language

This part of the training session is a brainstorming session in which participants should come up with examples of words and phrases commonly used by criminal defence lawyers when advising adults that children might have difficulty understanding. Participants should also be encouraged to come up with alternative words and phrases to explain those terms, and trainers may also wish to give examples.

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Instructions for the first lawyer

You are a criminal defence lawyer working in a major city somewhere in the European Union, and you have been called to assist a child at a police station, who was arrested less than an hour ago. You have been given very little information about the child or about the allegations against him, but you have been told by the police officer that he was found with a significant quantity of methamphetamines ('crystal meth'), and that he could be charged with possession with intent to supply.

You are meeting the child for the first time, in the presence of his/her mother. The child looks around 18 years old, and you wouldn't have known s/he were a child unless you had been informed in advance.

Carry out an initial consultation with your client and gather information about the case, so that you can advise him/her appropriately.

Instructions for the second lawyer

You have done your best to build rapport with your client, and got as much information as you can from talking with him/her. S/he is about to be interviewed by a police officer, and it is now time to advise your client. You should make sure that your client:

- a) Understands the content of the letter of rights that s/he has been given;
- b) Understands what will happen during the police interrogation and what the outcome of the interrogation could be; and
- c) Understands what you want him/her to do during the interrogation

You can give your advice in whichever order you wish.

Advancing the Defence Rights of Children

Roleplay 1 - 'Communicating with Children'

Instructions for the client (to be played by an actor)

About you:

You are a 15 year old (called 'Marina' if you are girl, 'Mo' if you are a boy) who has been brought up in a poor suburban neighbourhood with a high crime rate, and you belong to an ethnic minority group in your country that is often portrayed by the local media and populist politicians as drug-addicts and criminals. You think of the police as the enemy, and they are hated by everyone around you. Your negative perception of the police has been reinforced by the fact that you have been stopped and searched by the police on several occasions, (although you have never been arrested yourself). You don't think lawyers are much better than the police, and you think they are all part of the same 'system'.

You have never performed well in school, so much so that you have some difficulty reading and writing. This means that you are rarely able to concentrate in class, and you have been in trouble at school on a number of occasions for violent behaviour. Last year, you were put in a 'special' class in school for underperforming children. You don't want people to think you're 'stupid' and you want people to think you're quite 'tough'.

This is what happened:

You live with your mother, who is a user of methamphetamines ('crystal meth' or 'ice'). She has a boyfriend, called Dan, who is a heavy user of crystal meth. Dan is occasionally violent towards your mother, and on several occasions he has visited your flat, he has stolen some of her drugs. For the past few weeks, your mother has hidden the drugs in various places in your room, sometimes in your drawers, and sometimes in your backpack, when she knows that Dan is coming to the flat. The last time Dan visited your flat was last night. You saw him leaving the flat as you were coming back home after meeting your friends.

You skipped school today (as you do quite often), and you went to a major railway station near your flat to see your friends with your backpack. There is heightened security at major railway stations these days, and you had the misfortune of walking past a police dog at a tube station who barked at you, alerting its handler that you were carrying drugs. You then realised that your mother had put the drugs in your bag the evening before, and forgotten to take them out. The police also found a small quantity of marijuana, which is yours.

You were arrested by the police immediately after the drugs were found on you, and taken to a nearby police station. You don't remember exactly what was said during your arrest, it happened very quickly and the dog was barking very loudly, which added to the confusion, but you definitely told the police officer that the drugs aren't yours. After being taken to the police station, you were read a document about your rights, and you were also given a copy of this document. You didn't really understand what was read to you. You tried to read the document by yourself, but because you have difficulty reading, and because you found the experience stressful, you did not absorb the information at all.

You haven't eaten at all today, and you are very hungry. No one has so far offered you any food, and you're starting to feel quite tired. Your primary concerns are getting some food and getting some rest.

Instructions

Part 1

You were found to have drugs on you by the police, but the Crystal Meth is not yours – they belong to your mother. You're worried about going to prison, but you also don't want to incriminate your mother. You know you would have nowhere else to go if she went to prison.

Like most people, you don't like being patronised, and you find it insulting to be treated like a 'child'. You don't want to be perceived as stupid, and you don't need your lawyer, who doesn't even know you, to 'help' you. Your main objective is to just go home as soon as possible. Below are some suggestions of how you might wish to react to certain situations, change your mannerisms and how you respond to your lawyer's questions, if you think that the lawyer is building rapport with you convincingly, and you find him/her persuasive enough.

- Your initial reaction to the lawyer should be to ignore him/her. Play with your phone, or something else to distract yourself, and avoid eye contact.
- Keep your answers as short as possible.
- If your lawyer asks if you understand what they said, just say 'yes', even if you did not understand. If they ask you to repeat what they told you, be evasive, and say you understood.
- If you think your lawyer is trying to 'test' you on your abilities – e.g. your ability to tell time, your ability read and write etc. – be defensive, you don't want to answer these pointless questions, and you're not stupid.
- If your lawyer asks you explain what happened, your initial reaction should be say that it's none of their business.
- If your lawyer asks you questions about where the drugs came from, say you don't know, and be evasive.
- If you think your answer is being annoying by asking too many questions, ask if you can go home if you do answer those questions.
- You may wish to suggest to your lawyer that you can't be bothered with all of this, and that you might as well just go to prison, because that's easier.
- If your lawyer asks about the document with information about your rights, again, be defensive – you've read it, you don't need the lawyer to read it to him again – you're not stupid.

Part 2

In this part of the roleplay, the lawyer will attempt to advise you and provide information.

- If your lawyer asks if you understand what they said, just say 'yes', even if you did not understand. If they ask you to repeat what they told you, be evasive, and say you understood.
- Here are some examples of the words that you do not understand. Do not tell the lawyer that you do not understand these words:
 - Allege/Allegation
 - Appeal
 - Charge
 - Custody
 - Defence
 - Detain/Detention
 - Indict/Indictment
 - Investigation
 - Legal Aid
 - Minor
 - Offence
 - Parole
 - Pre-Trial
 - Prosecute/Prosecution
 - Public Defender
 - Remand
 - Sentence
 - Warrant
- During the course of the consultation make sure you ask the following questions:
 - Can I go home? When can I home? What can I do to go home?
 - Am I going to go to prison?
 - Are you going to tell the police everything I said?
 - Who's going to pay for you?

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Instructions for the parent

About you:

You are the mother of a 15 year old (called 'Marina' if you are girl, 'Mo' if you are a boy) who was arrested earlier today. You have been informed about his arrest, and you have turned up to the police station. You know that your child has been arrested for carrying drugs, and you are worried because the drugs are in fact yours, and you already have a criminal record, which means that you could face a prison sentence, if convicted.

You live with your child in a poor suburban neighbourhood with a high crime rate, and you belong to an ethnic minority group in your country that is often portrayed by the local media and populist politicians as drug-addicts and criminals. You do not know very well what your child gets up to when you are not with him. You don't know exactly how well he does in school, but you're assuming that he doesn't do great.

You are a user of methamphetamines ('crystal meth' or 'ice'). You have a boyfriend, called Dan, who is a heavy user of crystal meth. Dan is occasionally violent towards you, and on several occasions he has visited your flat, he has stolen some of your drugs. For the past few weeks, you have hidden the drugs in various places in your child's room, sometimes in the drawers, and sometimes in the child's backpack, when you know that Dan is coming to the flat.

This is what happened:

Dan visited your flat yesterday evening, when your child was not at home. You knew he was coming so you hid your drugs in your child's backpack, which was in his room. You woke up late this morning. By the time you got up, your child had already left with the backpack.

Instructions

You are not currently under the influence of drugs.

You are concerned that your child might say something that might incriminate you. You should intervene if the child says anything about your boyfriend, or the questioning seems to lead to the fact that you are crystal meth user, and that the drugs were yours. You may wish to try and answer the questions on the child's behalf at that point, or if they say something, you might want to correct them, perhaps explaining to the lawyer that the child is under a lot of stress, and clearly confused.

If for any reason the lawyer tries to have you removed, you should insist that you stay. You're worried about your child, you are the only person s/he can trust. If the lawyer asks you about the drugs, you should deny all knowledge.